

COUNCIL REPORT

M&C No.	2018-316
Report Date	November 13, 2018
Meeting Date	November 19, 2018
Service Area	Saint John Water

His Worship Mayor Don Darling and Members of Common Council

***SUBJECT: Enforcement of A By-Law Respecting Water and Sewerage –
Appointment of By-Law Enforcement Officers***

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Department Head	Acting City Manager
<i>Melanie C. Tompkins</i>	<i>J. Brent McGovern</i>	<i>Neil Jacobsen</i>

RECOMMENDATION

1. **WHEREAS** the Common Council of The City of Saint John has enacted certain by-laws pursuant to the authority of the *Local Governance Act*, including *A By-Law Respecting Water and Sewerage*, By-law Number M-16, and amendments thereto, (the “*Water & Sewerage By-law*”) and it may from time to time be necessary to commence proceedings in the Provincial Court of the Province of New Brunswick, when a person has violated or failed to comply with the said By-law;

AND WHEREAS section 72 of the *Local Governance Act* provides that a council may appoint by-law enforcement officers for the local government and may determine their terms of office;

AND WHEREAS section 150(1) of the *Local Governance Act* provides that proceedings for breach of a by-law shall be commenced in the name of the clerk of the municipality or such other person as is designated for that purpose by the council;

NOW THEREFORE BE IT RESOLVED, that J. Brent McGovern, Kendall Mason, James Margaris, Jason Leclerc, Pierre LeBlanc, Jordan Moran, Michael Baker, Valerie Farrah, Grant Harrigan, Paul Woodhouse and Carl Brandon are hereby appointed as by-law enforcement officers with respect to the enforcement of the *Water & Sewerage By-law*, effective immediately, and this appointment shall continue until they individually cease to be an employee of the Saint John Water Services of The City of Saint John or until this resolution is rescinded by Common Council, whichever comes first;

AND BE IT FURTHER RESOLVED, that J. Brent McGovern, Kendall Mason, James Margaris, Jason Leclerc, Pierre LeBlanc, Jordan Moran, Michael Baker, Valerie Farrah, Grant Harrigan, Paul Woodhouse and Carl Brandon are hereby designated and authorized to lay informations in the Provincial Court of the Province of New Brunswick for breach of the *Water & Sewerage By-law*, effective immediately, and this designation and authorization shall continue until they individually cease to be an employee of Saint John Water Services of The City of Saint John or until this resolution is rescinded by Common Council, whichever comes first.

EXECUTIVE SUMMARY

This report seeks the appointment of the Commissioner, the Deputy Commissioner, the Operations Managers of Saint John Water, the Administrative Officer, the Superintendent – Water and Sanitary Systems, the Municipal Engineering Technician and the Plumbing Inspector for the purpose of enforcing the *Water & Sewerage By-Law* under the authority of the *Local Governance Act*.

PREVIOUS RESOLUTION

N/A

STRATEGIC ALIGNMENT

N/A

REPORT

It is necessary to designate appropriate individuals from the City of Saint John to enforce city by-laws and commence, in the name of the municipality, proceedings for breach of By-laws. Saint John Water, in order to properly manage the Water & Sewerage By-Law under the authority of the *Local Governance Act*, must have in place By-Law Enforcement Officers for this purpose.

Section 72 of the *Local Governance Act* provides that a council may appoint by-law enforcement officers for the local government and may determine their terms of office.

Those employees of the city appointed under the authority of s. 72 of the *Local Governance Act* will have the authority to send written demands requiring the remedial of contraventions to the Water & Sewerage By-Law and take action in the event that the violation is not remedied. They will also be able to send notices of penalty under the new enforcement regime – which allows the city to impose and collect administrative penalties in lieu of prosecution (and related fines), thereby keeping in the city revenues the full amount of the administrative penalty. Finally, those appointed will also be authorized to lay information(s) in the

Provincial Court of the Province of New Brunswick with respect to violations to that by-law.

Those employees who manage the Water & Sewerage by-law are the Commissioner, Deputy Commissioner, the Operations Managers of Saint John Water, the Administrative Officer, the Superintendent – Water and Sanitary Systems, the Municipal Engineering Technician and the Plumbing Inspector. For this reason, the recommendation is that each of them be appointed as a by-law enforcement officer.

SERVICE AND FINANCIAL OUTCOMES

Under the enforcement regime of the *Local Governance Act*, the city is able to impose administrative penalties in lieu of prosecution, the proceeds of which remain entirely with the city. The appointment of By-Law Enforcement Officers for the purposes of the Water & Sewerage By-Law will allow Saint John Water to impose such administrative penalties under the by-law's new penalty provision. The administrative penalty under the by-law is \$1,500.00 per violation.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

The resolution was drafted in consultation with the Legal Department.

ATTACHMENTS

NIL