

M A N I T O B A) Order No. 74/15
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THE PUBLIC UTILITIES BOARD ACT) July 24, 2015

BEFORE: Susan Proven, P.H.Ec., Acting Chair
Marilyn Kapitany, B.Sc. (Hons.), M.Sc., Member
The Hon. Anita Neville, P.C., B.A. (Hons.), Member

REQUEST TO REVIEW AND VARY
BOARD ORDER Nos. 35/15 and 32/15
VILLAGE OF DUNNOTTAR
INTERIM INITIAL SEWER RATES

Summary

The Public Utilities Board (Board) previously requested that the Village of Dunnottar (Village) prepare a rate study that would assess sewer rates and determine how costs should be recovered from users of the sewer collection system. The Village submitted information on its operating systems, which the Board then reviewed and determined that the Village was operating a Public Utility. Board Order No. 32/15 was issued outlining the Board's decision.

The Village subsequently requested that the Board review and vary the decision, which resulted in the Board issuing Order No. 35/15.

The Public Utilities Board (Board) has now reviewed the decisions set out in Board Order Nos. 32/15 and 35/15 and hereby denies the application to vary the rates set for the Village of Dunnottar (Village) sewer utility.

The rates are shown below:

	<u>2015</u>	<u>2016</u>
Annual customer service charge	\$ 2.00	\$ 2.00
Annual charge per REU	\$ 492.00	\$ 495.00
1 Residential equivalency unit - total per annum	\$ 494.00	\$ 497.00
1.5 Residential equivalency units - total per annum	\$ 740.00	\$ 745.00
2 Residential equivalency units - total per annum	\$ 986.00	\$ 992.00

The Board will vary its directive to the Village to review its sewer rates for adequacy and file a report with the Board, as well as an application for revised rates if required. This will

now be due on or before November 30, 2015 rather than June 30, 2016, as set in Order No. 32/15. There will be no extensions granted for this directive.

Background

On September 5, 2013 the Board received a letter and petition signed by 39 residents asking the Board to remove the cost of holding tank pump-outs in the Village from the mill rate tax assessment and to assess them on a system that is fair and equitable. Upon receipt, it was determined that the Village of Dunnottar had not previously been declared a public utility, and as such was not subject to regulation and oversight by the Board. The Board requested further information about the operations in the Village and it was determined that, because the Village has a contract with a hauler and arranges for pump-outs, it met the legal test of a system of collection, as found in Section 2 (6) of The Public Utilities Board Act.

Using the information provided by the Village, the Board issued Board Order No. 32/15 March 12, 2015. The Order declared the sewer system serving the Village of Dunnottar (Village) a public utility and set initial sewer rates on an interim *ex parte* basis.

Where a system has no meters, including systems with sewer service only, volume of water used and/or volume of effluent returned to the sewer system are based on residential equivalent units; one unit being the volume of wastewater estimated to be produced by the average single family residence. Rates were set based on residential equivalency units (REUs).

The Village submitted a request on March 13, 2015 to review and vary Board Order No. 32/15 in the following ways:

- Total revenue requirements were \$546,075 revised to \$564,125 (2015) and \$568,125 (2016)
- Total number of customers was originally based on 1,114 tanks revised to 1,136 dwellings, five (5) commercial properties and four (4) exempt properties that should be included for a total of 1,145 customers.
- Total number of REUs assigned. Residential dwellings remained at 1 REU, but of the commercial properties, the Village has indicated that two of them should be assigned 1 REU, two of them should be assigned 1.5 REUs and one should be assigned 2 REUs, for a total of 1,147 REUs assigned.
- The Village also sought approval for tipping fees being charged, which was overlooked in the original submission. The Village was charging \$20 per 3,000 gallon truck load or portion thereof. This is a short term exception to the Village's rule prohibiting outside haulers from using the lagoon, to accommodate the new provincial park in Winnipeg Beach while that utility upgrades their lagoon.

Board Order No. 35/15 was issued March 25, 2015 approving the requested changes to Order No. 32/15.

After tax bills for the Village were mailed out in early May, the Board began receiving calls about the decisions in 32/15 and 35/15. On May 12, 2015 Mr. George Derenchuk submitted a request

that the Board review its decision. Several subsequent requests were received by the Board, and they have all been considered in this application and this Order reflects the Board's decision regarding all of the requests.

Given the significant response from ratepayers, multiple requests for a Public Hearing and many requests for clarification, the Board called a Public Hearing.

Public Hearing

On May 20, 2015, a Notice of Public Hearing was issued. The Hearing was held on June 23, 2015 at the Matlock Recreation Club in Matlock MB. There were approximately 150 people in attendance.

