



April 24, 2019

Attention: Ms. Tracey Braun, M.Sc., Director
Manitoba Sustainable Development
Environmental Stewardship Division
Environmental Approvals Branch
1007 Century Street
Winnipeg Manitoba R3H OW4

Dear Ms. Tracy Braun;

Reference: City of Thompson Wastewater Treatment Plant
Notice of Alteration - Environment Act Licence No. 3118 R

Please consider this letter as a request for a minor Alteration to existing Environment Act Licence (EAL) No. 3118 R for the Thompson Wastewater Treatment Plant (WWTP). This is submitted in response to your letter dated March 29, 2019 to the City. The following sections addresses the information you have requested for this project.

1. Project Background

As noted in your letter, the EAL No. 3118 R requires that the City to complete the construction and commissioning of the WWTP on or before July 31, 2017. The original EAL was issued in September 2014 followed by a revision in April 2016 based on a minor alteration. It should be noted that due to the significant capital costs for the project (\$ 35 M), the City had to go through an extensive borrowing By-Law revisions and public hearing process to finance the WWTP project. This is over and beyond the effort required to secure funding from both Federal and Provincial Governments. Arranging financing for the City's portion of the project required creation of a By-Law to approve a Local Improvement Plan, as required by The Municipal Act (C.C.S.M. c. M225).

The City of Thompson proposed By-Law 1938-2016 Local Improvement Plan to finance the WWTP, with first reading on February 29, 2016. The City's Public Hearing for the Local Improvement By-Law was held on March 10, 2016. Objections to the By-Law were recorded and forwarded to the Minister of Municipal Relations & the Municipal Board. The Municipal Board opted to hold a Public Hearing on the City's proposed By-Law on June 16, 2016. The Municipal Board subsequently rejected the City of Thompson's proposal on August 30, 2016 (Board Order E-16-141, File No. 16E-0010 - attached). The Board's decision was reviewed by Thompson City Council at the September 6, 2016 meeting of Council, where upon the Board's advice, Council started over on developing a new Local Improvement Plan to finance the WWTP.

The City Council worked on a new proposal for the Local Improvement Plan to satisfy the Municipal Board from September to November 2016. The revised (current) Local Improvement (By-Law 1948-2016) received first reading on November 28, 2016, with a public hearing held on November 30, 2016. The proposed local improvement By-Law finally received Municipal Board Approval on January 16, 2017 (Board Order E-17-005, File No. 16E8-0044 - attached). Second and third readings were held at a Special Meeting of Council on January 23, 2017, where the By-Law was passed. The By-Law was then forwarded to the Minister of Municipal Relations, and the project was then allowed to proceed for tendering and construction by the Manitoba Water Services Board (MWSB). The project was tendered by MWSB in March 2017 following pre-selection of General Contractors. Construction started in August 2017 with an anticipated substantial completion date of March 29, 2019.

2. Project Status Update

Based on the latest update received from the General Contractor, the start-up and commissioning are scheduled for mid-May with an anticipated project completion (following performance testing) by late July of this year. Given the size, complexity and location of the project, there have been project delays by the General Contractor which are beyond the control of the City. However, most of the major elements of the WWTP are now complete. Several of the remaining activities are being implemented in parallel to meeting the commissioning milestone stated above.

Based on the project status and the requirements of the contract documents, the City does not see any practical means to influence or implement any alternative measures to fast track the project. MWSB is providing the overall Project Management, with Stantec as our project Engineer and Contract Administrator.

3. Phosphorus Compliance Plan

As stated above, the commissioning for the new WWTP and associated infrastructure is scheduled for mid-May. One of the primary objectives of the plant operations would be to address the phosphorus compliance objective to ≤ 1 mg/L utilizing alum. The practice of alum injection will begin during plant start-up/commissioning and will continue while the biomass gets established for meeting the effluent cBOD₅ and nitrogen limits (both total and ammonia-N). Currently, the City operates an aerated lagoon and a primary WWTP. Considering how close the project is to starting the new WWTP and the challenges with the existing infrastructure, it is not practical to invest additional capital funding to install chemical feed systems at these existing facilities. In addition, the timeline to incorporate phosphorus removal in the existing facilities would exceed the start-up/commissioning timeline of the new WWTP.

