

THE MUNICIPAL BOARD OF MANITOBA
DECISION AND ORDER

DECISION DATE: October 25, 2004

Order No. E-04-110
File No. 04E8-0051

PANEL: Mr. P. G. Diamant, Chair
Mr. D. Guénette, Member

TOWN OF CARMAN - BY-LAW NO. 04/1871

The Town of Carman applies under Section 320(4) of *The Municipal Act*, S.M. 1996 c. 58 for approval of By-law No. 04/1871 attached as Appendix "A" authorizing the construction of a transfer station for solid waste management and the closure of the existing landfill site as a Local Improvement and the borrowing of \$300,000.00.

Upon considering the proposed By-law, **THE BOARD ORDERS THAT:**

1. Town of Carman By-law No. 04/1871 **BE APPROVED** subject to the following amendments:
 - (a) In the fifth "Whereas" Clause, second line delete "\$63,223,360" and replace with \$63,226,570", and
 - (b) In the Schedule "B" to By-law No. 04/1871 page 1(b), sixth line, delete "\$63,223,360" and replace with "63,226,570".
2. A filing fee of \$50.00 be paid by the Town of Carman.

FOR THE MUNICIPAL BOARD

October 25, 2004
Date

Peter G. Diamant
Peter G. Diamant, Chair

Rose Gibbons
Rose Gibbons, Secretary



TOWN OF CARMAN

BY-LAW NO. 04/1871

BEING a By-law of the Town of Carman to authorize the expenditure and borrowing of money for the contribution towards the construction of a transfer station for solid waste management and the closure of the existing landfill site.

WHEREAS Section 311 of *The Municipal Act* S.M. 1996, C.58, provides, in part, as follows:

"If approved by by-law, a municipality may undertake, as a local improvement for the benefit of all or part of the municipality,

- (a) the acquisition, development, upgrading or replacement of one or more of the following:*
- (iii) waste management facilities,"*

AND WHEREAS Section 320(1) of *The Municipal Act*, provides, as follows:

"Subject to subsections (2) to (6) and subsection 321(4), a council may by by-law

- (a) approve the local improvement or special service as set out in the plan or proposal; and*
- (b) authorize the municipality to impose taxes as set out in the plan or proposal."*

AND WHEREAS Section 172 of *The Municipal Act*, provides, in part, as follows:

"In this Division,

"borrowing" means the borrowing of money, and includes

- (b) borrowing to pay for a local improvement under Division 4 (Local Improvements and Special Services) of Part 10,*
- (e) issuing debentures."*

"borrowing by-law" means a by-law referred to in clause 174(1)(a)."

AND WHEREAS Section 174(1) of *The Municipal Act*, provides, as follows:

"A municipality may make a borrowing only if

- (a) the borrowing is authorized by a by-law; and*
- (b) subject to subsection (2), the borrowing is set out as a debt obligation in the operating budget or capital budget or it is made to fund an expenditure authorized under subsection 169(5)."*

TOWN OF CARMAN

BY-LAW NO. 04/1871

Page 2 of 7

AND WHEREAS the Council of the Town of Carman has prepared Local Improvement Plan Number 04/01, providing for the spending, borrowing authority and imposition of taxes for the construction of a transfer station for solid waste management and the closure of the existing landfill site, as a Local Improvement pursuant to Part 10 of *The Municipal Act*.

AND WHEREAS in order to complete such undertaking, it will be necessary to issue debentures of the Town of Carman for the sum of \$300,000.00 as hereinafter provided, which is the amount of the debt intended to be created by this by-law;

AND WHEREAS the consecutive annual amounts, including principal and interest, required to be raised each year for twenty (20) years, as hereinafter provided, for paying the principal and interest under this by-law are the amounts set out in Schedule "A" hereto;

AND WHEREAS the requirements as prescribed in Sections 318, 319 and 320, of *The Municipal Act* have been complied with;

AND WHEREAS the assessed value of the whole lands chargeable under this by-law according to the lasted reviewed Assessment Roll is \$63,266,570;

AND WHEREAS the amount of the existing debenture debt of the Town of Carman is \$331,543.69, of which no portion of the principal or of the interest thereon is in arrears;

NOW THEREFORE the Council of the Town of Carman, in regular session assembled, enacts as follows:

1. THAT pursuant to Subsection 320(1) of *The Municipal Act*, the Town of Carman adopts Local Improvement Plan Number 01/04 attached hereto as Schedule "B".
2. THAT the Town of Carman may expend up to Three Hundred Thousand Dollars (\$300,000.00) for the purpose of completing the construction of a transfer station for solid waste management and the closure of the existing landfill site s a local improvement.
3. THAT for the aforesaid project, the said municipality may borrow Three Hundred Thousand Dollars (\$300,000.00) by the issue and sale of debentures, such debentures shall be issued by the Town of Carman, in the Province of Manitoba, and shall be dated the 1st day of December 2004.
4. THAT the said debentures shall bear interest at a rate estimated for the time being at 8.25% per annum, and subject in any event to the authorization of The Municipal Board at the time of sale, and shall mature in accordance with the maturities set out in Schedule "A" hereto on the 1st day of December in each of the years 2005 to 2024, both inclusive.

TOWN OF CARMAN

BY-LAW NO. 04/1871

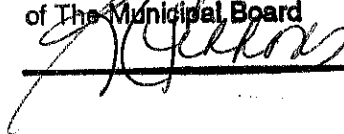
Page 3 of 7

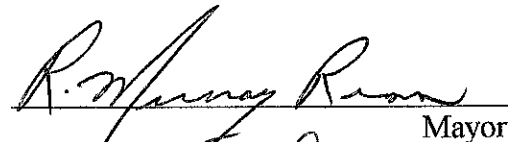
5. THAT each of the debentures shall be signed by the Mayor, or by some other person authorized by by-law to sign same, and by the Chief Administrative Officer of the Town of Carman and there shall be affixed thereto the corporate seal of the Town of Carman and the coupons, if any, attached thereto shall be signed by the Chief Administrative Officer whose signature thereon may be by lithograph or other mechanical means.
6. THAT during the currency of the said debentures; namely each of the years 2005 to 2024, both inclusive, there shall be raised annually by a special rate on all rateable property in Local Improvement District Number One, an amount sufficient to meet the requirement for principal and interest.
7. THAT pursuant to subsection 174(3)(d) of *The Municipal Act*, pending the issue and sale of debentures, the Council of the Town of Carman may agree with a bank or person or borrow from the general funds of the municipality for temporary advances from time to time to meet expenditures for the purpose aforesaid, and the total of such advances shall not exceed Three Hundred Thousand Dollars (\$300,000.00).
8. THAT during the term of the debentures authorized herein, in any year where the debentures remain not issued, the levies may be made as if the debentures had been issued; and upon completion of the project authorized herein the levies shall be applied in reduction of temporary financing, and when issued the amount and term of debentures shall be reduced accordingly.

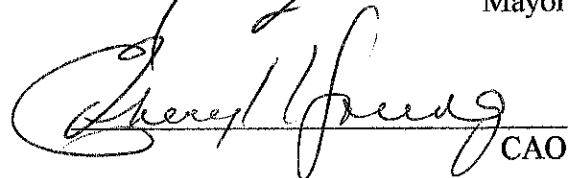
DONE AND PASSED as a by-law of the Town of Carman, in the Province of Manitoba, this 28th day of October 2004.

Approved, subject to Amendment

By Order No. E-04-110
of The Municipal Board


Secretary


Mayor


CAO

Read a first time this 9th day of September, 2004

Read a second time this 28th of October 2004.

Read a third time this 28th of October 2004.

TOWN OF CARMAN

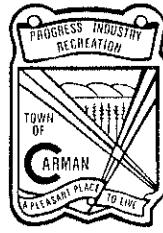
SCHEDULE - A TO BYLAW 04/1871

Local Improvement Debenture Issue

Term (Yrs):	20	Amount:	300,000.00
Date:	December 1, 2004	Rate (%):	8.2500
Payable:	December 1, 2005 - 2024	Annual Payment:	31,126.31
		First Year's Payment:	31,126.31
		Adjusted Last Year's Payment:	31,126.44

MATURITY SCHEDULE

Year	Interest	Principal	Balance
2005	24,750.00	6,376.31	293,623.69
2006	24,223.95	6,902.36	286,721.33
2007	23,654.51	7,471.80	279,249.53
2008	23,038.09	8,088.22	271,161.31
2009	22,370.81	8,755.50	262,405.81
2010	21,648.48	9,477.83	252,927.98
2011	20,866.56	10,259.75	242,668.23
2012	20,020.13	11,106.18	231,562.05
2013	19,103.87	12,022.44	219,539.61
2014	18,112.02	13,014.29	206,525.32
2015	17,038.34	14,087.97	192,437.35
2016	15,876.08	15,250.23	177,187.12
2017	14,617.94	16,508.37	160,678.75
2018	13,256.00	17,870.31	142,808.44
2019	11,781.70	19,344.61	123,463.83
2020	10,185.77	20,940.54	102,523.29
2021	8,458.17	22,668.14	79,855.15
2022	6,588.05	24,538.26	55,316.89
2023	4,563.64	26,562.67	28,754.22
2024	2,372.22	28,754.22	0.00
TOTALS	322,526.33	300,000.00	622,526.33



