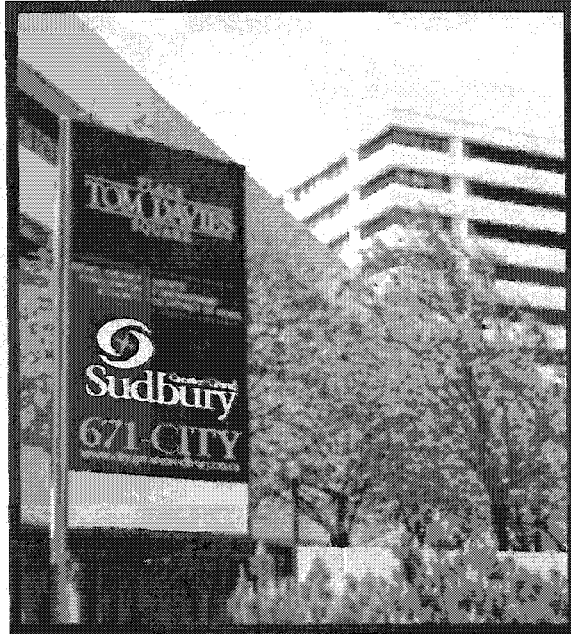


Vision: The City of Greater Sudbury is
a growing, world-class community
bringing talent, technology and a great
northern lifestyle together.

Vision : La Ville du Grand Sudbury est une
communauté croissante de calibre
international qui rassemble les talents, les
technologies et le style de vie exceptionnel

Agenda Ordre du jour



For the Special
City Council
Meeting
to be held

Wednesday, October 25, 2006

at 4:00 p.m

Pour la réunion
extraordinaire du
Conseil municipal
qui aura lieu

mercredi le 25 octobre 2006

à 16 h

Council Chamber
Tom Davies Square

dans la Salle du Conseil
Place Tom Davies

 **Greater | Grand
Sudbury**
www.city.greatersudbury.on.ca



Special Meeting of City Council AGENDA

**FOR THE SIXTEENTH SPECIAL MEETING
OF THE COUNCIL OF THE CITY OF GREATER SUDBURY
TO BE HELD ON WEDNESDAY, OCTOBER 25, 2006 AT 4:00 P.M.
IN COUNCIL CHAMBER**

**This is a Special Meeting of Council called by Mayor David Courtemanche
in accordance with Article 7.6 of Procedure By-law 2006-100.**

MAYOR COURTEMANCHE, CHAIR

1. Roll Call
2. Declarations of Pecuniary Interest

PUBLIC HEARING - FEES BY-LAW - SOUTH END ROCK TUNNEL

3. Introductory Remarks by Mayor Courtemanche:

(a) Purpose of the Public Meeting:

As required by the Municipal Act, 2001 a public meeting must be held where a municipality proposes to pass a fees by-law. Subject to a public meeting, Council by resolution approved a fee to recover \$4 million at 5% interest, over a 40 year term (rates to be set for each 5 year period throughout the term) which represents the construction costs of the South End Rock Tunnel attributable to future development. The proposed recovery fees would be applicable to new development in the Rock Tunnel Catchment from the following sectors - residential, commercial, and industrial. This charge would be collected at the building permit stage and would be in addition to Development Charges.

The recovery fees from the various sectors are proposed to be applied as follows:

Period	Section 391 Fee		
	Single, Semi-Detached, Townhouses	Multi-Residential	Commercial / Industrial (/ sq metre)
Years 1 - 5	\$1,175	\$ 704	\$ 4.31
Years 6 - 10	\$1,499	\$ 899	\$ 5.50
Years 11 - 15	\$1,913	\$1,148	\$ 7.02
Years 16 - 20	\$2,442	\$1,465	\$ 8.96
Years 21 - 25	\$3,116	\$1,869	\$11.43
Years 26 - 30	\$3,977	\$2,386	\$14.59
Years 31 - 35	\$5,076	\$3,045	\$18.62
Years 36 - 40	\$6,479	\$3,886	\$23.76
Note: Fees have been calculated by Hemson Consulting.			

4. Report dated 2006-09-20 from the CFO/Treasurer regarding Rock Tunnel Financing Options.

1 - 8

(ELECTRONIC PRESENTATION)

- Lorella Hayes, CFO/Treasurer

(The above report was dealt with by Council on September 27, 2006. Option 1 was approved by Council.)

5. List of Speakers received by the City Clerk's Office prior to the close of the Agenda on Thursday, October 19, 2006.

9

Following the public meeting, City Council will consider the following resolution:

RECOMMENDATION: THAT Council pass a Fees By-law to recover \$4 million at 5% interest, over a 40 year term (rates to be set for each 5 year period throughout the term) which represents the construction costs of the South End Rock Tunnel in accordance with Option 1, as outlined in the report dated September 20, 2006 from the CFO/Treasurer.

CORRESPONDENCE FOR INFORMATION ONLY

PAGE NO.

6. Report dated 2006-10-18, with attachments, from the Executive Director of Administrative Services regarding Public Notification Procedures - Fees By-law - South End Rock Tunnel.
(FOR INFORMATION ONLY)

10 - 26

(This report outlines the public notification procedures that were followed.)