We trust this addresses your concerns and meets our application for a minor Alteration. We will keep the Department updated as the project progresses. If you have any questions, please do not hesitate to contact me at amcinnis@thompson.ca (204-677-7951).

Best Regards,



Anthony McInnis, PhD.
City Manager

cc. Harkamaljeet Gill, Surinder Bajwa; Assets & Infrastructure, City of Thompson
Brad DeGraeve; Manitoba Water Services Board
Saibal Basu/Rob De Koninick; Stantec

THE MUNICIPAL BOARD OF MANITOBA

DECISION AND ORDER

DECISION DATE: August 30, 2016

Order No. E-16-141

File No. 16E8-0010

MATTER: Local Improvement and Borrowing
The Municipal Act, Sections 176, 320(4) and (5)

LOCAL AUTHORITY: City of Thompson

BY-LAW NO: By-law No. 1938-2016

HEARING DATE: June 16, 2016, Thompson

PANEL: Lori Lavoie, Vice Chair
Herm Martens, Member
Marilyn Walder, Member

PARTIES AND APPEARANCES:

for the City of Thompson

Dennis Fenske, Mayor

Duncan Wong, Councillor

Gary Cepetelli, Chief Administrative Officer

presenters

Chiew Chong

Susan Harrison

Oswald Sawh

INTRODUCTION

The Council of the City of Thompson (the "City") proposes By-law No. 1938-2016 (the "By-law") to construct a new waste water treatment plant and decommission the existing waste water treatment plant (the "Proposed Project") as a Local Improvement and to undertake related borrowing.

Objections to the By-law were filed with The Municipal Board and a public hearing was held on June 16, 2016 in Thompson, Manitoba.

ISSUE

Whether the By-law respecting the Proposed Project should be approved, approved with conditions, refused or amended.

THE LEGISLATION

The Municipal Board Act:

Duty of board

- 64** In dealing with an application the board shall consider
- (a) the nature of the work, undertaking, or object proposed;
 - (b) the necessity or expediency thereof;
 - (c) the financial position of the local authority; and
 - (d) any other relevant matters;

and may refuse the application or require the local authority to vary the application, or may grant the application in whole or in part, or subject to conditions.

The Municipal Act:

Municipal Board decision

321(2) The Municipal Board must consider each proposed by-law submitted to it under subsection 320(4) and by written order

- (a) approve the by-law as submitted, with or without conditions;
- (b) refuse to approve the by-law; or
- (c) require that the by-law be amended in one or more of the following ways:
 - (i) subject to subsection (3), by adding or removing one or more businesses or properties to or from the businesses or properties to be taxed under the by-law,
 - (ii) by changing
 - (A) the amount or rate of tax, or
 - (B) the method of calculating the tax,to be levied in respect of one or more businesses or properties.

PRESENTATIONS

The City:

Dennis Fenske, Mayor, and Gary Ceppetelli, Chief Administrative Officer, speak for the City. They advise as follows:

Background:

- In 2009 the Province notifies the City that updates, to its wastewater treatment plant (“WWTP”), are required to come into compliance with its *Environment Act* License 2589.
 - To become compliant, the City is mandated to upgrade the primary WWTP to a secondary wastewater treatment plant with effluent disinfection, consistent with Manitoba Water Quality Standards, Objectives and Guidelines.
 - The current building is over 50 years old and the City is unable to upgrade it to meet these standards. Therefore a full replacement of the building and equipment is necessary.
 - The City proposes to construct a Greenfield centralized WWTP facility (the “Proposed WWTP”) adjacent to the existing WWTP for a projected population of 15,000 people.
 - The Proposed WWTP will be designed for secondary treatment including nutrient removal and will handle all domestic wastewater generated from the City’s service area including truck haul wastewater. Treated effluent will be discharged via a new 600 mm outfall to the Burntwood River.
 - The City plans to decommission the existing aerated lagoon and divert the wastewater from the southern catchment of the City limits to the Proposed WWTP. This will be achieved by replacing the existing Cree Road lift station with a new lift station and a new force-main from the Cree Road lift station to the Proposed WWTP facility.
 - The City initiates Local Improvement Plan No. 1-2016 (the “LI Plan”) for the spending, borrowing authority and imposition of taxes for the Proposed Project, as a Local Improvement, at an estimated cost of \$36,500,000.00.
 - The City identifies the following sources of funding for the Proposed Project:
 - Province of Manitoba \$12,167,000.00
 - Government of Canada \$12,167,000.00
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– City’s Contribution	<u>\$12,167,000.00</u>
TOTAL SOURCES	\$36,500,000.00

