



THE CORPORATION OF THE TOWN OF AMHERSTBURG

OFFICE OF ENGINEERING & INFRASTRUCTURE SERVICES

MISSION STATEMENT: Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.

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Author's Phone: 519 736-3664 ext. 2313	Date to Council: May 8, 2023
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To: Mayor and Members of Town Council

Subject: Impacts to infrastructure Services – Engineering Division related to Bill 23, Bill 109, and Consolidated Linear Infrastructure (CLI) Approvals

1. RECOMMENDATION:

It is recommended that:

1. An upset limit of \$55,000 **BE FUNDED** from the fees recovered for the costs related to hiring the Development Engineering Administrator;
2. A value of \$50,000 **BE FUNDED** from the fees recovered for the creation of the Operation and Maintenance Manuals for Sanitary and Stormwater as required in the Town's CLI-ECA;
3. By-law 2023-063, being a By-law to Amend By-law 2023-057 be taken as having been read three times and finally passed and the Mayor and Clerk **BE AUTHORIZED** to sign same.

2. BACKGROUND:

Based on recent changes to various provincial regulations and processes, this report provides a summary of those changes and the associated impacts to the Infrastructure Services Department in order to support these.

Bill 23, More Homes Built Faster

- As a result of Bill 23 passing, the Municipality's support from ERCA and the County of Essex has been reduced. There is also the impact of up to 3 additional residential units

per urban residential property that are now permitted and the removal of the requirement for site plan control for residential buildings under 10 units.

- It should be noted that the above approvals may not be required to go through a full planning process, however review and approval by Engineering & Infrastructure is still required to determine sanitary capacity and impacts, stormwater impacts, etc.

Bill 109, More Homes for Everyone Act

- Council was made aware of the changes initiated by the passing of Bill 109 through a report on June 27, 2022 and an Official Plan Amendment No. 19 regarding the impacts of Bill 109 was endorsed by Council via Bylaw 2022-103 on October 25, 2022.
- Additional legislative changes in Bill 109 which come into effect January 1, 2023 impose financial penalties for the municipality. Delays in both decisions on zoning by-law amendments and approvals of site plan controls, will result in graduated refunds of those respective fees, starting at 50% through to 100% depending on the time delay associated with each file.
- It is expected that Administration's current processes for development approvals will require modification along with an increased volume of applications submitted for municipal review and approval.

Consolidated Linear Infrastructure (CLI) Approvals

In 2021, the Ministry of Environment, Conservation and Parks (MECP) adopted the CLI permissions approach for publicly owned sanitary and stormwater infrastructure projects that meet specific criteria, as outlined by the MECP.

This approach includes the following:

- Downloading the responsibility for the verification of all criteria specific to Environmental Compliance Approvals (ECA) from the Province to the Municipality (now referred to as CLI Process);
- Clear and consistent design criteria that must be met (confirmed through the CLI Process);
- The establishment of new operational and maintenance requirements for municipal sanitary collection systems and stormwater management infrastructure and collection systems
- Annual reporting to the MECP for the above.

The CLI Process requires the Municipality to review and issue verifications for storm and sanitary systems, if the outlined criteria of the application have been met. This is for both municipal projects (capital replacement and improvement projects) and growth projects (developers who construct infrastructure that shall eventually become the ownership of the municipality). The below lists the approvals that were downloaded to the Municipality:

- The modification, replacement or extension of sanitary and storm sewers, including extensions into new residential developments;
- The addition of new sewage pumping stations (less than 30 litres/second) or the modification of existing sewage pumping stations;
- The addition of new stormwater management facilities or modifying existing facilities (e.g., wet ponds, infiltration basins, engineered wetlands, etc.); and/or

- The addition of new or modifying the existing equipment with emissions to air (e.g., emergency power generators or venting for odour control).

The above is expected to be the majority of annual approvals that would be required to be issued. Any proposed works that do not meet the specific design criteria and general conditions will continue to require approval from the MECP prior to proceeding with construction. These may include decommissioning of pumping stations, treatment-based approvals for sanitary (i.e. treatment plant construction or expansion) and larger sanitary pumping stations. Applications required for MECP approval are expected to be uncommon and typically these applications would be works that would be undertaken by the Municipality.

The Ministry of Environment, Conservation and Parks (MECP) has approved Amherstburg's application for both the municipal stormwater management system and the municipal sewage collection system. The MECP issued Amherstburg's Stormwater CLI-ECA on February 8th 2023 and our Sanitary CLI-ECA on February 28th 2023, making these the effective date of the download of responsibility.

3. DISCUSSION:

Impacts of Bill 23 & Bill 109

The introduction of Bill 23 & Bill 109 requires the municipality to offer an enhanced level of service to review and approve development applications submitted under the planning act. Submission of planning applications requires significant support from Engineering Division from pre-consultation to approval through to assumption of municipal infrastructure with many of these processes involving multi-year commitments from Engineering before assumption of the works.

