Report - Standing Policy Committee on Public Works - May 13, 2003

Item No. 4 Servicing Agreement between the Rural Municipality of East St. Paul and the City of Winnipeg for Water, Sewer and Land Drainage Services on Glenway Avenue
File WW-2.4 (Vol. 9), WS-5 (Vol. 19)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 21, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Public Works and submits the following to Council:

1. That the Water and Waste Department be authorized to negotiate a new servicing agreement with the Rural Municipality of East St. Paul for continued service on a boundary street for approval by City Council and for outstanding arrears from a lapsed agreement.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing, including the execution of any documents related thereto.

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DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 21, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Public Works and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On May 13, 2003, the Standing Policy Committee on Public Works concurred in the administrative recommendation and submitted its recommendation to Executive Policy Committee and Council.

RE: SERVICING AGREEMENT BETWEEN THE RURAL MUNICIPALITY OF EAST ST. PAUL AND THE CITY OF WINNIPEG FOR WATER, SEWER AND LAND DRAINAGE SERVICES ON GLENWAY AVENUE

FOR SUBMISSION TO: THE STANDING POLICY COMMITTEE ON PUBLIC WORKS

ORIGINAL REPORT SIGNED BY: Barry D. MacBride, P. Eng.,
Director of Water and Waste

REPORT DATE: March 28, 2003

RECOMMENDATION(S): That the Water and Waste Department be authorized to negotiate a new servicing agreement with the Rural Municipality of East St. Paul for continued service on a boundary street for approval by City Council and for outstanding arrears from a lapsed agreement.

REPORT SUMMARY

KEY ISSUES: In 2000, the Rural Municipality of East St. Paul launched a legal proceeding to settle a disputed provision of an agreement under which the City of Winnipeg provided sewer, water and land drainage services to East St. Paul residences on Glenway Avenue. After investigation, both parties concluded that the agreement had in fact lapsed in 1996 and East St. Paul agreed to abandon its legal action and to begin negotiations towards a new agreement. In addition to settling the terms of a new agreement, it is anticipated that the negotiations will address outstanding issues arising from the old agreement and outstanding issues that have arisen in the time period since the lapse of the agreement.

IMPLICATIONS OF THE RECOMMENDATION(S):

General Implications

	None
	For the organization overall and/or for other departments
X	For the community and/or organizations external to the City of Winnipeg
	Involves a multi-year contract

Comment(s): This Agreement will provide for continued provision of municipal water and sewer services to an adjoining municipality.

Policy Implications

	No
X	Yes – Comment(s): Involves the sharing of water and sewer services with an adjoining Capital Region municipality.

Environmental Implications

X	None
	Yes – Comment(s):

Human Resources Implications

X	No
	Yes – Comment(s):

Financial Implications

X	Within approved current and/or capital budget
	Current and/or capital budget adjustment required

Comment(s):

REPORT

REASON FOR THE REPORT:

Section 211 of the City of Winnipeg Charter gives City Council the authority to enter into servicing agreements with adjacent municipalities.

HISTORY:

On November 9, 1976 the City of Winnipeg entered into a servicing agreement with the Rural Municipality of East St. Paul.

In 1996, City Council approved an increase to the sewer maintenance frontage levy.

In 1998 and 1999, the Rural Municipality of East St. Paul started withholding payment of the sewer maintenance frontage levy to the City although they had collected these charges from the East St. Paul residents on Glenway Avenue.

In 2000, the Rural Municipality of East St. Paul launched a legal proceeding against the City for the sewer maintenance frontage levy, and they withheld payment of all charges associated with the provision of sewer services.

In 2001 while conducting research in preparation for this legal proceeding, the City's Legal Services Division concluded that the agreement ended in 1996. The Rural Municipality of East St. Paul discontinued its legal action.

On January 20, 2003, the Chief Administrative Officer of East St. Paul wrote to the City indicating that the Council of East St. Paul would like to proceed with negotiating a new agreement.

DISCUSSION:

The Servicing Agreement signed in 1976 obligated the City, subject to a successfully petitioned local improvement, to construct wastewater sewers, land drainage sewers and watermains on Glenway Avenue, between Henderson Highway and Raleigh Street, which is laterally contiguous to the boundary line between Winnipeg and East St. Paul. After construction of said works East St. Paul was obligated to pay their share of the capital cost and collect and remit to the City quarterly water and sewer charges, frontage levies for maintenance and renewal and hydrant charges. Until 1997 East St. Paul collected the relevant charges and fees, including frontage levies, from the residents in East St. Paul on Glenway Avenue and provided them to the City.

Between 1996 and 2001, the City increased the sewer frontage levy for the purposes of increasing funding to the sewer renewal program and for the basement flood relief capital program. The total sewer frontage levy increased from $0.70 per foot in 1996 to $1.90 per foot in 2001. Of these totals, the basement flood relief program comprised

$0.10 per foot in 1996 and increased to $0.75 per foot by 2001. East St. Paul considered the charges for the basement flood relief program to be outside the scope of the original 1976 Servicing Agreement. Pending resolution of this disagreement, East St. Paul collected the portion of the levy attributable to the basement flood relief program from the residents and remitted it to the City in 1996 and 1997, but in 1998 and 1999, withheld payment for this portion from the City. In 2000, 2001, and 2002, East St. Paul withheld all sewer frontage charges associated with the provision of sewer services.

In order to resolve this dispute, in January 2000 East St. Paul applied to the Court for an interpretation of the Agreement. While conducting research in preparation for this legal proceeding the City's Legal Services Division came to the conclusion that the provisions of the City of Winnipeg Act limited the duration of the Agreement with East St. Paul to a maximum term of 20 years. As a result, despite the fact that neither party was aware of it at the time, the Agreement ended in 1996. East St. Paul agreed with this conclusion and agreed to discontinue its application for judicial interpretation of the Agreement without costs to either side.

The fact that the Agreement ended in 1996 means that East St. Paul is currently not obliged to collect and pay for the City's services. However, it also means that the City has no obligation to provide services to these residents. Negotiations with a view to a new agreement would therefore appear to be in the interests of both parties and, in fact, both parties have expressed an interest in a new agreement. The future obligation of residents of East St. Paul to pay the frontage levy will be addressed in the course of these negotiations.

In January 2003 the Chief Administrative Officer of East St. Paul wrote to the City indicating that the Council of East St. Paul would "like to proceed with negotiating a new agreement". Accordingly, it is recommended that the administration be authorized to undertake negotiations and develop an agreement for Council approval.

FINANCIAL IMPACT:

The following financial impact statement for this project has been prepared in accordance with the recommendation adopted by Council on December 13, 2000.

Financial Impact Statement **Date:** March 28, 2003

Project Name:

SERVICING AGREEMENT BETWEEN THE RURAL MUNICIPALITY OF EAST ST. PAUL AND THE CITY OF WINNIPEG FOR WATER, SEWER AND LAND DRAINAGE SERVICES ON GLENWAY AVENUE

COMMENTS:

There is no financial impact associated with the recommendation to negotiate a new service agreement.

/ddm

Moira L. Geer C.A.
Manager of Finance & Administration

IN PREPARING THIS REPORT THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

Consultation with another Department was not required for this report.

THIS REPORT SUBMITTED BY:

Department:	Water and Waste
Division:	Engineering
Prepared by:	Doug McNeil, P.Eng.
File No.	020-06-02-07-15