- The City’s Contribution is to be borrowed and debentured over a 25-year period at an estimated interest rate of 6.0% per annum.
- The annual debt payment of \$951,784.48 is to be recovered by a local improvement tax calculated on a per parcel rate.
- The LI Plan identifies properties, to be included in the LI District, as all taxable, grant-in-lieu and otherwise exempt properties within the City’s corporate boundaries that are connected, or have access, to the City’s sewage collection system (the “Taxable Properties”).
- Properties exempt from taxation under Section 21 of *The Municipal Assessment Act* are excluded.
- The potential taxpayers under the LI Plan are the owners of the Taxable Properties (the “Potential Taxpayers”).
- Council for the City considered three bases to calculate the local improvement tax to be paid by the Potential Taxpayers:
 - The assessed value of the Taxable Properties.
 - Total usage of the sewage system by the Taxable Properties.
 - The size of water meters on the Taxable Properties.
- Council decides that calculating taxes based on the size of a Taxable Property’s water meter is the best approach. Specifically:
 - The revenue is a guaranteed source of annual revenue and is not subject to changes in consumption, which could result in shortfalls.
 - All properties that have the ability to be connected to services, including properties otherwise exempt from taxation, will be subject to the LI tax. Properties that do not have the ability to connect will not be charged.
 - The size of a water meter is indicative of water “in”. In theory, water “in” should equal water “out”.
- A Taxable Property with more than one meter will be taxed for each meter. Bare lands or buildings not currently connected but which are adjacent, or have close access to the City’s sewage collection system, will pay a minimum tax.

- The calculation of the LI tax, based on meter size, was achieved by using the group capacity ratio identified on the Public Utilities Board (“PUB”) website. The PUB has used American Water Works Association Standards.
 - The City compared the rates per meter with the average consumption of each type (size) of meter to determine whether this method was fair. A consumption rate of \$.7238 was calculated using the 2015 consumption of 1,314,926 cubic meters as the denominator and the annual debenture payment of \$951,784.48 as the numerator.
 - Currently the size of meters is based on the size of the pipe going into the property. For example if there is a two inch line going into the building, a 2 inch meter was installed.
 - Potential taxes, based on the size of the meter(s) on the Taxable Properties, are as follows:
 - Bare lands or not serviced but adjacent to sewage collection systems: Finance Option (“FO”): \$127.16 per year/25 years or Cash Option (“CO”): \$1,625.52.
 - Properties with 5/8 inch meter: same as above.
 - Properties with ¾ inch meter: FO: \$254.32 or CO: \$3,251.04.
 - Properties with 1 inch meter: FO: \$508.64 or CO: \$6,502.07.
 - Properties with 1½ inch meter: FO: \$1,271.59 or CO: \$16,255.18.
 - Properties with 2 inch meter: FO: \$3,178.97 or CO: \$40,637.94.
 - Properties with 3 inch meter: FO: \$5,722.15 or CO: \$73,148.30.
 - Properties with 4 inch meter: FO: \$11,444.30 or CO: \$146,296.59.
 - Properties with 5 inch meter: FO: \$21,617.02 or CO: \$276,338.01.
 - Most single-family residences have 5/8 inch meters; most small businesses have ¾ inch meters; most large businesses and multi-family units have either 1 inch, 1½ inch or 2 inch meters; and institutional buildings have 4 inch meters.
 - The amount of the Borrowing may be reduced if the City transfers
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funds from its General Reserve and secures further government funding.

- In response to concerns that some Taxable Properties have oversized meters, the City says this may be true in some cases. The City is currently working on a policy to address requests from property owners wishing to change the size of existing meters.
- The following items will be considered when developing a policy: line size going into the building, distance from the main, age of the building, number of fixture units and fire suppression.
- The City wishes to correct any errors in the sizing of pipes/meters.
- In closing, the City states that no one disagrees about the need for the Proposed Project.
- There are likely imperfections in all methods to calculate LI taxes. "...what is important is what is in the public interest overall ... the inequities are minimized because only 5% of properties are impacted." At most, 1% of Taxable Properties have oversized meters.