ADJOURNMENT (RESOLUTION PREPARED)

2006-10-20

**ANGIE HACHÉ
CITY CLERK**

**CORRIE-JO CAPORALE
COUNCIL SECRETARY**

Request for Decision City Council



Type of Decision									
Meeting Date	September 27, 2006				Report Date	September 20, 2006			
Decision Requested	X	Yes		No	Priority	X	High		Low
	Direction Only				Type of Meeting	X	Open		Closed

Report Title
Rock Tunnel Financing Options

Budget Impact / Policy Implication		Recommendation
X	This report has been reviewed by the Finance Division and the funding source has been identified.	<p>THAT the proposed fees be as outlined in Option 1 of the report from the Chief Financial Officer/Treasurer, dated September 20, 2006; and</p> <p>THAT the proposed fees be applicable to the residential, commercial and industrial classes, based on \$4 million recovery at 5% interest, over a 40 year term (rates to be set for each 5 year period throughout the term); and</p> <p>THAT such fees would be collected at the building permit stage from new development in the catchment area; and</p> <p>THAT \$4 million be borrowed from Capital Financing Reserve Fund - Wastewater and recovery fees be credited back to the reserve; and</p> <p>THAT any potential federal funding be used to reduce the \$4 million recovery target and that the fees be recalculated accordingly; and</p> <p>THAT a financial framework be developed to identify capital funding arrangements for area specific and municipal wide recovery of capital projects fostering development; and</p> <p>THAT the Clerk schedule a public hearing in accordance with the requirements of the Municipal Act to consider the proposed fees related to the South End Rock Tunnel Project.</p>
X	Background Attached	Recommendation Continued

Recommended by the Department	Recommended by the C.A.O.
 Lorella Hayes Chief Financial Officer / Treasurer	 Mark Mieto Chief Administrative Officer

Date: September 20, 2006

Report Prepared By	Division Review
Lorella Hayes Chief Financial Officer / Treasurer	

Overview

At the Special Meeting of Council on August 9th, 2006 staff were directed to bring back further options with respect to the fees to be recovered as a result of the construction of the South End Rock Tunnel.

Financing Growth Related Infrastructure

The Rock Tunnel is one of the few growth related projects that has occurred in recent history. Given the existing sewage capacity situation in the South End, the Rock Tunnel catchment area faced a development freeze. This would have meant no new building permits could be issued within this area for any new projects, if the Rock Tunnel Project did not proceed.

The Rock Tunnel is unique in that it addresses both existing and new infrastructure capacity. As explained in the report dated June 2006 from Hemson Consulting, approximately 68% of the net project costs relate to existing development/capacity and 32% relate to new/future development (Residential and ICI) that could occur within the catchment area. As reported in the June 2006 Hemson Consulting report (based on information obtained from the Planning department), it is projected that the catchment area has a potential of approximately 3,400 new lots (residential and multi-residential). In addition, it is projected that 276,500 square meters of new commercial/industrial space will be available, excluding the institutional classes. This development could not occur without the Rock Tunnel Project.

Therefore, it is reasonable to collect some of the Rock Tunnel Project costs through a fee charged to new development. In addition, this financing strategy is consistent with the recommendations in the Long Term Financial Plan.

There are various methods that can be used when recovering fees:

- Area specific fees, such as Section 391 fees for recovery of capital costs related to Water/Wastewater projects
- Development charges (municipal wide or area specific) or,
- Local improvement charges

These are all accepted methods of financing new infrastructure.

In addition, as a condition of planning approvals, developers are responsible for infrastructure construction and installation relating to local services. For example, construction of new roads, sidewalks, installation of water booster stations, water and wastewater mains, lift stations, etc. are often the sole financial responsibility of the developer.

Date: September 20, 2006

While the initial cost of infrastructure is generally the responsibility of the developer, replacement at the end of its useful life is normally funded from general revenues such as tax levy or water/wastewater levy or reserves. This is a generally accepted municipal financing strategy and is consistent with CGS's policies.

Financing Strategy

To recap, the financing strategy for the Rock Tunnel was as follows:

Contributions from Wastewater Capital Budgets (future and past)	\$15.6M	50%
Contributions from Wastewater Reserves	\$ 3.1M	10%
Provincial Grant	\$ 8.4M	27%
Recovery Fee - Section 391	\$ 4.0M	13%
Total Project Budget	\$31.1M	100%

As approximately 32% of the Rock Tunnel Project costs are attributable to the expansion of services to accommodate growth, it is reasonable to recover at least \$4 million from future development.

Municipal Wide Compared to Area Specific

Municipal wide charges are generally used when new development and related new infrastructure investment is projected to occur fairly evenly throughout the municipality, and when the capital cost burdens between neighborhoods are similar. For example, best practices indicate that a municipal wide charge is well suited for arterial roads, since these roads are accessible to and used by all residents of the municipality. Therefore, the improvements to a major roads system will benefit all residents of the City, regardless of the location of the infrastructure.

On the other hand, when infrastructure, such as the South End Rock Tunnel, has a limited or defined service area, and where a direct benefitting area to the works can be established, an area specific charge, is a reasonable capital financing source to recover costs from future development.

Area-specific charges are used by a number of municipalities in the Province, particularly for water, wastewater and storm-water infrastructure. Note that an area specific charge can be established through a development charge or alternate methods such as a Section 391 fee.

