

**THE FIFTEENTH SPECIAL MEETING OF THE COUNCIL
OF THE CITY OF GREATER SUDBURY**

**Council Chamber
Tom Davies Square**

**Wednesday, August 9, 2006
Commencement: 3:05 p.m.**

HIS WORSHIP MAYOR DAVID COURTEMANCHE, IN THE CHAIR

Present Councillors Berthiaume; Bradley; Caldarelli; Callaghan; Craig; Gainer; Gasparini; Kett; Reynolds; Rivest; Thompson

City Officials M. Mieto, Chief Administrative Officer; D. Nadorozny, General Manager of Growth & Development; G. Clausen, Acting General Manager of Infrastructure & Emergency Services; L. Hayes, CFO/Treasurer; R. Swiddle, City Solicitor; G. Lamothe, Manager of Communications & French Language Service; D. Dumontelle, Budget Accountant; G. Mazza, Director of Building Services/Chief Building Official; B. Lautenbach, Director of Planning Services; C. Ouellette, Manager of Children Services; A. Sweetman, Sewer & Water Engineer; E. Taylor, Senior Planner; A. Haché, City Clerk; J. Nelson, Clerk's Services Coordinator; CJ Caporale, Council Secretary

News Media Sudbury Star; MCTV; CIGM; Channel 10 News; Northern Life; CBC Radio-Canada; Big Daddy

Declarations of
Pecuniary Interest None declared.

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

Item 3
Introductory Remarks The Chair welcomed everyone present and stated that a public meeting was being held as required by the Municipal Act, 2001 where a municipality proposes to pass a fees by-law. He indicated Council by resolution approved a fee to recover \$7.229 million which represents the construction costs of the South End Rock Tunnel attributable to future development subject to the public meeting. The proposed recovery fees would be applicable to new development in the Rock Tunnel Catchment from all sectors - residential, commercial, industrial and institutional. This charge would be collected at the building permit stage and would be in addition to Development Charges.

The Chair then stated that any person in attendance would be provided an opportunity to make representation.

Item 4
Public Notification
Procedures - Fees
By-law - South End
Rock Tunnel

Report dated 2006-08-01, with attachments, from the Executive Director of Administrative Services regarding Public Notification Procedures - Fees By-law - South End Rock Tunnel was received for information only.

Item 5
Section 391 Fees -
South End Rock
Tunnel

Report dated 2006-08-04, with attachments, from the CFO/Treasurer regarding Section 391 Fees - South End Rock Tunnel was received.

Ms. Lorella Hayes, CFO/Treasurer and Mr. John Hughes of Hemson Consulting Ltd. provided Council with an electronic presentation.

Ms. Hayes provided a brief breakdown of the South End Rock Tunnel financing. She stated that the City faces serious challenges to finance infrastructure needs and that recovery fees are consistent with recommendations in the Long Term Financial Plan.

Mr. Hughes provided background information indicating that the construction cost of the rock tunnel will be \$31.1 million, with a net cost to the City of \$22.7 million after the \$8.4 million from the Provincial government. It was directed by Council for staff to examine a cost recovery from new development set at a \$4.0 million recovery target.

He indicated that Hemson Consulting was retained to calculate charges to recover \$4.0 million from new residential development and recommended that the City implement a "Section 391" charge. Mr. Hughes indicated that at the March 8, 2006 Priorities Committee meeting, staff were requested to examine recovery options involving the "ICI" sector.

He outlined the waste water flows indicating that this would be the most appropriate basis for calculating multi-land use charges because a common measurement is required for apportioning costs among different land uses, usage of rock tunnel by type of property is fair basis for apportionment, and estimates of an average daily waste water flow by land use type can be made.

A map of the Rock Tunnel sewer catchment area - land use was provided, along with graphs and charts of the estimated shares of tunnel flows and total costs based on flows.

He provided a chart which outlined the charges calculated for \$7.229 million recovery target and applied to all land uses based on a 6.5% interest rate assumption.