Potential Taxpayers:

Potential Taxpayers are in attendance and make the following points:

- No one supports the By-law in its present form.
 - One person objects to moving forward with the Proposed Project at this time, saying sewer lines are broken down and should be upgraded before undertaking expensive construction.
 - Other presenters support the Proposed Project, but object to the method of calculating the LI Tax in the By-law.
 - The concerns relate to the possible over-sizing of pipes and meters which leads to an unfair and inequitable LI Tax.
 - The Thompson Chamber of Commerce supports its members' concerns about the method of calculating the LI Tax. Although a new sewage treatment plant is needed, calculating the LI Tax on meter size is unfair because meter size does not always fairly represent the level of usage. Fees should be established to ensure that those who place the greatest pressure on the infrastructure, or consume and produce the greatest volumes, pay their fair share. The burden should not be placed on residential
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properties or commercial businesses that use limited services in comparison to other Taxable Properties. A more transparent way to calculate a Taxable Property's contribution is "actual" usage which, although it is an unpredictable revenue source for debt servicing, is fair and equitable.

- The President of the Chamber of Commerce, Oswald Sawh, was a City councillor when water charges were moved from the general levy to a per property utility charge based on consumption. When water meters were installed in 2010, consumption unexpectedly dropped by 30% causing the City serious budgeting problems because its estimates were based on higher usage. As a result the City abandoned the meters and charged a flat fee for water. To date the meters are not operational.

- Susan Harrison, Property Management Broker for Allied Rentals Ltd., speaks on behalf of an owner of several multi-family apartment buildings. She confirms that her client does not object to the Proposed Project. Her client's concern relates to the method and rate for calculating the LI Tax which, she says, is the first where the City plans to apply a fixed charge based on the size of the water meter for each building *regardless of property size, value or volume of flow*. The multi-family properties, managed by her company, have water meters ranging in size from 1 inch to 2 inch. Ms. Harrison provides a spreadsheet which, she states, illustrates examples of inequities among similar types of properties:

- 11 identical 12-unit buildings: six have 1 inch and five have 1½ inch meters;
- two identical 18-unit buildings: both have 2 inch meters;
- three identical 20-unit buildings: one has 1½ and two have 2 inch meters; and
- five 24-unit buildings: one has 1½ inch and four have 2 inch meters.

- Upon asking the City how meter sizes were determined when they were installed in 2010, Ms. Harrison was told that the size was consistent with the size of the private service line entering the building. She explains that the size of a water meter is generally determined on the number and type of plumbing fixtures and typical water usage. She argues that, at the time of installation of the meters, these factors were not taken into account. Based on the number and type of plumbing fixtures in the 18-, 20- and 24-unit buildings, and typical water use, the 2 inch meters are the wrong size for their needs and should be downsized to 1½ inch meters. In

the 12-unit buildings they should be downsized from 1½ inch to 1 inch meters for the same reasons.

- Ms. Harrison states that prior to using the size of water meters to calculate LI Taxes, the City must replace incorrectly sized meters with meters that accurately reflect existing plumbing fixtures in the buildings and typical water use.
- Ms. Harrison asks that the By-law be amended to calculate LI Taxes based on a property's actual use of the sewer system.

ANALYSIS

Under Section 64 of *The Municipal Board Act*, the Board is required to consider the By-law within the context of the following: the nature of the work, undertaking, or object proposed; the necessity or expediency thereof; the financial position of the local authority; and any other relevant matters.

a) The Nature of the Proposed Project:

The Board finds that the City has fully explained the nature of the Proposed Project as the construction of a new WWTP and the decommissioning of the existing WWTP.

b) The Necessity or Expediency of the Proposed Project:

The City and the presenters agree that the Proposed Project is necessary to come into compliance with the City's *Environment Act* License 2589 as directed by the Province in 2009. With respect to expediency, one presenter suggests that the Proposed Project not commence until upgrades are made to the deteriorating sewer lines. There are no other objections to the City's desire to commence the Proposed Project at the earliest opportunity. The Board is satisfied as to the necessity and expediency of the Proposed Project.