For the Rock Tunnel project, an area specific charge is appropriate since it enables a partial recovery to occur from benefitting development in the catchment area and because no comparable projects are being built or considered in other parts of the City.

Other factors considered when determining options for an appropriate charge:

- 1) What sectors should be included in the Section 391 fee (residential, commercial, industrial, institutional)?

The institutional sector has been excluded from the options presented below based on discussions during the Special Council Meeting of August 9th, 2006.

- 2) What interest rate should be used?

It was determined that a reasonable interest rate would represent the rate at which a municipality could currently borrow over a 40 year period, which is the estimated length of time for development to occur, and thus the recovery period. Based on most recent market rates that could be obtained through Ontario Strategic Infrastructure Financing Authority, 5% is recommended in all options. This rate is also consistent with CGS's policy for the internal financing of capital projects, being the rate of return on investments plus 1%, locked in at the time of the commitment.

- 3) Term for payment?

It was determined that the recovery should be over 40 years, given the anticipated amount of time it will take for the projected new development to occur within the catchment area.

Date: September 20, 2006

The following are the Options for Council's Consideration:

Option 1 - Recommended

Section 391 fees to recover \$4.0 million capital costs, plus accrued interest from residential (\$2.968 M), and commercial and industrial (\$1.032 M) classes over a 40 year term, with rates to be adjusted for each five year period throughout, as outlined in the schedule below:

Period	Section 391 Fee		
	Residential	Multi-Dwelling	Commercial / Industrial (/ sq metre)
Years 1 - 5	\$1,175	\$ 704	\$ 4.31
Years 6 - 10	\$1,499	\$ 899	\$ 5.50
Years 11 - 15	\$1,913	\$1,148	\$ 7.02
Years 16 - 20	\$2,442	\$1,465	\$ 8.96
Years 21 - 25	\$3,116	\$1,869	\$11.43
Years 26 - 30	\$3,977	\$2,386	\$14.59
Years 31 - 35	\$5,076	\$3,045	\$18.62
Years 36 - 40	\$6,479	\$3,886	\$23.76
Note: Fees have been calculated by Hemson Consulting.			

This option has been recommended since it recovers the financing shortfall of \$4 million capital. The recovery fees are adjusted each 5 year period, as outlined in the schedule, to better reflect the value of money and the impact of accumulated interest.

Should federal funding be secured, it is recommended that the recovery target of \$4 million be reduced by the potential grant and the fees be recalculated accordingly.

Date: September 20, 2006

Option 2

Section 391 fees to recover \$6.4 million capital costs, plus accrued interest from residential (\$4.8 M), commercial and industrial (\$1.6 M) classes over a 40 year term, with rates to be adjusted for each five year period throughout as outlined in the schedule below:

Period	Section 391 Fee		
	Residential	Multi-Dwelling	Commercial / Industrial (/ sq metre)
Years 1 - 5	\$ 1,887	\$1,132	\$ 6.93
Years 6 - 10	\$ 2,408	\$1,444	\$ 8.84
Years 11 - 15	\$ 3,074	\$1,844	\$11.29
Years 16 - 20	\$ 3,923	\$2,353	\$14.41
Years 21 - 25	\$ 5,007	\$3,003	\$18.39
Years 26 - 30	\$ 6,390	\$3,833	\$23.46
Years 31 - 35	\$ 8,156	\$4,891	\$29.95
Years 36 - 40	\$10,409	\$6,243	\$38.22
Note: Fees have been calculated by Hemson Consulting.			

The June, 2006 report from Hemson Consulting explained that the maximum capital recovery based on projected land uses and flow was \$7.229 million. The institutional component was approximately \$800,000, and has been exempted in this option. Thus this option provides for the recovery of \$6.4 million from the residential, commercial and industrial classes.

While this option could reduce the planned contribution from future wastewater capital budgets, this option has not been recommended since the original recovery target was \$4 million.

Date: September 20, 2006

Option 3

Section 391 fees to recover \$4.0 million capital costs, plus accrued interest from residential (\$2.968 M), commercial and industrial classes (\$1.032 M) using a fixed charge rate over the 40 year period (Option 3 from the June 21, 2006 report from the Chief Financial Officer / Treasurer, except updated for 5% interest rate based on revised market conditions).

Period	Section 391 Fee		
	Residential	Multi- Dwelling	Commercial / Industrial (/ sq metre)
Over 40 years	\$2,371	\$1,422	\$8.70
Note: Fees have been calculated by Hemson Consulting.			

This option allows for a fixed payment over the next 40 years, similar to payments under a 40 year mortgage. While this option is simple to administer, Option 1 is more equitable to future development since it combines the recovery target together with accrued interest at each calculation interval (every five years).

Option 4

Refer to a future development charge study to determine which land uses are assessable (residential, commercial, industrial, institutional), the amount of the recovery target, and whether a municipal wide or area specific approach is appropriate.

Before a development charge by-law can be implemented, a detailed background study must be undertaken. As well, the Province has announced that there are potential changes forthcoming to the Development Charges Act.

The next development charge study is scheduled for 2009.

While the timelines for a development charge study could be brought forward, this option is not recommended since there would be potential for considerable lost revenues as a result of the time required to undertake the necessary background research, analysis and process.