Item 5
Section 391 Fees -
South End Rock
Tunnel
(continued)

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

Sector	Amount	Capital Maximum Recovery Amount
Single Family Dwelling Multi Family Dwelling	\$4,621/single family home \$2,772/unit	\$4,771,000
Commercial / Industrial	\$16.96/m ²	1659000
Hospital	\$6,106/bed	529000
University and Schools	\$475/student	126000
Student Residence	\$4,681/unit	144000
TOTAL		\$7,229,000

Mr. Hughes outlined implementation issues and stated that an uneven pace and scale of Institutional projects warrants consideration being given to a fixed charge alternative. He stated that a practical alternative would be an annually set charge comprised of a fixed capital component and an accrued interest component. He recommended that for a practical application of the per student and per bed charge amounts the by-law include per square meter equivalencies. He stated that the disadvantage of this approach is that additional space does not necessarily create additional rock tunnel flows.

He again pointed out that this evening's public information meeting was required before a by-law could be implemented, the charge amounts must be confirmed and updated each year and would be part of the annual rate setting process, and charged revenue and accrued costs must be carefully accounted.

Public Hearing
Section 391 Fees -
South End Rock
Tunnel

A revised "Speakers' List" was available and submissions were heard in the order that they appeared on the list.

Ms. M.L. Sabourin,
Chair of the Board,
St. Joseph's Health
Centre & St. Joseph's
Villa and Ms. Joanne
Palkovits, CEO,
St. Joseph's Health
Centre

Letter dated July 6, 2006 from the St. Joseph's Health Centre was received.

Ms. Sabourin stated that St. Joseph's Health Centre and St. Joseph's Villa will be severely impacted by the proposed South End Rock Tunnel fee. She advised that they were mandated by the Ministry of Health and Long Term Care to develop a 64-bed Complex Continuing Care (CCC) Program, which will be built as an addition to the St. Joseph's Villa on South Bay Road. The CCC beds are being transferred to St. Joseph's Villa by the Sudbury Regional Hospital and will serve all residents of Sudbury.

She advised that as a not-for-profit organization, their budget is extremely tight and they operate with provincial funding dictated by a specific formula and hope they can use this public input session as a means to communicate their concerns with the proposed fee structure.

Ms. Sabourin indicated that the \$6,106 per bed charge equates to an additional development cost of \$390,784 which equals the cost of purchasing sixty-four ceiling lifts (one for every resident's room) and because CCC residents are bed-ridden, the purchase of ceiling lifts is money well spent. She also indicated that the development fee of \$390,784 equals the salary of six full-time nurses.

She advised that as a not-for-profit organization, they are completely dependant on the Ministry of Health and Long Term Care for funding and raising extra revenue will raise costs for the residents.

Ms. Sabourin stated that they appreciate the benefits that this project will bring to the City's infrastructure, but don't believe that the residents and institutions of the South End should be targeted. She stated that one of the basic principles of a municipality is spreading the cost of infrastructures and services among all ratepayers in order to obtain the most out of their investments in areas such as road construction and maintenance, social programs, and public services.

She asked why should institutions such as St. Joseph's Villa be targeted by this extra levy, when it serves people from all parts of Greater Sudbury, as far as Northeastern Ontario. The City of Greater Sudbury should strongly support and facilitate the development of its educational and health facilities. She said that the proposed levy on institutions will hamper the public sector's ability to expand its services, sustain growth and contribute to the City's economic development.

Ms. M.L. Sabourin,
Chair of the Board,
St. Joseph's Health
Centre & St. Joseph's
Villa and Ms. Joanne
Palkovits, CEO,
St. Joseph's Health
Centre

Ms. Sabourin indicated that they were concerned how this decision would impact the Sudbury Regional Hospital's acute care redevelopment project. She asked if Council analyzed the impact that this decision would have on SJHC's CCC project and HRSRH's acute care redevelopment. She also stated that the CCC addition is tied into the Sudbury Regional Hospital's project and that a charge of this kind could "derail it".

Ms. Sabourin strongly encouraged Council to reconsider their decision and to consider all sources of Federal and Provincial programs to help fund the shortfall. They believe that this shortfall should be covered by all Sudbury ratepayers since residents across Sudbury will benefit, either directly or indirectly, from the Rock Tunnel.

Ms. Palkovits stated that Council has an opportunity to apply this fee to all ratepayers. She indicated that this would be setting a precedent which then could be applied to all future developments. She reiterated Ms. Sabourin by indicating that an increase of beds at St. Joseph's Villa will decrease the number of beds at the Sudbury Regional Hospital, having no impact the infrastructure.

