

ADOPTED by Council at its meeting held February 21, 2012 [M98-2012]

/AA

Windsor, Ontario February 21, 2012

REPORT NO. 48 of the
ENVIRONMENT & TRANSPORTATION STANDING COMMITTEE
of its meeting held January 25, 2012

Present:
Councillor Hatfield, Chair
Councillor Payne
Councillor Sleiman
Councillor Halberstadt
Councillor Valentinis

That the following recommendations of the Environment and Transportation Standing Committee **BE APPROVED:**

Moved by Councillor Payne, seconded by Councillor Halberstadt,

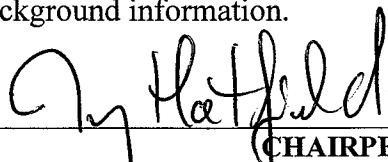
That Council **AUTHORIZE** the City Solicitor to prepare by-laws for the assumption by the City of Windsor of public highways and municipal services installed therein, upon notification from the City Engineer that the public highway and municipal services have been installed to the City Engineer's satisfaction by the developer pursuant to a subdivision agreement or servicing agreement, without the need for an individual report to Council each time.


Carried.

Councillor Valentinis was absent when the vote was taken

LIVELINK #15667 AB2012

Clerk's Note: The administrative report authored by the Engineer II dated December 15, 2011 entitled "By-laws for Assumption of Public Highways and Municipal Services" is attached as background information.


CHAIRPERSON


DEPUTY CLERK

NOTIFICATION:				
Name	Address	Email Address	Telephone	FAX



THE CORPORATION OF THE CITY OF WINDSOR
Environment & Transportation Standing Committee - Administrative Report



MISSION STATEMENT:

"The City of Windsor, with the involvement of its citizens, will deliver effective and responsive municipal services, and will mobilize innovative community partnerships"

LiveLink REPORT #: 15667 AB2012	Report Date: December 15, 2011 (PW#3222/1s-01/05/12:ebr)
Author's Name: Stacey Shyshak	Date to Standing Committee: January 25, 2012
Author's Phone: 519-255-6257 ext.6462	Classification #:
Author's E-mail: sshyshak@city.windsor.on.ca	

To: Environment & Transportation Standing Committee

Subject: By-Laws for Assumption of Public Highways and Municipal Services

1. RECOMMENDATION: City Wide: ____ Ward(s):

That Council **AUTHORIZE** the City Solicitor to prepare by-laws for the assumption by the City of Windsor of public highways and municipal services installed therein, upon notification from the City Engineer that the public highway and municipal services have been installed to the City Engineer's satisfaction by a developer pursuant to a subdivision agreement or servicing agreement, without the need for an individual report to Council each time.

EXECUTIVE SUMMARY: N/A

2. BACKGROUND:

In past practice, the City has passed by-laws to declare lands as public highway but never to assume ownership of the services installed therein. Rather, public highways and municipal services constructed by developers, including all associated infrastructure (e.g. roadways, pump stations, streetlights, sidewalks and sewers) pursuant to subdivision and servicing agreements have been assumed by the City by letter to the developer. The letter was prepared upon the recommendation from the developer's consulting engineer and a final inspection by the City. We have been advised that the better practise would be for council to pass a by-law to assume the public highway and the services installed therein prior to notification of the acceptance of the works. This would provide a permanent public notice that the public highway and services had been assumed by the City.

3. DISCUSSION:

The purpose of this report is to request Council's authorization for the City Solicitor to prepare by-laws for assumption of the public highways and municipal services installed therein without the need for individual reports to Council each time. Such approval would be conditional upon the written advice of the City Engineer confirming that the public highway and municipal services may be assumed based on the following criteria:

- I. The developer has complied with all of the terms and conditions of the subdivision or servicing agreement with respect to the works.
- II. The developer has corrected all deficiencies in the works identified under the maintenance periods described in the said agreements, to the satisfaction of the City Engineer.
- III. It has been verified that all accounts in connection with the supply, installation of and maintenance of the works have been paid and there are no outstanding debts, claims or liens in respect to the installation of or maintenance of the works.
- IV. The developer's engineering consultant has provided the City with a Certificate of Completion, signed by the Engineering consultant and prepared and advertised as prescribed by the Construction Lien Act and any regulation thereto.
- V. The developer has provided to the City a Certificate by an Ontario Land Surveyor stating that all standard iron bars have been made visible as required
- VI. Any additional assurances as required have been received to the satisfaction of the City Engineer.

4. RISK ANALYSIS:

As a municipality, the City is responsible for maintenance of highways within its jurisdiction, and required to maintain them in a reasonable state of repair. Maintenance activities are either performed directly by City crews, or contracted out to a third party. Until the highway is assumed by the City, this responsibility generally lies elsewhere. It is important for the City to know when its responsibility is triggered, so that it may begin to carry out its obligations. Failing to adhere to maintenance obligations could result in liability in the event of a loss. The proposed recommendation will result in certainty and timeliness for the City to realize its obligations, without delay in obtaining Council approval.

5. FINANCIAL MATTERS:

The proposed recommendation does not financially impact the Corporation.

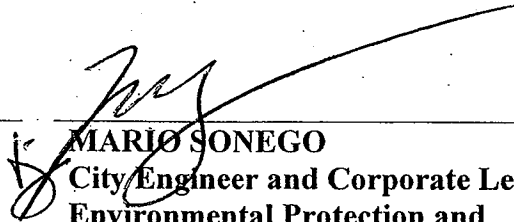
6. CONSULTATIONS:


The Legal Department and Engineering Department were consulted.

7. CONCLUSION:

We would recommend approval of the recommendation noted above.


STACEY SHYSHAK
Engineer II


MARIO SONEGO
City Engineer and Corporate Leader
Environmental Protection and
Transportation

D.P.

GEORGE WILKKI
City Solicitor and Corporate Leader
Economic Development and Public Safety
(Acting)
SS/ls


HELGA REIDEL
Chief Administrative Officer

APPENDICES: Appendix A - Risk Analysis Matrix

DEPARTMENTS/OTHERS CONSULTED:

Name: Wira Vendrasco
Phone #: 519 255-6100 ext. 6375

NOTIFICATION :

Name	Address	Email Address	Telephone	FAX

Name of Service or Project	Assumption of Municipal Services B/L	Date of Risk Assessment: Dec 15/11		Consequential impact assessment (if applicable) - Likelihood, Probability of Occurrence		
		Risk Assessment Summary	Risk Assessment Summary	Low	Moderate	Significant
Risk Description	Impacted Objective(s)	Risk Assessment		Mitigating Strategy / Status		Responsibility
		Likelihood (P)	Consequence (C)	Risk Level (PxC)		
Not passing the recommendation - date of assumption may be lost with files based on City's file retention policy or by human error and failure to keep appropriate records	Defending the City's interest in Court (damage claims)	Possible	Moderate	Moderate	Approval of the recommendation eliminates the risk	Engineering & Legal Departments
Passing the recommendation - Sets a clear date of Assumption by the City - If a damage claim occurs after this date then the developer is no longer liable for damages	Defending the City's interest in Court (damage claims)	Rare to Unlikely	Low	Low	Accept the risk - These cases should be the City's risk and not the developer's	Engineering & Operations - Contingual maintenance of assumed services
Not passing the recommendation - date of assumption may be lost with files based on City's file retention policy or by human error and failure to keep appropriate records	Establish a more clearly documented dividing line between the responsibility of the developer vs. the City	Possible	Low	Moderate	Approval of the recommendation eliminates the risk	Engineering & Legal Departments