Date: September 20, 2006

Summary:

In conclusion, it is recommended:

- That the proposed fees be as outlined in Option 1 for the residential, commercial and industrial classes, based on \$4 million recovery at 5% interest, over a 40 year term (rates to be adjusted for each 5 year period throughout the term); and
- That the recovery be authorized under Section 391 of the Municipal Act; and
- That the recovery be area specific and charged to new development in the South End Rock Tunnel catchment area at the building permit stage; and
- That a financial framework be developed to identify capital funding arrangements for area specific and municipal wide recovery of capital projects fostering development; and
- That the fees be subject to a public meeting to be scheduled and provide 21 days notice to the public; and
- That the funds be borrowed from the Capital Financing Reserve Fund - Wastewater and recovery fees credited back to this reserve as collected; and
- That any potential federal funding be applied to reduce the \$4 million recovery target and that staff be directed to recalculate fees accordingly.

PUBLIC HEARING - FEES BY-LAW - SOUTH END ROCK TUNNEL

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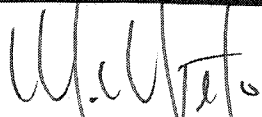
Request for Decision City Council




Type of Decision									
Meeting Date		October 25, 2006			Report Date		October 18, 2006		
Decision Requested			Yes	X	No	Priority		X	High
		Direction Only				Type of Meeting		X	Open
									Closed

Report Title
PUBLIC NOTIFICATION PROCEDURES - FEES BY-LAW - SOUTH END ROCK TUNNEL

Budget Impact / Policy Implication	Recommendation
<p>N/A This report has been reviewed by the Finance Division and the funding source has been identified.</p> <p>Policy Implications</p> <p>The Municipal Act, 2001 requires the City to provide notice to the public of its intention to pass certain by-laws, the holding of certain required public meetings and of other matters. Schedule "A" of the City of Greater Sudbury's By-law 2003-2 sets out the form, manner and times the Notice shall be given, unless specified by the Municipal Act, 2001, another Act or a regulation or if Council directs that other public notice is to be given.</p> <p>Financial Impact</p> <p>There is no financial impact associated with this Report.</p>	<p>This is a compliance report detailing how the notice requirements for the public meeting have been satisfied and appears for information only.</p> <p>At the close of the Agenda on Thursday, October 19, 2006, the City Clerk's Office received one request to address Council concerning this matter.</p>
<p>X Background Attached</p>	<p>Recommendation Continued</p>

Recommended by the Department	Recommended by the C.A.O.
 Caroline Hallsworth Executive Director of Administrative Services	 Mark Mieto Chief Administrative Officer

Report Prepared By	Division Review
Angie Haché City Clerk 	Name Title

Background Information

City Council at it's meeting of September 27, 2006 passed the following resolution:

Resolution 2006-883

"That the proposed fees be as outlined in Option 1 of the report from the Chief Financial Officer/Treasurer, dated September 20, 2006;

And that the proposed fees be applicable to the residential, commercial and industrial classes, based on \$4 million recovery at 5% interest, over a 40 year term (rates to be set for each 5 year period throughout the term);

And that such fees would be collected at the building permit stage from new development in the catchment area;

And that \$4 million be borrowed from Capital Financing Reserve Fund - Wastewater and recovery fees be credited back to the reserve;

And that any potential federal funding be used to reduce the \$4 million recovery target and that the fees be recalculated accordingly;

And that a financial framework be developed to identify capital funding arrangements for area specific and municipal wide recovery of capital projects fostering development;

And that the Clerk schedule a public hearing in accordance with the requirements of the Municipal Act to consider the proposed fees related to the South End Rock Tunnel Project."

Attached is a copy of the report from the Chief Financial Officer/Treasurer presented to Council on September 27, 2006.

Compliance of Notice Requirements

In accordance with the above resolution and as required by the Municipal Act, 2001 and Council's Notification By-law 2003-2, the attached Notice of a Public Meeting regarding a recovery of \$4 million in capital costs plus accrued interest calculated at 5%, over a 40 year term (rates to be set for each 5 year period through the term) from future development from the residential, commercial and industrial sectors. The recovery fees from the various sectors are proposed to be applied as follows:

Period	Section 391 Fee		
	Residential	Multi-Dwelling	Commercial / Industrial (/ sq metre)
Years 1 - 5	\$1,175	\$ 704	\$ 4.31
Years 6 - 10	\$1,499	\$ 899	\$ 5.50
Years 11 - 15	\$1,913	\$1,148	\$ 7.02
Years 16 - 20	\$2,442	\$1,465	\$ 8.96
Years 21 - 25	\$3,116	\$1,869	\$11.43
Years 26 - 30	\$3,977	\$2,386	\$14.59
Years 31 - 35	\$5,076	\$3,045	\$18.62
Years 36 - 40	\$6,479	\$3,886	\$23.76
Note: Fees have been calculated by Hemson Consulting.			

The Notice of Public Meeting was published in local newspapers as well as on the City's web page:

Sudbury Star - October 2, 2006
Le Voyageur - October 4, 2006

Public Hearing

At the close of the Agenda on Thursday, October 18, 2006 at 4:30 p.m., the City Clerk's Office received one request to address Council.

Additional Information

Enclosed for the information of the Council is a map of the Rock Tunnel Catchment Area and draft By-law 2006-300, A By-law of the City of Greater Sudbury to impose a rate to recover a portion of the capital cost of constructing a sewer rock tunnel in the South End.