The Hearing began with opening remarks and the Chief Administrative Officer (CAO) for the Village of Dunnottar made a presentation on behalf of the Village. The CAO outlined the history behind the sewer collection system in Dunnottar, including previously defeated attempts to establish a flat rate method of cost recovery, a gravity fed sewer system and most recently a low pressure system.

The Village has indicated their commitment to maintaining the collection system in an effort to protect water wells and Lake Winnipeg. No one who spoke at the Hearing contradicted this direction. It was clear that protecting the environment is very important to residents of the Village.

Under the current system, the Village has more assurance that

septage is properly disposed of; that tanks are not overflowing and any tank that is suspected of leaking can be physically checked.

The Village has a contract with a service provider to check tanks and pump every holding tank in the Village once per week during the 26 week summer period, as required. In the winter, checks and pump-outs continue to be provided for the permanent residents once per week. Seasonal property owners requesting winter pump-outs are served on an as-need basis, at no additional cost. The contracted amount of pump-outs per year indicates a per pump-out cost of approximately \$15.

The Village does not believe that this price would continue to be offered by the hauler should the contract end and residents become responsible for arranging their own pump-outs on demand. It's far more likely the costs would reflect what other municipalities pay, between \$80 and \$120 per pump-out. The Village has concerns about the increased risk of environmental hazards from people who would act irresponsibly to reduce their costs.

With regards to implementing a seasonal rate, the CAO submitted that this has been debated extensively in the past by Council and residents. Assumptions about use based on residency are not necessarily valid as some seasonal residents use their property in the winter and some permanent residents do not use theirs.

The Village also contemplated a "user pay" system, but felt that the threat of contamination to the environment was too high under that methodology.

The floor was turned over to the residents in attendance and there were many presentations and concerns voiced. Many of the concerns or recommended solutions are noted below:

- That rates be allocated by a 50% flat rate and 50% on the tax assessment
- Installing meters on the septic hauler's trucks
- Installing meters on resident's wells
- Taxation reflects the owner's ability to pay
- That rates be allocated based on seasonal vs. permanent residency
- Concern about how "snowbirds" should be treated if the system changes to a seasonal vs. permanent residency allocation
- Concerns about communication and the fact that the Board's decision came as a surprise to many residents
- The rates be allocated on a "user pay" system, by having the drivers keep track of all pump-outs

- Concerns about the effect on the community as a whole, and that being a resident in the Village is becoming increasingly difficult
- No way to reduce costs by conserving and no incentive to conserve
- Concerns about those without holding tanks being charged
- Confusion about the rates because they are still being charged on the tax bill

Board Findings

The Board commends the community for its participation and attendance at the Public Hearing, and the Village for its commitment to the environment. The Board would also like to commend the Village for sending a staff member to attend a Board training session on the preparation of rate applications.

The Board recognizes that there are ratepayers who have experienced cost increases. However in setting just and reasonable rates, the Board relies on the principle of user pay to balance the fairness of rates to users with the requirement to ensure the utility remains financially viable.

While the use of residential equivalency units to distribute costs doesn't take usage into account, it is a fair system in that all parties are treated equally. Given the current system, equipment, and the evidence provided at the Public Hearing, the Board believes that this remains the most appropriate methodology to use.

The 2015 utility charges will not be revised, and all ratepayers should make payment as requested by the Village.

The Board notes that the Village requested the Board review and vary Board Order No. 32/15, and did not request any sort of adjustments for permanent and seasonal residents.

In Board Order No. 32/15, the Village was directed to submit a statement of rate adequacy and rate application on or before June 30, 2016. The Board will vary that portion of the Order,

amending the date to November 30, 2015. No extensions will be provided and financial penalties will result should delays occur.

The rationale for this urgency is that the Board would like to have the submission in time to issue a decision prior to the June 2016 annual billing.

The Board strongly recommends that the Village engage in public consultation when preparing their submission. The Board would like to see evidence that residents were consulted in the application to be put forward by the Village.

There are many different options available to the Village for consideration and the Board recommends that the submission from the Village includes the rationale behind the choices considered. Given the November submission deadline, it's expected that the Notice of Application will be issued during the fall, after many of the seasonal residences in the Village have been closed for the year.

The Board expects a high level of response from the community.

Should the demand be there, the Board will hold two (2) Public Hearings to review the application; one in the Village of Dunnottar and one in the City of Winnipeg, in an effort to accommodate as many ratepayers as possible.

The Board recommends that the Village introduce a separate bill for utility charges; the practice of including the charges on the tax bill has increased confusion of ratepayers.

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure (Rules). The Board's Rules may be viewed on the Board's website at www.pub.gov.mb.ca.

