

NO: **R117**

COUNCIL DATE: **July 13, 2009**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **July 6, 2009**

FROM: **General Manager, Engineering**

FILE: **7907-0206-00**

SUBJECT: **Local Improvement Sanitary Sewer By-law on 124A Street –
Request for Recalculation of Charges**

RECOMMENDATIONS

The Engineering Department recommends that Council:

1. receive this report as information; and
2. authorize staff to forward a copy of this report and the related Council resolution to Marie Cooper.

INTENT

This report is in response to a request from Council related to statements made by Marie Cooper to Council during a Public Hearing on May 4, 2009 related to a rezoning by-law for the property at 5834 - 124A Street. More specifically, Ms. Cooper requested that the City recalculate the Local Improvement Charges related to a sanitary sewer extension applicable to the properties fronting 124A Street and other streets in the vicinity since the referenced rezoning by-law will allow subdivision of the property at 5834 – 124A Street, which will result in more lots being served by the subject sewer.

BACKGROUND

A Local Improvement for a sewer extension along 124A Street and other streets in the same area was initiated in 1999, in response to a petition from property owners in the area. The charges related to the Local Improvement were distributed equally among the existing lots in the benefiting area (see Appendix I) with each existing lot bearing an equal amount of the cost burden regardless of the size of the lot. The Local Improvement charges were established by Local Improvement Sewer Main Construction (4799-901) By-law, 1999, No. 135853, as amended. During the process of establishing the Local Improvement, the Planning and Development Department confirmed, in accordance with the OCP, that there were no plans for new lots within the benefiting area. However, subsequent to the adoption of the Local Improvement By-law and as a result of requests from the property owners in the area, the City worked with the neighbourhood in developing the West Newton/Highway 10 NCP. The NCP was adopted in 2004. Through the NCP process it was determined that further subdivision would be allowed on the larger lots in the area including the larger lots that fronted on 124A Street. The lot at 5834 – 124A Street is one such lot.

Ms. Cooper contends that with the subdivision of additional lots fronting 124A Street, the per lot local improvement charges that were established in 1999 should be re-distributed to include changes on the newly created lots, which redistribution would have the effect of reducing the L.I. charges on the pre-existing lots.

DISCUSSION

The Community Charter and Local Government Act stipulate the requirements and method for allocating Local Improvement cost sharing. There is no provision in either the Community Charter or the Local Government Act to allow for “after the fact” recalculations of a Local Improvement cost sharing arrangement. Further, if such a provision existed the recalculations would have to be done many times as additional subdivisions take place in the future on pre-existing larger lots within the benefiting area of the Local Improvement. It would also require new by-laws and new LAS petitions which may or may not succeed for adding charges on new lots and for reimbursing other property owners. This could continue repeatedly over many years and would be administratively very burdensome.

Marie Cooper noted that Section 218 of the Community Charter provided the means to recalculate the Local Improvement Sewer charge. Section 218 states that the Local Area Service (LAS) By-law (previously called a Local Improvement By-law) shall be amended whenever there is a change in the local service area. The boundary of the service area in relation to the subject Local Improvement By-law remains the same in terms of its geographical boundaries, there is no change in the service area and, therefore, Section 218 (see Appendix II) does not apply.

The concerns raised by Ms. Cooper in relation to how the charges were calculated for the subject By-law will not arise in the future as the City’s policy with respect to apportioning LAS charges was revised in 2005 to be based on the total frontage of each lot in the benefiting area instead of the number of existing lots. This is consistent with the manner in which latecomer charges are established and eliminates the apparent inequities associated with future subdivision of lots.

Legal Services has reviewed this report and concurs with the information provided herein.

CONCLUSION

It is recommended that Council authorize staff to forward a copy of this report and the related Council resolution to Marie Cooper, who appeared before Council as a delegation.