Public Notices

NOTICE OF PUBLIC MEETING PROPOSED SOUTH END ROCK TUNNEL SECTION 391 CHARGE BY-LAW

TAKE NOTICE that the Council of the City of Greater Sudbury proposes to pass a By-law to recover a portion of the costs related to the construction of the South End Rock Tunnel. The proposed recovery fees would be applicable to future development in the Rock Tunnel Catchment from the residential, commercial and industrial sectors.

AND TAKE NOTICE that a public meeting will be held at which any person who attends will have an opportunity to make representation with respect to the proposed By-law;

Date of the Public Meeting: Wednesday, October 25, 2006 Location: Council Chamber, Tom Davies Square, 200 Brady Street, Sudbury Time: 4:00 p.m.

Persons interested in making verbal representations may have their name added to the speakers list by telephoning the City Clerk's Office at 705-671-2489 Ext 2471; by fax at 705-671-8118 or by e-mail at corriejo.caporale@greatersudbury.ca. Speakers may also register at the public meeting.

Persons interested in submitting written comments may:

- (a) mail their comments to:
City of Greater Sudbury, Box 5000, Station A, Sudbury, Ontario,
P3A 5P3, Attention: City Clerk;
- (b) fax their comments to the attention of the City Clerk at
705-671-8118; or
- (c) e-mail their comments to the attention of the City Clerk at
corriejo.caporale@greatersudbury.ca

Written comments may be submitted to the City Clerk not later than 4:30 p.m. on October 23, 2006. Written submissions received prior to the printing of the agenda will be included and comments received after the printing of the Agenda will be tabled. All submissions received will form part of a public record.

City Council approved a recovery of \$4 million in capital costs plus accrued interest calculated at 5%, over a 40 year term (rates to be set for each 5 year period through the term) from future development from the residential, commercial and industrial sectors. The recovery fees from the various sectors are proposed to be applied as follows:

Period	Section 391 Fee		
	Single, Semi-Detached and Townhouses	Multiple Residential	Commercial Industrial (/ sq metre)
Years 1 - 5	\$1,175	\$ 704	\$ 4.31
Years 6 - 10	\$1,499	\$ 899	\$ 5.50
Years 11 - 15	\$1,913	\$1,148	\$ 7.02
Years 16 - 20	\$2,442	\$1,465	\$ 8.96
Years 21 - 25	\$3,116	\$1,869	\$11.43
Years 26 - 30	\$3,977	\$2,386	\$14.59
Years 31 - 35	\$5,076	\$3,045	\$18.62
Years 36 - 40	\$6,479	\$3,886	\$23.76
Note: Fees have been calculated by Hemson Consulting.			

A report has been prepared outlining the rationale for imposing the recovery charge. A copy of the report and a map of the South End Rock Tunnel Catchment Area are available on the City's website at www.greatersudbury.ca under "Public Notices" or may be picked up in person at the City Clerk's Office. There is no charge for these documents.