Currently the Engineering Division has 0.5 FTE (Engineering Technologist), 0.1 FTE (Drainage Superintendent / Engineering Coordinator) and 0.6 FTE (Manager of Engineering) supporting Planning and Development to provide technical reviews and approvals and to coordinate the development process through the construction and assumption of infrastructure. The Drainage Superintendent / Engineering Coordinator is at capacity with the demands of the Town's extensive municipal drainage system. The Manager of Engineering and Engineering Technologist are currently at capacity based on involvement in development and other large-scale improvement projects such as master plans and studies (Transportation Masterplan / Water Treatment Plant EA / McGregor Lagoons EA) , flood mitigation and protection framework and delivering other capital projects funded in the Infrastructure Services Department (some which are backlogged). It should be noted that the Town currently does not collect any fees for the services provided by the Engineering Department to support development.

The review and approval for development applications is constrained with current resources. It is expected that the level of service needs will not be achievable while maintaining the quality and integrity of technical reviews and approvals.

Impacts of Consolidated Linear Infrastructure (CLI) Approvals

The CLI Approvals program will put new compliance and staff resource pressures on Administration including the need to:

- Develop and support an application and submission process;
- Develop an internal process for conducting the reviews and issuance of CLI approvals. This is a multi-level review process across multiple divisions (Engineering, Roads and Environmental Services);
- Completion of the review and verification process, as required, to meet acceptable timelines;
- Develop operating procedures and formalize through a manual to provide routine inspections, undertake enhanced maintenance and monitoring of the infrastructure; and
- Provide annual reporting to the MECP outlining the issuance of approvals, maintenance and operation reporting on existing systems for both storm and sanitary, in accordance with specific deadlines and to ensure compliance.

As part of this new process, the MECP is permitting municipalities to collect a fee for these approvals in lieu of the previous C of A approval fees that were submitted to the MECP.

The Town of Amherstburg is not presently staffed to undertake the program related to the CLI application review and approval process (including maintenance, operation compliance, inspections and reporting). The Ontario Clean Water Agency (OCWA) is responsible to ensure our sanitary treatment facilities are operated within the requirements of the new CLI-ECA but currently Amherstburg has 0 staff members responsible for ensuring additional compliance with MECP requirements including pre-approval of new works (development) and development and implementation of an Operation & Maintenance Manual & Monitoring Plan for municipal sanitary and stormwater servicing infrastructure and providing accurate record keeping and submission of all required documentation to the MECP.

The Town currently relies on two technical approvals prior to issuing final support with respect to new infrastructure. This includes ERCA and MECP. These will now be minimized and/or eliminated from the process, causing increased accountability on the Engineering Department.

Timelines (as mandated by the MECP) cannot be met with current staff for the creation and implementation of Amherstburg's Operation & Maintenance Manual & Monitoring Plan, to ensure the completion of the required annual inspections are undertaken, to collect data and prepare the annual submission to MECP to ensure compliance. Even with the approval of a new position, the Infrastructure Services Department Division requires a \$50,000 increase to the Consulting Services line of the Operational budget for the development of the Operations & Maintenance Manual and Monitoring Plan by a third-party consultant. Amherstburg is required to have the Stormwater Operating Manual by March 4th, 2024 and the Sanitary Operating Manual by July 4th, 2024.

Based on the download of responsibility and the increased level of service required as a result of the above-noted bill changes, additional staff and engineering fees are required to be introduced and have been outlined below.

Additional Staffing and Engineering Fees Introduced

To accommodate the demands, Infrastructure Services requires one (1) full-time employee (FTE's) at this time. This FTE will be funded largely by the introduction of application and approval fees and partially (10%) through salary (tax levy). Infrastructure Services Department will monitor workload and ability to deliver reviews and approvals within the specified timelines dictated by current legislation and determined by the level of service determined by the Engineering division. The ability of the Infrastructure Services department to meet the new

requirements with respect to the planning of maintenance, monitoring, data collection and annual submissions with will be closely tracked. There may be a need for additional staff if the department is unable to meet the requirements of the new CLI-ECA.

The current FTE requested will complete the additional work as outlined below:

Position: Development Engineering Administrator

This role will report to the Manager of Engineering and will coordinate the Infrastructure Services contributions to all development applications submitted under the Planning Act (including review and infrastructure approvals), ensure ministry compliance through CLI applications.

Administration is also recommending an amendment to Amherstburg's User Fees By-Law 2023-057. The introduction of Engineering review fees will provide revenue to the Town for the support of development and the CLI approval fees will allow the Town to recover costs related to this new requirement.

A chart of comparative fees has been attached as Table 1 – CLI Application Fees, Municipal Comparators related to other municipalities that have implemented fees for CLI applications.