Ms. Vickie Kaminski,
President & CEO,
Sudbury Regional
Hospital

Letter dated August 3, 2006 from the Sudbury Regional Hospital was received.

Ms. Kaminski indicated that the Sudbury Regional Hospital was built thirty years ago with a potential six hundred beds to be built and paid fees at that time based on the six hundred beds. The Ministry of Health and Long Term Care did not permit the hospital to open up all six hundred beds. She pointed out that the hospital has paid substantial building and site improvement fees and believes the Hospital has contributed enough. Their current budget has been set which did not include \$1.3 million for Rock Tunnel fees and the hospital does not have the capacity to raise that kind of money. She also stated that the Ministry will not accept over runs and inaccuracies. Any changes to the project's financing plan would require a lengthy approval process. She requested that Council consider a rate increase across the City as opposed to a localized increase across the South End.

Dr. S. Silverton,
Vice-President,
Academic Anglophone
Affairs, Laurentian
University

Letter dated July 27, 2006 from Laurentian University was received.

Dr. Silverton provided Council with an electronic presentation stating that Laurentian serves Sudbury and the North with quality undergraduate education and Laurentian's growth brings new programs to Sudbury (medical school, school of education), and provides Sudbury with new education strength in a knowledge economy.

Dr. S. Silverton,
Vice-President,
Academic Anglophone
Affairs, Laurentian
University
(continued)

She advised Council that Laurentian is funded by the Ontario Ministry of Training, Colleges and Universities (MTCU) whose funding is formula-based. MTCU regulates the tuition fees and Laurentian University cannot pass on additional costs to the students or to MTCU.

She indicated that the development charges could amount to a total of \$270,000 in additional costs which would impact services resulting in a decreased ability to provide 135 scholarships to outstanding students for one year of studies, or a year of salary for two full-time and seven part-time professors, or support for 215 failing students through intensive re-entry program and get them back into university, or modernization of all of their award-winning distance education courses to better serve the mature and place-bound students of the North.

Dr. Silverton stated that Laurentian cannot pass on new costs to students and cannot grow if costs increase. "Slowing Laurentian's growth is bad news for Sudbury and the North. Laurentian's growth brings enhanced economic opportunity to Sudbury."

Dr. R. Jacques
Eden Point, Sudbury

Dr. Jacques stated that nobody questions the present need for a sewage tunnel, but if the City had frozen development ten years ago in the South End, when you could predict that the wastewater infrastructure were at the maximum, the City would not have to spend \$22 million.

He stated that from reviewing Planning documents, before new infrastructure is built, the City should allow development only in areas where there is adequate infrastructure. Serviced lots should be filled first and if developers don't want to follow these principles, then they should pay a surcharge.

He indicated that the present development charges are already subsidized to the point where they are the third lowest in the province. The surcharge for the South End will bring them up to the thirteenth lowest out of sixty-two municipalities that have fees. He also stated that there have been various "surcharges" in the past such as the LoEllen local improvement fees. Development fees should reflect the true cost of improving the current infrastructure.

Dr. Jacques stated that taxpayers of Sudbury strongly support this fee; people want their taxes to be used for services, not to subsidize the development costs of builders and that new infrastructure be supported by realistic development charges. In terms of effect on property taxes, low development fees do not translate into lower property taxes. A \$4,600 increase in development charges will not cause an increase in property taxes.

Dr. R. Jacques
Eden Point, Sudbury
(continued)

The consequence of an increase of development charges is that developers will see their profit margins decreased, as houses are already being sold to their maximum price. It is unlikely that a \$4,600 increase in the cost of a house, which sells for \$300,000+, will drive buyers, who wish to locate in the South End, away. Commercial stores will go where there is a market.

In conclusion, Dr. Jacques stated that having developers pay more of their true cost shows an accountability that is transparent, a standard within the province, fairness and a reflection of the wishes of the people. He also stated that the Institutional and Educational sectors should be exempt and that the Rock Tunnel fee be paid by the ratepayers.

Recess

At 4:30 p.m. Council recessed.