Vincent Lalonde, P.Eng.
General Manager, Engineering

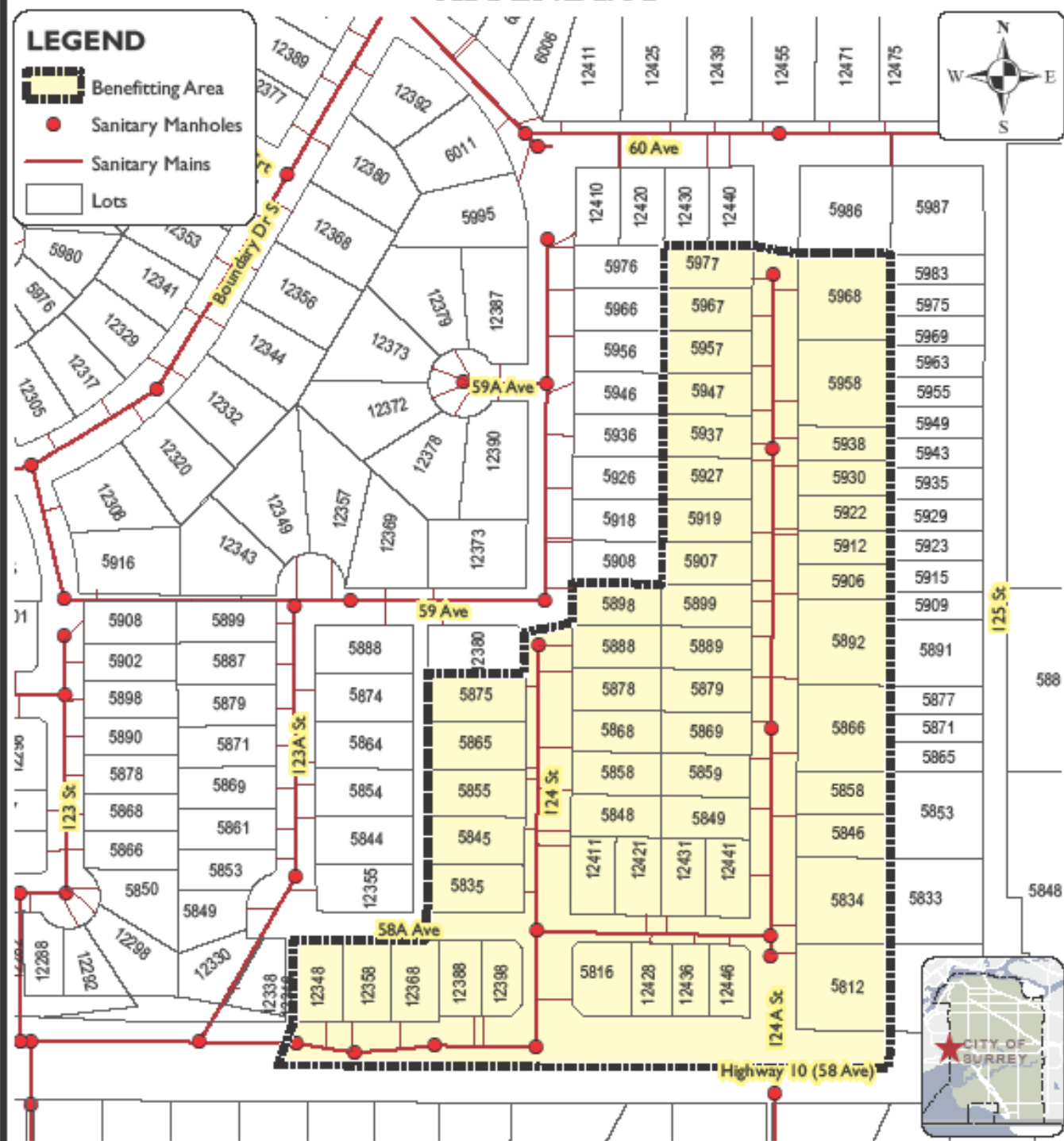
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Appendix I - Map of Benefiting Area
Appendix II - Excerpt from Community Charter

APPENDIX I

LEGEND

-  Benefiting Area
-  Sanitary Manholes
-  Sanitary Mains
-  Lots



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SANITARY SEWER EXTENSION
 58A Ave: 123A St - 124A St
 124 St: 58A Ave - 59 Ave
 124A St - 58A Ave - 60 Ave

**ENGINEERING
 DEPARTMENT**

The data provided is compiled from various sources and IS NOT warranted as to its accuracy or sufficiency by the City of Surrey.
 This information is provided for information and convenience purposes only.
 Lot sizes, Legal descriptions and circumstances must be confirmed at the Land Title Office.

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 CORPORATE REPORTS\Eng-Libelles\
 1245L_58A Ave Benefiting Areas.mxd

APPENDIX II

Community Charter

Enlargement or reduction of local service area

218 (1) This section applies to the amendment of the bylaw establishing a local area service that has the effect of enlarging or reducing the size of the local service area.

(2) The requirements under section 211 (1) [*requirements for establishing a local area service*] apply only in relation to the area to be included or excluded from the local service area and not to the rest of the local service area.

(3) If a local service area has been enlarged or reduced under this section, the liabilities incurred on behalf of the area as it was before enlargement or reduction must be borne by all the owners of parcels of land in the area as enlarged or reduced.