



STAFF REPORT ACTION REQUIRED

Implementation of the Ministry of the Environment's Expanded Transfer of Review Program for Sewage Works

Date:	April 30, 2010
To:	Public Works and Infrastructure Committee
From:	Executive Director, Technical Services and General Manager, Toronto Water
Wards:	All
Reference Number:	P:\2010\ClusterB\TEC\PW10027 (AFS #11460)

SUMMARY

The purpose of this report is to seek authority from City Council to implement the Ministry of the Environment's ("MOE") expanded Transfer of Review Program (the "Program") under the *Ontario Water Resources Act*. Council authority is also sought for making the necessary revisions to Section 441 of the Toronto Municipal Code ("Fees and Charges").

The Program will benefit the City because storm water management works applications currently reviewed directly by the MOE will be reviewed by City staff under the expanded Program, thereby saving the City the expense of application fees payable to the MOE and expediting the mandatory review process.

The Program will also benefit the City by streamlining the development review process. The construction of stormwater management infrastructure cannot be initiated until the necessary approvals have been secured. The direct submission review process to the MOE is longer than the Transfer of Review program delegated to the City, and developers will be able to secure the required approvals sooner.

RECOMMENDATIONS

The General Manager of Toronto Water and the Executive Director of Technical Services recommend that:

1. City Council authorize Staff to participate in the expanded Transfer of Review Program and pilot project which will include additional storm water management works as described in this report,
2. City Council delegate authority to Staff designated in writing by the Executive Director of Technical Services and the General Manager of Toronto Water to sign on behalf of the City any application forms required by the MOE as part of the Transfer of Review Program under the *Ontario Water Resources Act*,
3. City Council authorize Staff to negotiate and enter into a revised Memorandum of Understanding ("MOU") with the Provincial government as required to implement the expanded Transfer of Review Program, as well as any additional or revised MOU required to include the pilot project works in the Program on a permanent basis, and that the Executive Director of Technical Services be authorized to execute any required MOU on behalf of the City; and
4. City Council authorize the amendment of Municipal Code Chapter 441, Fees and Charges, to include the new Transfer of Review Program fees, currently set at \$2,200 for reviews of facilities designed to attenuate stormwater runoff peak flow rate or volume or for managing stormwater runoff quality, and \$2,000 for reviews of storm and sanitary pump stations and forcemains and sanitary sewage detention chambers or oversized sewers, as set by the provincial government in Ontario Regulation 364/98, and further that the City Solicitor be authorized to submit bills to amend the amount of these fees at such future time(s) as the provincial government adjusts them.

Implementation Points

City staff in Technical Services currently administering the Transfer of Review Program will follow existing processes for administration and fee collection if the Program is expanded as outlined in this report.

Financial Impact

If adopted, the above recommendations will provide both a cost savings in application fees and a benefit in additional review fees to the City. Staff estimate that on an annual basis, the expanded program will save \$22,000 net of any associated costs to the City and also generate from private proponents \$22,000 in revenue, for an estimated annual net cost benefit to the City of \$44,000.00.

Since amalgamation, internal City Divisions were not charged a fee under the current Transfer of Review Program which included standard sewer applications at the rate of \$1,100 per application. The application review fee under the expanded program will be charged to City Divisions, Agencies, Boards, and Commissions as applications previously sent to the Ministry of the Environment will now be reviewed by Technical Services. The review fee for standard sewer applications at the set rate of \$1,100 per application in the existing program, along with additional storm water management applications at the set rates of \$2,000 and \$2,200 in the expanded program will be charged by Technical Services and the proponents will accommodate these costs within their approved capital works budget.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

The Metropolitan Council at its meeting held on May 8, 1991 adopted Item No. 3 of Report No. 11 of the Works Committee (April 10, 1991) without amendment providing authorization to participate in the expanded Transfer of Approvals (Review) program for municipal works which include storm water management works. However, the negotiations with the Ministry of the Environment to participate in the program were not finalized due to budget constraints and insufficient staff resources to administer the program. In 2007 the initiative was revisited with the Ministry. In a letter dated August 28, 2009, the MOE indicated its willingness to expand the scope of the City of Toronto's participation in the Transfer of Review Program.

ISSUE BACKGROUND

The City and its predecessor municipalities have participated in the Transfer of Review Program for many years. The Program permits municipalities to act as an agent on behalf of the MOE and review applications for approval of new or modified water and sewer infrastructure; approvals required under the province's *Ontario Water Resources Act*. The types of works under the Program are restricted to undertakings of a non-complex or less environmentally-sensitive nature. Following review, the municipality submits the application to the MOE with a recommendation for approval. The MOE then issues the Certificate of Approval to the proponent.

The municipality is also entitled to collect a fee for this service from the proponent, which would otherwise be payable to the MOE. The Program benefits municipalities by streamlining the process. The time required to obtain approval from the MOE is shortened, which in turn facilitates development within the municipality. It is estimated that three weeks is saved in the time required to process the average application.

