

31

KING CITY SEWER PROJECT; TRANSFER OF OWNERSHIP

(Regional Council at its meeting on June 22, 2006, amended the following Clause to include the following recommendation 3:

- 1. Council amend the Regional By-law to transfer the local collection system or any phase of it to the Township of King in the event the Township makes application for Canada-Ontario Municipal Rural Infrastructure Fund (COMRIF) funding on substantially the same terms as contained in Regional By-law Number S-0063-2004-103, enacted December 16th, 2004.)***

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, June 8, 2006, from the Commissioner of Transportation and Works and the Regional Solicitor:

1. RECOMMENDATIONS

It is recommended that:

1. The settlement agreement between the Regional Municipality of York and the Township of King respecting construction of the King City Sewer System be amended to authorize the Region to transfer each phase of the local collection system to the Township on the date that the phase commences operation.
2. The Regional Municipality of York enact a By-law giving effect to the amendment to the Agreement.

2. PURPOSE

The purpose of this report is to transfer the local sewage collection system being constructed by the Region in King City on the date that each phase of the collection system commences operation, rather than on completion of the maintenance period of each phase (which would be approximately 18 months after commencement of operation). The intent is to facilitate the Township of King By-law that will require properties in King City to connect to the local collection system and charge each property for the service.

3. BACKGROUND

On October 11, 2001 the Regional Municipality of York enacted By-law S-0060-2001-071 effectively assuming the local sanitary sewer collection system in the community of King City. The Region initiated this action as a response to Township of King reluctance to proceed with recommendations of an Environmental Assessment that had been conducted to determine the preferred solution for providing such service to King City. The Township of King then initiated an application to quash the By-law. The application was dismissed by the Ontario Superior Court of Justice on June 27, 2003. The Township of King appealed that dismissal to the Ontario Court of Appeal. By agreement dated December 11, 2003 the two municipalities settled the dispute and the Township of King abandoned its appeal. Under the terms of the agreement the Region would undertake all construction to provide sanitary sewer services to King City. Subsequently the Region has completed construction of the sewage forcemain along King Road to connect King City to the York/Durham Sewage System, the central pumping station is nearing completion, and the first phase of the local collection system is nearing completion.

The Region will retain ownership of the forcemain and pumping station, but it has always been the intent of the parties that the local system would ultimately be owned and operated by the Township of King. The settlement agreement provides that such ownership would transfer on completion of the maintenance period for each phase of the local collection system. This would occur approximately 18 months following the actual commencement of operation of the phase.

The Township of King intends to pass a by-law under the Municipal Act to require properties to hook up to the local collection system and to charge each property its proportionate share of the cost of the system. Since the Municipal Act states that fees and charges may be charged by a municipality for a service provided by that municipality and since the Township's by-law will be charging residents for the capital costs of the local collection system, it would be appropriate for the Region to transfer ownership of the local system to the Township of King at this time so as to ensure a direct relationship between the by-law and the infrastructure that is being charged for. The Township of King remains responsible to recompense the Regional Municipality of York for the costs of the work.

The implications respecting the transfer of ownership at this stage of the Region's contract with the contractor and the MOE Certificate of Approval will be incorporated, if necessary, into the amending agreement.

5. CONCLUSION

The first phase of the local sanitary sewer collection system is about to become operational in the community of King City. Under the terms of a settlement agreement the Regional Municipality of York is constructing the local collection system, but

ultimately the Township of King will own the local system. The settlement agreement states that ownership will transfer from the Region to the Township of King on completion of the maintenance period for each phase of the local collection system. The Township of King will be charging its residents and businesses for the capital cost of the local system, and since the first phase of the local system is about to become operational the Township of King is about to pass a by-law requiring connection to the local system and to charge the properties for the cost of the system. In order to ensure that the Township of King's By-law is effective it is recommended that the Region adopt a by-law to transfer ownership of each phase of the local collection system as it becomes operational, rather than at the end of the maintenance period. This will also require an amendment to the Agreement between the Regional Municipality of York and the Township of King.

The Senior Management Group has reviewed this report.