c) The Financial Position of the Municipality:

Of the \$36,500,000.00 estimated cost of the Proposed Project, the City has secured funding from the Provincial and Federal Governments for two-thirds of the amount, leaving \$12,167,000.00. The City proposes to finance the balance by borrowing and issuing a debenture for \$12,167,000.00 over 25 years at an estimated interest rate of 6.0% per annum. The City proposes to recover the annual debt payment of

\$951,784.48 by a LI tax calculated on a per parcel rate. The City may reduce the amount of the borrowing by transferring funds from its General Reserve and applying further government funding if awarded.

The Board is satisfied that the LI Plan demonstrates the City's financial capacity to finance a \$12,167,000.00 debenture.

d) Any Other Relevant Matters:

The objectors raise one additional matter that is relevant for the Board's consideration of the By-law:

- Whether the By-law's proposed method of calculating LI Taxes on the size of a Taxable Property's water meter, is fair and equitable.

Council for the City determines that calculating taxes based on the size of a Taxable Property's water meter is the fairest and most equitable approach. They say that the revenue is a guaranteed source of annual revenue and is not subject to changes in consumption, which could result in shortfalls; and all properties that have the ability to connect to services, including properties otherwise exempt from taxation, will be subject to the LI Tax. Further, the assumption in using this approach is that the size of a property's water meter is in direct proportion to that property's anticipated level of usage of the sewer system.

Objectors have asserted that meters on some of the Taxable Properties are over-sized in relation to similar type properties, and that the size of meters does not always fairly represent usage. The City agrees that *some* of the Taxable Properties have oversized meters and advises that it is currently working on a policy to address requests from property owners to replace over-sized meters with correctly sized meters. The City states that it wishes to correct any errors in the sizing of meters, once the policy is in place.

Although it recognizes that some Taxable Properties likely have over-sized meters, the City's rationale in moving forward with this method is because it is in the best public interest, overall. The Taxable Properties, potentially impacted by over-sizing, represent only 5% of the total number of Taxable Properties in the By-law. At most, the City says, only 1% of these properties have oversized meters. The inequities created by this method of taxation, they say, are minimized because of the small number of properties that may be impacted.

CONCLUSION

The Board has carefully considered all of the evidence and submissions made at the hearing. The Board appreciates that there is a demonstrated need for the Proposed Project as there is a Provincial directive to come into compliance with the City's *Environment Act* License.

The Board also recognizes, however, that the City's chosen method of calculating LI Taxes, based on meter size, is flawed because it is likely that some of the Taxable Properties have over-sized meters. The goal, using any approach, is that the basis for calculating the LI tax is fair and equitable for all Potential Taxpayers, not just the majority. Until it is assured that all meter sizes are accurate for the type and size of a property, and that meter size reflects the anticipated level of use, the City cannot rely upon a method of taxation that will produce an inequitable distribution of LI Taxes.

The Board has struggled with its decision in this matter and has considered other possible methods to calculate LI Taxes that would ensure equity. In the Board's opinion, however, this is the City's responsibility. Because the City did not propose any alternative methods to calculate the LI Tax, the Board is left with no other alternative but to refuse the By-law.

The Board commends the City for its efforts to secure significant funding from Federal and Provincial sources and its desire to reduce the amount of the borrowing with further funding. The Board also commends the City for satisfying all other requirements of Section 64 of *The Municipal Board Act*.

It is for these reasons that the Board cannot approve By-law No. 1938-2016.

THEREFORE, THE BOARD ORDERS:

1. That By-law No. 1938-2016 of The City of Thompson **BE REFUSED.**
2. That the filing fee in the amount of \$50.00 be paid by the City of Thompson.

FOR THE MUNICIPAL BOARD

August 30, 2016



Date

Lori Lavoie, Vice Chair



Rose Gibbons, Secretary

**THE MUNICIPAL BOARD OF MANITOBA
DECISION AND ORDER**

DECISION DATE: January 16, 2017

Order No. E-17-005
File No. 16E8-0044

PANEL: Lori Lavoie, Vice Chair
Patrick Fortier, Member

CITY OF THOMPSON - BY-LAW NO. 1948-2016

The City of Thompson (the "City") submits By-law No. 1948-2016 under Section 320(4) of *The Municipal Act* for the Board's review and approval. The proposed By-law was received on December 23, 2016.