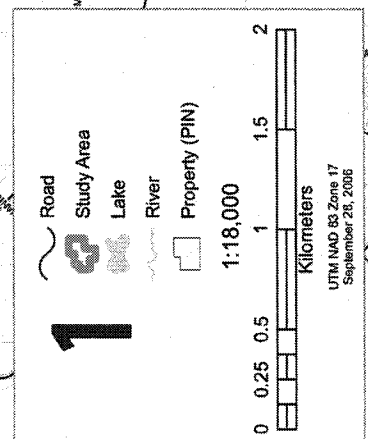
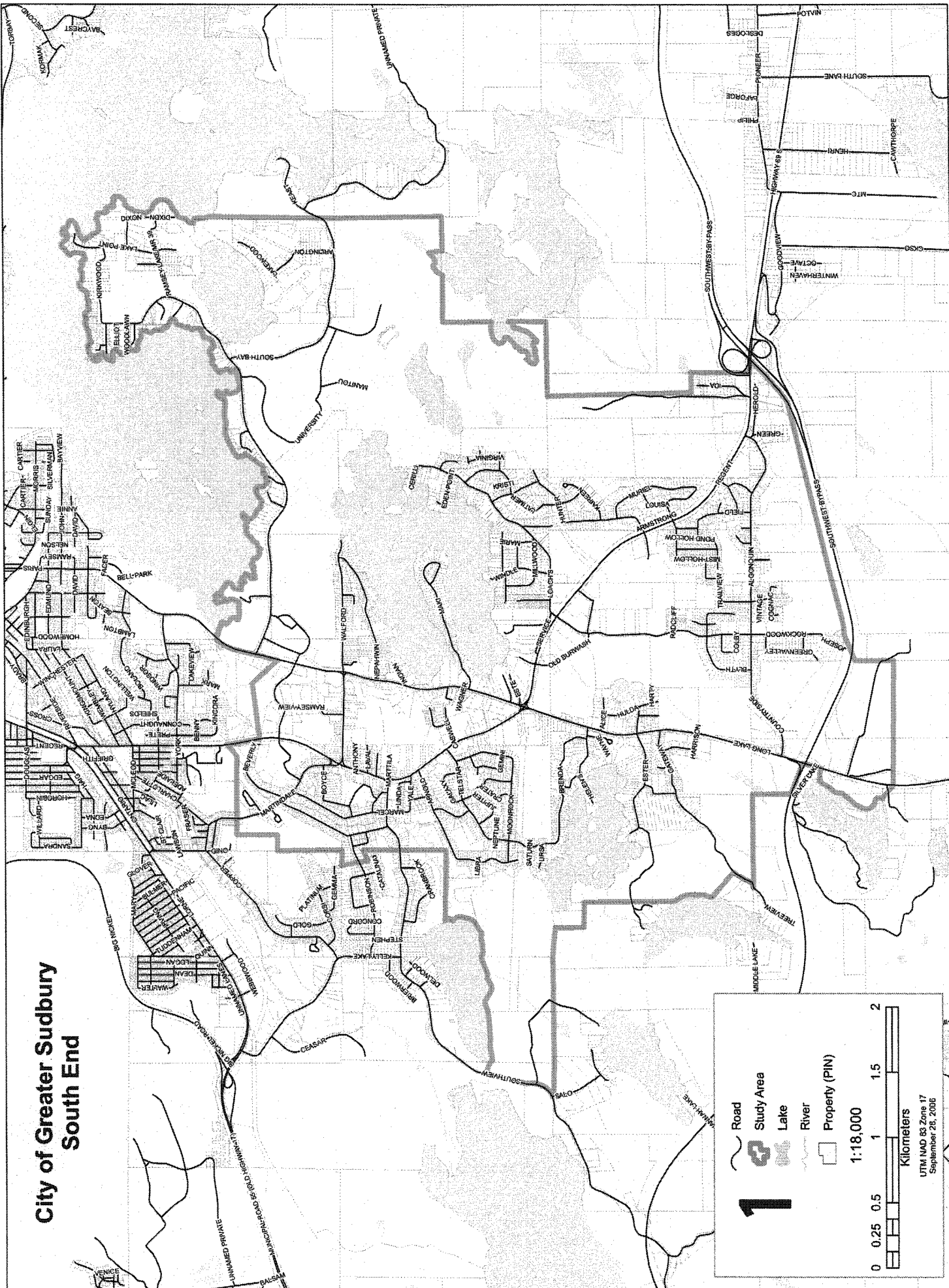
The City Clerk's Office is located at Tom Davies Square and is open to the public during normal business hours of 8:30 a.m. to 4:30 p.m., Monday to Friday.

Any personal information contained in the submissions is collected therein pursuant to the Municipal Act, 2001 for the purpose of providing an opportunity for public comment on the proposed recovery charges. Questions can be directed to the office of the Freedom of Information Corporate Records Co-Ordinator, 200 Brady Street, Box 5000, Station A, Sudbury, Ontario, P3A 5P3.

If this matter is deferred at the above noted meeting or is considered at subsequent meetings, no additional notice will be provided other than the information on subsequent agendas. Please contact the City Clerk's Office at 671-2489, Ext. 2471, if you require notice in these cases.

Dated this 2nd day of October, 2006.

City of Greater Sudbury South End



BY-LAW 2006-300

**A BY-LAW OF THE CITY OF GREATER SUDBURY
TO IMPOSE A RATE TO RECOVER A PORTION
OF THE CAPITAL COST OF CONSTRUCTING
A SEWER ROCK TUNNEL IN THE SOUTH END**

WHEREAS the Council of the City of Greater Sudbury is authorized by Section 391 of the *Municipal Act* 2001, S.O. 2001 c.25 as amended (the "*Municipal Act*") to pass a By-law imposing fees or charges for capital costs related to sewer or water services;

AND WHEREAS such a fee or charge may be imposed on persons not receiving an immediate benefit from the sewer or water services but who will receive a benefit at some later point in time;

AND WHEREAS pursuant to Section 396 of the Act, such a By-law may provide for fees and charges that vary on any basis the Municipality considers appropriate and specific for the By-law and may provide for different classes of persons and may deal with each class in a different way and may exempt in whole or in part any class of persons;

AND WHEREAS the City is constructing certain sanitary sewer work in the South End of the City in the form of a sewer rock tunnel;

AND WHEREAS these works shall benefit all lands within the project area that are connected to the sanitary sewer system or that may be connected to the sanitary sewer system;

AND WHEREAS the total capital costs of these works are expected to be \$31.1 million Dollars.

AND WHEREAS the Council has determined that a portion of these costs should be borne by existing water/wastewater users of the City of Greater Sudbury as a portion of the water/wastewater rates;

AND WHEREAS approximately 32% of the costs of the works are attributable to the expansion of services to accommodate growth;

AND WHEREAS the Council has determined that it is appropriate to recover the sum of \$4.0 million dollars from those who benefit or may benefit from this growth related capacity.

AND WHEREAS the Council has determined that a fee or charge under Section 391 of the *Municipal Act* should be imposed to recover this portion of the costs of the works and has determined further that this fee or charge should be specific to the benefitting area and not to all areas of the City;

AND WHEREAS the City has not collected any front-ending agreement fees under the *Development Charges Act* 1997, S.O. 1997 c. 27 for these works;

AND WHEREAS the City's current Development Charges By-law does not include any development charges for these works;

AND WHEREAS the Council of the City of Greater Sudbury has reviewed this matter in great detail on several occasions ;

AND WHEREAS the Council has held two public hearings on this issue after providing advance notice to the public concerning such hearings;

AND WHEREAS at such hearings all correspondence received was circulated to the Council for review and anyone who wished to speak on the matter was allowed to do so.