For Engineering Review Fees, local comparators, including Amherstburg (excluding City of Windsor) typically invoice developers (when required) actual consulting costs related to engineering peer reviews but do not recover any staff effort. Any engineering reviews that are completed in house are not recovered through this practice. The City of Windsor charges significantly higher fees than the rest of Windsor-Essex. The Municipality of Lakeshore has recently introduced Engineering and CLI Fees and through regional engineering discussions the other local municipalities have indicated that their Engineering Fees are expected to undergo a review based on the changes noted in this report.

The recommended fees for incorporation into the User Fees By-Law 2023-057 have been outlined in the attached Table 2 – Engineering Fees.

The following should be noted:

- The introduction of standard engineering review fees (in lieu of third-party consultant cost recovery), the CLI application fees and the associated fees through construction will recover a large portion of the 1 FTE.
- A pre-screening application and fee will be introduced prior to the CLI application process. The pre-screening will determine if the work being proposed is able to be approved by Amherstburg or if the application must be approved by the MECP. The pre-screening fee will become a credit towards the CLI application fee if the proposal is determined to be approved by Amherstburg
- With the new FTE in place, the CLI approvals are expected to take approximately 80 working days from the application date but may differ based on the size of the application and complexity of the work being proposed. (Without the above outlined support, CLI approvals would be expected to be completed within a similar level of service as the previous MECP timelines (6 to 12 months, average wait times were 8 months)).
- Multiple submissions and reviews are crucial to obtain compliance with Amherstburg's Development Standards and ERCA's Stormwater Management Guidelines in development proposals. An additional fee has been introduced for those applications that exceed 5 submissions based on the lack of quality submissions. It is anticipated that the

quality of submissions will increase due to the introduction of fees and ultimately result in a more efficient review process.

4. RISK ANALYSIS:

If Council does not agree to fund the new position there will be significant delays to the development process and the Town may be required to return planning fees. If Council does not support the new user fees related to engineering review and CLI applications the funding for this work will continue to come from the tax base.

5. FINANCIAL MATTERS:

The financial impact of Development Engineering Administrator is \$140,950 per year including benefits and pension (2023 rates). It is anticipated that this position will not be filled until September 2023. Therefore, the 2023 impact is anticipated to be \$55,000 including onboarding costs (desk, computer, phone).

The above does not consider an additional vehicle within the Engineering Division. Future needs will be assessed to determine whether an additional vehicle is required however this can be revisited in future budget years.

Based on number of development applications submitted in the last two years and the projected applications for 2023 and the introduction of the Engineering Fees, the estimated revenue per year (based on an annual average) is included below:

Type of Application	# of Applications in 2021	# of Applications in 2022	# of Applications in 2023
Plan of Subdivision/ Condominium Applications	2	2	6*
Site Plan Control Applications	2	14	16*
Zoning By-law and Official Plan Amendment Applications	13	32	38*
Fees to be collected based on the new user fees	\$71,000	\$148,650	\$270,350

* These are projections from the Planning Department. It should be noted that 4+ months have elapsed in 2023 so some site plan and ZBA applications have been approved already (not CLI applications).

Occasionally third-party consultants are used to conduct detailed engineering reviews of certain complex components. Engineering will continue to use third-party for development reviews where required.

Why can't 100% of the cost be born through Engineering Fees?

It is anticipated that approximately 90% of the proposed staffing would be growth related and shall be funded through fee revenue in order for growth to continue paying for growth. The remaining 10% must be borne by the levy as these costs are to address existing infrastructure that is not growth related. It is anticipated that the annual revenue could fluctuate as shown, with some years recognizing higher revenue than others. Which will be factored into the 2024 budget.

Based on the CLI process, there are still unknown impacts that will be clarified through the completion of the Operations & Maintenance Manual and Monitoring Plan and other components of the CLI-ECA. It is expected that there will be additional financial impacts and potential staffing needs required to meet the operation and maintenance compliance requirements, however these impacts will be brought forward in the 2024 budget, and through subsequent budget years.

Administration will review the engineering fees throughout the course of 2023 to ensure that the start-up costs identified in the report are covered and recommend any necessary adjustments at year end. In addition, the Draft 2024 Budget will ensure growth-related CLI's are being born by development.

6. CONSULTATIONS:

Chief Administrative Officer
Director of Infrastructure Services
Director of Development Services
Director of Corporate Services
Manager of Planning Services
Clerk
Regional Engineering Group

7. CONCLUSION:

Administration is recommending one (1) new staff, new fees to meet the new level of service outlined by Provincial legislation and to meet the additional review and approval requirements that have been downloaded by the Province.



Todd Hewitt
Manager of Engineering

Report Approval Details

Document Title:	2023 05 08 Provincial Regulation Changes - Impact to Infrastructure Services.docx
Attachments:	- Table 1 - CLI Application Fees, Municipal Comparators.pdf - Table 2 - User Fee Bylaw- Engineering and CLI Fees (2).pdf - By-law 2023-063 - To Amend 2023-057 User Fee By-law.pdf
Final Approval Date:	May 2, 2023

This report and all of its attachments were approved and signed as outlined below:



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