Reconvene

At 4:35 p.m. Council reconvened.

Mr. D. Michel,
Lacroix, Forest

Mr. Michel stated that he is representing Ludger Michel Estates Limited who owns property in the catchment area. He indicated that both Hemson reports refer to "beneficial owners/benefiting lands" and the proposed by-law addresses the same issue. Ludger Michel Estates is not a beneficial owner of the South End Rock Tunnel because most of their property is on a natural flow to the existing Lockerby Tunnel between Marcel Street and Bouchard Street, and they installed sewer lines to meet the needs of the Lockerby Tunnel. A small section of their property is serviced by the Brenda Drive pump station, which discharges into the Lockerby Tunnel.

Mr. Michel stated that should the City eliminate the Brenda Street pump station, an alternative service or compensation to Ludger Michel Estates would be required, as they have paid for all services to their property.

He stated that service charges or area specific charges started in Valley East as area rating with the imposition of fees on residents of Valley East for increased fire fighters. He indicated that such fees are divisive when trying to unite the City.

Councillor Craig requested that staff determine if the property owned by Ludger Michel Estates is in the catchment area and whether or not it benefits from the South End Rock Tunnel.

Mr. Patrice Dubreuil,
Acting Director of
Finance
Collège Boréal

Letter dated July 31, 2006 from Collège Boréal was received.

Mr. Dubreuil indicated that Collège Boréal was presently in support of institutions in the South End. He advised that Ontario's colleges' and educational institutions' funding is based on a provincial formula and based on enrollment growth.

Mr. Patrice Dubreuil,
Acting Director of
Finance
Collège Boréal
(continued)

He stated that Collège Boréal opposes the proposed institutional development charges and asked Council to reconsider the four previous options.

Mr. M.D. Sinclair,
Hinds & Sinclair

Letter dated August 3, 2006 from Hinds & Sinclair was received.

Mr. Sinclair stated that he was representing Dalron Construction Limited who is a privately owned company, pays property taxes to the City of Greater Sudbury and employs over 100 people at this time of the year. They develop properties throughout the City of Greater Sudbury by purchasing buildings in the downtown core and constructing over 3000 single family dwellings to-date. This development charge could affect them and the new homeowners directly. They agree with Mr. Michel's comments regarding area rating. Major infrastructure such as ambulance, fire, should not be a separate charge, but equal throughout the City. With respect to the proposed by-law, it is not sound and will not stand the test of a judicial inquiry.

He stated that it was a matter of fairness and a lack of a consistent policy of charging for large capital projects of this nature. In the past a number of major public works' projects have been undertaken and were paid for out of the general tax rate, by the taxpayers as a whole and not just those who might have been in the catchment area.

There is a lack of definition of "catchment area" which is an issue and some owners are disputing whether or not they are in the catchment area. If this is true, financial calculations could be questionable and subject to further review.

Mr. Sinclair indicated if the cost of a new residence in the South End is increased by \$4,600, other builders will also increase their fees throughout the City, assessment increases will follow and tax increases will be inevitable.

He inquired whether or not any funds raised through development charges were ever used in the South End Rock Tunnel financing. He also stated that there has been some discussion of the possibility of funding costs being recoverable and/or supported through provincial funding, and that it is not apparent if this avenue was pursued by the City.

In summary, Mr. Sinclair stated that the proposed by-law should be "scrapped and any shortfall on the South End Rock Tunnel project be covered from the general rate".

Mr. A. Fex, Senior
Vice-President,
Sudbury Real Estate
Board

Mr. Fex stated that the Sudbury Real Estate Board is opposed to the levy being downloaded to developers. He also indicated that this would adversely affect the real estate market creating an additional charge to the purchaser. This new levy will stifle the growth in the South End and will make it less affordable to the average homeowner. He indicated that the South End is an expensive part of the City, single family dwellings costing \$300,000+ and the levy being absorbed by the purchaser. Mr. Fex stated that whatever happens in the South End will reflect throughout the City. All prices will rise as a result and taxes will rise as well.