AND WHEREAS the Council, following such public hearings, determined that it was appropriate to pass this By-law and to levy the fees and charges set out herein.

**NOW THEREFORE THE COUNCIL OF THE CITY OF GREATER SUDBURY
HEREBY ENACTS AS FOLLOWS:**

1. In this By-law:

“Apartment dwelling” means a building containing three or more dwelling units which have a common entrance from the street level, and the occupants of which have the right to use common elements;

“Capital cost” means the cost of constructing sewage works or water works, inclusive of all items of cost usually and properly chargeable to capital account, and where applicable, the interest amounts payable on the debentures to be issued for the works;

"Commercial" means any non-residential development not defined under "institutional" or "industrial";

"Commercial Office Use" means lands, building or structures used or designated for use for a practice of a profession, the carrying on of a business, occupation or conduct of non-profit organization including government;

"Development" means any activity or proposed activity in respect of land that requires one or more of the actions referred to in section 2 of this by-law and includes the redevelopment of land or the redevelopment, expansion, extension or alternation of a use, building or structure;

"Dwelling unit" means one or more habitable rooms designed or intended to be used together as a single and separate house-keeping unit by one person or jointly by two or more persons, containing its own kitchen and sanitary facilities, with a private entrance from outside the unit itself;

"Grade" means the average level of proposed or finished ground adjoining a building or structure at all exterior walls;

"Gross floor area" means the total floor area measured between the outside of exterior walls, or between the outside of exterior walls and the centre line of party walls dividing the building from another building, or between the centre lines of party walls, of all floors above Grade;

"Industrial" means lands, building or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of goods, warehousing or bulk storage of goods, and includes office uses and the sale of commodities to the general public where such uses are

accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;

"Institutional" means lands, buildings or structures used or designed or intended for use by an organized body, society, university, college, health care organization or religious group and shall include, without limiting the generality of the foregoing, places of worship, special care facilities, senior's residences and student residences;

"Local services" means those services of facilities which are under the jurisdiction of the municipality and are related to a plan of subdivision or within the area to which the plan relates, required as a condition of approval under s. 51 of the *Planning Act*, R.S.O. 1990, c. P.13, or as a condition of approval under s. 53 of the *Planning Act*;

"Multiple dwelling" means all dwellings other than single-detached, semi-detached and row dwellings, and includes apartment dwellings;

"Municipality or City" means the City of Greater Sudbury;

"Non-residential use" means lands, buildings or structures, or portions thereof, of any kind whatsoever used, designed or intended to be used for other than a residential use and includes all commercial and industrial uses;

"Owner" means the owner of land or a person who has made application for an approval for the development of land upon which a sewer works rate is imposed;

"Project Area" means the land set out in Schedule "A";

"Residential uses" means lands, building or structures or portions thereof used, or designed or intended for use as a home or residence of one or more individuals, and shall include a singled detached dwelling, a semi-detached dwelling, an apartment dwelling, a row dwelling, and the residential portion of a mixed-use building or structure;

"Row dwelling" means a building divided vertically into two or more separate dwelling units, with at least 50 per cent of the above grade area of the main wall(s) on one or two sides of each dwelling unit attached to or the same as a main wall of another dwelling unit;

"Semi-detached dwelling" means a building divided vertically, into two separate dwelling units, with at least 50 per cent of the above-grade area of a main wall on one side of each dwelling unit attached to or the same as a main wall on one side of the other dwelling unit;

"Sewer works" means any works for the collection, production, treatment, storage, supply or distribution of sewer, or any part of any such works constructed as part of the South End Rock Tunnel Project; and

"Sewer works rate" means a charge for the capital cost of sewer works.

"Single-detached dwelling" means a completely detached residential building consisting of one dwelling unit and not attached to another structure and includes mobile homes;

2. Every owner of land in the Project Area shall pay to the Municipality a sewer works rate, as applicable and as calculated in this by-law, whenever the Owner's lands are developed for residential, commercial or industrial uses and the development requires an approval described in 2(1) below and the Owner's land is connected to the sewer works systems.

2.-(1) Subject to subsection 2.(2), sewer works rates shall be calculated and collected in accordance with the provisions of this By-law and be imposed on land where the development requires:

- (a) the passing of a zoning by-law or an amendment thereto under Section 34 of the *Planning Act*;
- (b) the approval of a minor variance under Section 45 of the *Planning Act*;
- (c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
- (d) the approval of a plan of subdivision under Section 51 of the *Planning Act*;
- (e) a consent under Section 53 of the *Planning Act*;
- (f) the approval of a description under Section 50 of the *Condominium Act*, S.O. 1998, c.19; or
- (g) the issuing of a permit under the *Building Code Act*, S.O. 1992, c. 23, in relation to a building or structure.

2.-(2) Where no approval described in 2.-(1) above is required, the Owner shall pay a sewer works rate as calculated in this by-law when the Owner first connects to the sewer works or sewage works systems, as applicable.

3. The sewer works rates against land shall be imposed, calculated and collected in accordance with the base rates set out in Schedule "B".