SCHEDULE "B" TO BY-LAW NUMBER 04/1871

THE TOWN OF CARMAN

LOCAL IMPROVEMENT PLAN #01/04

FOR

**BUILDING OF TRANSFER STATION FOR SOLID WASTE MANAGEMENT
AND
CLOSURE OF EXISTING LANDFILL SITE**

(Pursuant to Subsection 315(1) of *The Municipal Act*)

(a) *Description of the Proposed Local Improvement*

The intent of this Project is to construct a waste transfer station to be located on the north portion of NW ¼ Section 13, Township 6, Range 5 WPM. The site is currently an active landfill site and is to be decommissioned as part of the project. The major items to be performed in this Project include:

- Relocation of landfill burn area
- Relocation of landfill pesticide container storage area
- Excavation and embankment construction
- Construction of bin-wall structure for public waste drop off area
- Fencing removal and reinstallation
- Roadway Geotextile and granular installation
- Ditching Construction
- Waste disposal ground site clay cover placement
- Waste disposal ground site topsoil placement

(b) *Local Improvement District to be Taxes*

The Council of the Town of Carman intends to impose this local improvement tax on all assessable property within the Town of Carman Local Improvement District Number One. This will include all taxable assessment, Grant-in-Lieu assessment and Otherwise Exempt assessment in the town of Carman. Local Improvement District Number One, and subsequent amendments, includes all properties within the Town of Carman boundaries. The assessment value in 2004 of this property totals \$63,266,570.

(c) ***Identify the Potential Taxpayers Under the Plan***

The potential taxpayer, as defined by Section 310 of *The Municipal Act*, is a person who would, if the local improvement were approved by by-law, be liable to pay for the local improvement. In this proposal, the potential taxpayer would include the owners of any assessable property in the Town of Carman Local Improvement District Number One.

(d) ***Method of Calculating Local Improvement Tax***

The local improvement requirement in each year is to be raised by a local improvement tax calculated on the basis of the portioned value of eligible assessable property over twenty (20) years. Pursuant to Section 325 of *The Municipal Act*, taxpayers will not be permitted to prepay their respective local improvement taxes because they are based on assessment.

(e) ***Estimated Cost of Local Improvement***

Test Pitting	\$ 560.00
Burn Area Berm	\$ 1,000.00
Geotextile	\$ 14,450.00
Compacted Clay Liner	\$ 2,000.00
Onsite Clay Cover Material	\$ 1,500.00
Offsite Clay Cover Material	\$ 60,207.00
Roadway Sub-grade Compaction	\$ 5,780.00
Removal of Existing Approaches and Culverts	\$ 2,625.00
Ditch Excavation	\$ 4,340.00
Supply & Install 250 mm Dia. CSP Culvert	\$ 1,100.00
Granular Base	\$ 28,000.00
Granular Sub-base	\$ 72,225.00
New Wire Fence	\$ 800.00
Reinstall Existing Wire Fence	\$ 2,400.00
Top Soil	\$ 5,700.00
Seeding	\$ 14,500.00
Bin-Wall Supply and Installation	\$ 45,000.00
Contingency	<u>\$ 37,813.00</u>
Total Estimated Project Cost	\$300,000.00

(f) ***Particulars of Debenture Issue***

Amount of Debenture	\$300,000.00
Term	20 Years
Interest Rate	8.25% (or rate at the time of borrowing)
Due Date	December 1, 2005 through to 2024, both inclusive

(g) *Other Anticipated Sources of Funding*

At the time of preparation of the Local Improvement Plan, the Town of Carman has not applied for any additional funding for the project. Council will attempt to secure funding for this project under the WRAPP fund and if funding is successful, it will reduce the amount of funds that will be borrowed by the Town of Carman.

(h) *Funding of Maintenance of Proposed Local Improvement*

The Town of Carman will be responsible for the annual operation and maintenance of this facility and such expenses will be included in its annual operating financial plan and through the implementation of tipping fees.