The works currently included in the existing Program for sewage works are:

1. Sanitary and storm sewers (except for new storm water outfalls)
2. Sewage pumping stations and forcemains (except for those pumping directly to a sewage treatment plant)
3. Rehabilitation of existing combined sewers where there is no increase in combined sewage overflow (CSO)

In a letter to City Staff dated August 28, 2009, the MOE indicated its willingness to expand the scope of the City of Toronto's participation in the Transfer of Review Program, as described below. Subject to Council approval of participation in the expanded Program, a formalized agreement will follow in a Memorandum of Understanding between the City of Toronto and the MOE.

There are differences in the works originally proposed in the May 8, 1991 Council report and the works ultimately approved for the expanded program by the Ministry. This is due to the change in government structure from the former Metropolitan Toronto to the amalgamated City of Toronto, the implementation of new regulations under the Ontario Water Resources Act by the Province and the Ministry restricting the works included under the August 28, 2009 proposal. The works included in the 2009 proposal are restricted to environmentally less sensitive storm water quantity control projects and there is also a proposed two-year pilot project for a limited number of additional storm water works designed to exfiltrate into the surrounding soils.

If implemented, the expanded Program will require the amendment of Municipal Code Chapter 441, Fees and Charges, to incorporate the provincial review fee which would be payable to the City by development proponents.

COMMENTS

Scope of Expanded Program and Pilot Project

Expanded Program

If implemented, the expanded Program will include, in addition to the applications listed above, applications for sewers and stormwater management works for quantity control that meet the following criteria:

1. The works must discharge to either
 - a. The existing municipal storm sewage collection system, or
 - b. Existing stormwater management works which have a Certificate of Approval and which have an adequate amount of approved design capacity to treat the additional flow;and
2. The works must only receive drainage from non-industrial lands, as defined by Ontario Regulation 525/98 (Approval Exemptions), as amended from time to time.

As well, the expanded Program would include applications for replacement outfalls that meet the following criteria:

1. The outfall being replaced must have an existing Certificate of Approval,
2. The replacement outfall must have a similar size, dimensions and performance criteria and be in the same or approximately same location as the existing outfall, and
3. The description of the works in the Certificate of Approval drafted for a replacement outfall must identify the receiving watercourse if the outfall discharges into any of the 4 provincially recognized sensitive receivers and/or their tributaries.

Pilot Project

In addition to the above expansion of the Program, the MOE has proposed a two-year Pilot Project which would include in the Program stormwater management works which are designed to partially infiltrate or exfiltrate into the surrounding soils, which meet the following criteria:

1. The works are not a point source of direct discharge to a surface water body or a municipal drain;
2. A vertical separation of at least 0.5 metres is maintained between the highest groundwater table (i.e, spring runoff) and the lowest elevation of infiltration or exfiltration stormwater management works which may discharge into the groundwater system;
3. Works only receive drainage from non-industrial lands as defined in Ontario Regulation 525/98, as amended; and
4. Groundwater is not utilized as a potable water resource anywhere drainage is captured by the stormwater management works.

At the conclusion of the two-year pilot project, City staff will report back to the MOE and it will be determined whether the scope of the Program should be permanently expanded to include the pilot project works. If the pilot project is made a permanent part of the Program, a new MOU or amended MOU with the province may be required at that time.

Review Fees

The current fee structure for sewage works approvals is a flat fee of \$1100 per application, established in accordance with the Minister's Order for Approval Fees issued under the Ontario Water Resources Act and Ontario Regulation 364/98. The current fee schedule consists of an administrative processing component set at \$200 per application, plus a facility-specific component which, for sewers and appurtenances, is \$900.

The new fees applicable to the expanded Transfer of Review Program are \$2,200 for facilities designed to attenuate stormwater runoff peak flow rate or volume or for managing stormwater runoff quality, and \$2,000 for storm and sanitary pump stations and forcemains (which works are already in the program) and sanitary sewage detention chambers or oversized sewers. The fees noted include the \$200 administration component and are flat rate fees that can be charged under the authority of Section 53 of the Ontario Water Resources Act, and Ontario Regulation 364/98.

If Council adopts the recommendations of this report, Appendix C to Chapter 441, All Other Fees, under the Toronto Municipal Code will require amendment to incorporate the new fees the City will be able to collect.

The review fee payable to the City under the expanded Program will also be charged to the City Divisions, Agencies, Boards and Commissions when these entities submit applications for review under the Program. This is the current practice for other applications reviewed by the City under the TORP, and these entities are required to pay the fee by provincial law.

From January 1, 2000 to the December 31, 2009, approximately 47% of the sewer applications reviewed under the TORP was for work under the City's Capital Works Program while 53% was for work by private developers.

Implementation and Notice Provisions

On Council's approval of this report, a by-law will be introduced to amend the Municipal Code Chapter 441, Fees and Charges.

The report has been reviewed by City Legal Services.

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