3.-(1) The sewer works rates applicable to land shall be calculated:

l) in the case of residential development or redevelopment as the sum of the number of dwelling units as set out in Schedule "B";

ii) in the case of mixed residential/commercial or residential/industrial development or redevelopment as the sum of the number of dwelling units for the residential portion plus the fee for the square meter area of the commercial or industrial portion as set out in Schedule "B"; or

iii) for industrial or commercial development or redevelopment, based on the square meter area as set out in Schedule "B".4. The Owner of land for which a sewer works rate is payable shall pay the applicable rate on the date of issuance of a building permit for the development of the land, or where no building permit is required, on the date of the connection to the system as applicable, whichever shall first occur.

5. The capital sewer works for which sewer works rates shall be charged under this By-law are the South End Sewer Rock Tunnel Project.

6. The rates imposed by this by-law shall be separate from and in addition to other rates that the City may be authorized by law to impose with respect to the cost of construction of sewer or water works, the cost of connecting the land to the systems, the operation, maintenance, and repair of the sewer and water works, or the supply of water.

7. No property is exempt from a sewer works rate imposed under this by-law by reason only that it is exempt from taxation under the *Assessment Act*, R.S.O. 1990, c.A.31.

8. Where all or part of a residential or mixed-use building or structure is demolished or redeveloped, otherwise applicable sewer works rates shall be reduced as follows:

- (a) where a sewer works rate has been imposed on the lands under a previous By-law, the reduction shall be equal to the previously imposed sewer works rate;
- (b) where no sewer works rate has been imposed on the lands under a previous by-law, the reduction shall be calculated as in section 9 below, provided that:

- (i) the residential or mixed use building or structure was occupied within five years prior to the issuance of a building permit for redevelopment of the lands; and
- (ii) in the case where the residential or mixed-use building or structure is demolished, a demolition permit has been issued within five years prior to the issuance of a building permit for redevelopment of the lands.

9. Where a residential or mixed-use building or structure qualifies for a reduction in otherwise applicable sewer works rates pursuant to section 8 above, the amount of reduction shall be equivalent to the number of residential dwelling units demolished or redevelopment multiplied by the applicable residential sewer works rate in Schedule "B".

10. A reduction shall not exceed the amount of the sewer works rate that would otherwise be payable, and no reduction is available if the existing land use is exempt under this by-law.

11. Notwithstanding Section 2 above, no sewer works rate shall be imposed with respect to developments or portions of developments that result in:

- (a) an interior alteration to an existing building or structure which does not change or intensify the use of land;

- (b) the enlargement of an existing residential dwelling unit;
- (c) the creation of one or two additional residential dwelling units in an existing single detached dwelling where the total gross floor area of the additional unit(s) does not exceed the gross floor area of the existing dwelling unit;
- (d) the creation of one additional dwelling unit in a semi-detached or row dwelling where the total gross floor area of the additional unit does not exceed the gross floor area of the existing dwelling unit; or
- (e) the creation of one additional dwelling unit any other existing residential building provided the gross floor area of the additional unit does not exceed the smallest existing dwelling unit already in the building;

12. Monies received from payment of sewer works rates under this by-law shall be credited to the Capital Financing Reserve Fund - Wastewater.

13. Where any sewer works rate, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected in the same manner as municipal taxes.

14. Where any unpaid sewer works or part thereof, is collected as municipal taxes under section 13, the monies so collected shall be credited to the reserve funds referred to in section 12.

15. The following schedules are attached to this By-law and form an integral part thereof:

- Schedule "A" - Project Area
- Schedule "B" - Sewer Works Rates

16. In the event any provision, or part thereof, of this By-law is found by a Court of competent jurisdiction to be ultra vires, such provision, or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all other provisions of this by-law shall remain in full force and effect.

17. This By-law shall come into force and take effect on November 1st, 2006.

READ A FIRST AND SECOND TIME IN OPEN COUNCIL this 25th day of October, 2006.

R

_____ Mayor

_____ Clerk

READ A THIRD TIME AND FINALLY ENACTED AND PASSED IN OPEN COUNCIL this 25th day of October, 2006

_____ Mayor

_____ Clerk

SCHEDULE 'B' Page 1 of 1
To By-Law 2006-300 of the City of Greater Sudbury

Period		Section 391 Fee		
		Single-detached Semi-detached Row dwellings	Multiple Dwellings	Commercial / Industrial (/ sq metre)
Years 1 - 5	Nov 1/06 to Dec 31/11	\$1,175	\$ 704	\$ 4.31
Years 6 - 10	Jan 1/12 to Dec 31/16	\$1,499	\$ 899	\$ 5.50
Years 11-15	Jan 1/17 to Dec 31/21	\$1,913	\$1,148	\$ 7.02
Years 16-20	Jan 1/22 to Dec 31/26	\$2,442	\$1,465	\$ 8.96
Years 21-25	Jan 1/27 to Dec 31/31	\$3,116	\$1,869	\$11.43
Years 26-30	Jan 1/32 to Dec 31/36	\$3,977	\$2,386	\$14.59
Years 31-35	Jan 1/37 to Dec 31/41	\$5,076	\$3,045	\$18.62
Years 36-40	Jan 1/42 to Dec 31/46	\$6,479	\$3,886	\$23.76