Mr. G. Jakelski,
Resident, LoEllen Park

Mr. Jakelski stated that he was a resident and ratepayer for forty-five years in LoEllen Park. He has no other invested interest other than his taxes and water rates. He disagrees with the previous speaker that house prices will increase throughout the City because they may increase in LoEllen Park. Right now the price of houses in the South End are high but not in the rest of the City of Greater Sudbury. He stated that the increase of development charge will not affect the price of homes and that the City of Greater Sudbury development charges are the third lowest in the province, yet the terrain is very difficult to deal with.

He requested Council to vote in favour of the levy.

Ms. Denise Lafond,
Executive Director,
Sudbury & District
Home Builders Assoc.

Ms. Lafond stated that she was here to reiterate what the Sudbury & District Home Builders Association has said over the years. They have fought over the years to keep development charges down because they affect development. An increase in development charges reduces the affordability of new homes. She stated that they were opposed to this new charge as it targets a specific area which is not fair because the City of Greater Sudbury as a whole benefits.

Ms. A. Barnett,
Resident

Ms. Barnett stated she was opposed to an increase in development charges across the board to fund infrastructure in another part of the city. She stated that institutional/educational sectors be exempt and that commercial/residential sectors should pay to help fund the infrastructure that is needed.

List of Attachments

The following is attachments tabled at the meeting:

1. Letter dated 2006-08-09 from Rainbow District School Board

Public Hearing
Section 391 Fees -
South End Rock
Tunnel

There being no further requests to address this matter, the Public Hearing concerning this matter was closed and the Council meeting resumed in order to discuss and vote on the resolution.

Catchment Area

The Chair asked staff to address the questions raised by Mr. Michel regarding the catchment area.

Mr. Greg Clausen, City Engineer explained to Council that the subdivision being constructed by Ludger Michel Estates leads into the existing Rock Tunnel via Yale Street. He stated that there is an overcapacity issue and staff recommendation is if the Rock Tunnel is not approved, further developments will be stopped and existing building permits would have to be cancelled.

Section 391 Fees -
South End Rock
Tunnel

The following resolution was presented:

2006-22 Thompson-Craig: THAT Council pass a Fees By-law to recover **\$7.229 million** which represents the construction costs of the South End Rock Tunnel attributable to future developments in accordance with **Option 1**, as outlined in the report dated June 16, 2006 from the CFO/Treasurer and the report dated June 2006 from Hemson Consulting Ltd.

RECORDED VOTE:

YEAS

Berthiaume
Callaghan
Kett
Rivest

NAYS

Caldarelli
Craig
Gainer
Gasparini
Reynolds
Thompson
Mayor Courtemanche

DEFEATED

Rules of Procedure

Councillor Bradley did not vote as he was not present for a portion of the public hearing.

Section 391 Fees -
South End Rock
Tunnel
(continued)

After discussions, the following resolution was presented:

2006-23 Gainer-Gasparini: THAT Council pass a Fees By-law to recover **\$4 million** which represents the construction costs of the South End Rock Tunnel attributable to future developments in accordance with **Option 3**, as outlined in the report dated June 16, 2006 from the CFO/Treasurer and the report dated June 2006 from Hemson Consulting Ltd.

Section 391 Fees -
South End Rock
Tunnel
(continued)

RECORDED VOTE:

YEAS

Berthiaume
Gainer
Gasparini
Thompson
Mayor Courtemanche

NAYS

Caldarelli
Callaghan
Craig
Kett
Reynolds
Rivest

DEFEATED

The following resolution was presented:

2006-24 Thompson-Gasparini: THAT Council pass a Fees By-law to recover **\$6.430 million** which represents the construction costs of the South End Rock Tunnel attributable to future developments in accordance with a **portion of Option 1**, as outlined in the report dated June 16, 2006 from the CFO/Treasurer and the report dated June 2006 from Hemson Consulting Ltd.

RECORDED VOTE:

YEAS

Berthiaume
Gasparini
Kett
Thompson

NAYS

Caldarelli
Callaghan
Craig
Gainer
Reynolds
Rivest
Mayor Courtemanche

DEFEATED

Motion for Deferral

With the concurrence of Council, the Chair moved that the foregoing item be deferred to staff to bring back further options for Council's consideration.

Adjournment

2006-25 Bradley-Callaghan: THAT this meeting does now adjourn.
Time: 6:40 p.m.

CARRIED

Mayor

City Clerk