By-law No. 1948-2016, attached as Appendix "A", authorizes the construction of a new waste water treatment plant as a Local Improvement. The estimated cost is \$36,500,000.00. The City has received funding from the new Building Canada Fund's National Regional Projects in the amount of \$24,334,000.00 of which \$12,167,000.00 is the Federal contribution and \$12,167,000.00 is the Provincial contribution. The balance of \$12,167,000.00 is to be borrowed by the City.

The financial data presented to the Board indicates that the City has an authorized Debt to Municipal Assessment Ratio of 2.68% and a debt charge to current revenue ratio of 7.71%. If this By-law is approved, the ratios will increase to 5.21% and 10.84% respectively, which are within the Board's guidelines of 7% (authorized Debt to Municipal Assessment) and 20% (debt charges to current revenue).

The Municipal Act states:

Definition

310 In this Division, "potential taxpayer", in relation to a local improvement plan or by-law or a special services proposal or by-law, means a person who would, if the local improvement or special service were approved by by-law, be liable to pay for the local improvement or special service.

Requirements before third reading

320(4) Before giving third reading to a proposed by-law to approve a local improvement plan or special services proposal, a council must

(a) give notice to each person who filed an objection under subsection 319(1) of its intention to give third reading, and of that person's right to object under subsection (5); and

(b) submit the by-law to The Municipal Board for its review and approval.

Taxpayer objection to third reading

320(5) A potential taxpayer under a proposed local improvement or special services by-law may, by filing a notice of objection with The Municipal Board within 30 days after notices are sent under clause (4)(a), object to the by-law being given third reading.

Hearing by Municipal Board

321(1) If at least 25, or 10%, of the potential taxpayers under a proposed local improvement or special services by-law object under subsection 320(5) to the by-law being given third reading, The Municipal Board must hold a public hearing regarding the by-law before making an order under subsection (2).

In dealing with the proposed By-law, the Board must look at its duty which is set out in Section 64 of *The Municipal Board Act*, which states:

Duty of board

64 In dealing with an application the board shall consider

(a) the nature of the work, undertaking, or object proposed;

(b) the necessity or expediency thereof;

(c) the financial position of the local authority; and

(d) any other relevant matters;

and may refuse the application or require the local authority to vary the application, or may grant the application in whole or in part, or subject to conditions.

The Board received six letters of objection to the proposed By-law.

As less than 25 or 10% of the potential taxpayers filed a notice of objection under Section 320(5) of *The Municipal Act*, the Board is not required to hold a public hearing.

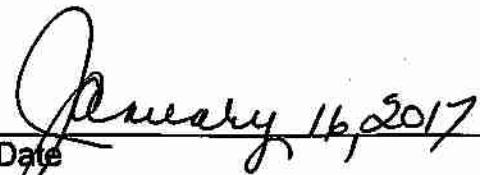
The Board is satisfied that the work is needed and that it is expedient to proceed with the project. The Board also is satisfied that the City has the financial capacity to undertake the proposed borrowing and to manage its current debt. After consideration of the objections and the review of the Local Improvement Plan, the Board has decided not to proceed with a public hearing.


The Board finds the proposed By-law is reasonable and will be approved by the Board.

Upon considering the proposed By-law, **THE BOARD ORDERS THAT:**

1. City of Thompson By-law No. 1948-2016 **BE APPROVED**, subject to the following amendments:
 - (a) On Schedule "B" to the By-law, delete "BY-LAW NO. 1938-2016" and replace with "BY-LAW NO. 1948-2016";
 - (b) On Schedule "C" to the By-law, amend the following:
 - i) insert as the title, "City of Thompson Schedule C to By-law No. 1948-2016"; and
 - ii) after "Finance Charge per year for 25 years" insert ".81/foot".
2. A filing fee of \$50.00 be paid by the City of Thompson.

FOR THE MUNICIPAL BOARD


Date January 16, 2017


Rose Gibbons, Secretary


Lori Lavoie, Vice Chair