

Order No. 52/17

**AN ORDER RESPECTING
THE RURAL MUNICIPALITY OF ST. CLEMENTS
GRAND MARAIS WASTEWATER UTILITY**

May 23, 2017

BEFORE: Marilyn Kapitany, B.Sc. (Hons.), M.Sc., Acting Chair
Carol Hainsworth, C.B.A., Member
Shawn McCutcheon, Member

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1.0 Executive Summary

By this Order, the Manitoba Public Utilities Board (Board or PUB) hereby denies the Rural Municipality of St. Clements' (RM) application for revised wastewater rates and varies the application for initial wastewater tipping (referred to in the RM's by-law as septage dumping charges) for the Grand Marais wastewater utility (Utility).

	September 1, 2017
Semi-Annual Service Charge	\$21.04
Semi-Annual Flat Rate Sewer -Vacant Lots	\$43.91
Semi-Annual Flat Rate Sewer -Connected Lots	\$58.54
Total Semi-Annual charges – Vacant Lots	\$64.95
Total Semi-Annual charges – Connected Lots	\$79.58
Septage dumping charges, per cubic meter	\$1.00
Service Call-Out Fee-Residential /call	\$75.00
Service Call-Out Fee-Business/Institutions /hour*	\$50.00
Reconnection Fee	\$30.00
*After hours charge \$100.00 /hour plus cost of private contractor	

Details of other rates may be found in the attached Schedule "A".

Rationale for the PUB's decisions may be found under "Board Findings on the Issues".

2.0 Application

On January 16, 2017 the Board received the RM's application for revised wastewater rates for the Grand Marais wastewater utility. The RM's application also included a request for initial wastewater tipping fees, and requested the Board approve these rates on an interim *ex parte* basis, which is the usual practice for initial rates.

The RM sent a letter dated December 8, 2016 to area haulers advising them of changes to the policies surrounding the use and controls of the RM's lagoons in Grand Marais and East Selkirk, as well as its intention to apply to the PUB for approval of a wastewater tipping fee of \$5.50 per cubic meter in Grand Marais.

After the application was filed, but prior to any Notice of Application being prepared or published, the Board began getting responses from stakeholders regarding the RM's proposed wastewater tipping fees. More than three hundred responses were received, the majority of which were a form letter circulated in the community.

When reviewing an application, the PUB has at its disposal two approaches, either a paper or a public hearing review. A public hearing process allows the Utility the opportunity to present its application and allows stakeholders the opportunity to present any concerns to the PUB in person. Typically the PUB will consider an application and stakeholder responses after the publication of the Notice of Application, and determine which method of review is most appropriate.

In the case of the RM of St. Clements, the Board determined a public hearing was appropriate prior to a Notice being published, given the significant public response. A Notice of Hearing was issued on February 2, 2017 and a public hearing was held on March 13, 2017 at the Grand Marais Recreation Centre in Grand Marais and March 15, 2017 in the Public Utilities Board hearing room in Winnipeg.

In its application, the RM noted that it owns and operates the Grand Marais Utility and reported the utility consists of a wastewater stabilization pond/lagoon near the community of Grand Marais, as well as a collection system to the Sunset Bay Estates.

The lagoon services the cottages in the surrounding area. Wastewater is taken from the holding tanks at the cottages and trucked to the lagoon's dumping facility. Wastewater is also taken from the connected customers in Sunset Bay Estates.

The Sunset Bay Estates is a new Lake Winnipeg community featuring 166 lots. The rate application submitted January 2017 stated that four of the 166 properties have connected to the utility system. Initial interim rates for Sunset Bay were previously set on Board Order Nos. 24/15 and 29/15, following an application filed by the RM on December 22, 2014. That application did not include any provision for wastewater tipping fees.

In its 2014 submission to the PUB, the RM proposed that vacant lots in the Sunset Bay Estates should pay a partial residential equivalency unit (REU), stating, "...all customers should pay a fair share of the expenses related to the operation of the system, since almost 80% of the utility costs are fixed costs." REUs are used in communities with unmetered distribution and collection systems, where information regarding actual consumption is unavailable. One REU represents the volume of wastewater estimated to be produced by the average single family residence. Units allocated to other customers are based on estimated consumption, as compared with a residence.

The Board agreed with the RM's reasoning, and in Board Order Nos. 24/15 and 29/15 approved rates based on a connected lot being assigned one REU and a vacant lot being assigned .75 REUs. The RM advised at that time that it planned to submit a comprehensive rate study following a full year of service, incorporating actual costs and other pertinent information to forecast the rates for future years. The rates were approved effective January 1, 2015, 2016 and 2017.

The rate study submitted January 12, 2017 asked the Board to revise the wastewater rates to change the REU assignment for vacant lots from .75 to 0 REUs. The RM did include a provision to continue charging the vacant lots a semi-annual customer service charge.

The rate study advised the Board that the RM estimated that commercial trucks accounted for “approximately 91.79%” of the wastewater received by the lagoon, which was estimated to be a total of 14,727.28m³ per year. The RM estimated 5,740.09m³ were coming from outside of the RM, with the balance of 8,987.19m³ coming from within the municipality.

The rate study did not show how the RM determined these estimates, though during the public hearing the RM stated it had used records from East Selkirk in estimating volumes at Grand Marais.

The rate study did not provide calculations for the wastewater tipping fees, but stated that the RM was “bringing the Grand Marais Lagoon into the same operating policy as the East Selkirk Utility for consistency.” The RM advised the Board the requested rate of \$5.50m³ is based on the current rate being charged in East Selkirk.

3.0 Public Hearing

The Public Hearing took place as advertised, and both hearing dates were well attended by members of the community, many of whom addressed the PUB as presenters.

The majority of stakeholders who addressed the PUB were seasonal customers who were not connected to the collection system in Sunset Bay, but rather those who would be impacted by the implementation of wastewater tipping fees. These fees are charged directly to the septic haulers, who then pass the costs on to their customers through their pump out charges.

Some of the common concerns voiced at the hearing were:

- that the RM's proposal to charge was based on the full capacity of the septic haulers truck, rather than the volume actually being put into the lagoon;
- that there were errors in the application and in the method of estimating costs and volumes;
- that the RM's proposal included an \$8 charge for the "Lake Friendly" certification program; and
- that the estimates used by the RM of the amount of wastewater being hauled were inaccurate.

The RM acknowledged at the public hearing that it had used the East Selkirk utility in estimating volumes in the Grand Marais lagoon, and that the users of the two facilities are very different. The majority of users in East Selkirk have septic fields, which require fewer pump outs but have a heavier organic load than the holding tanks used in Grand Marais. In addition, East Selkirk is an urban centre, while Grand Marais is largely seasonal. During the public hearing, stakeholders asked for information regarding the number of users of each lagoon, which was not available for comparison.

4.0 Board Findings on the Issues

The Board has reviewed the submission from the RM, and has made the decision to deny the application for revised wastewater rates. The Board will also vary the application for initial wastewater tipping fees.

The Board finds that the application was not prepared using audited financial statements as a starting point in forecasting utility revenue requirements. This is necessary when applying for initial rates. Subsequent rate applications should be prepared after a minimum of one year of audited historical information is available.

When rates were set in Board Order Nos. 24/15 and 29/15, the PUB asked the RM to submit a rate application on or before September 30, 2016, with the expectation that the RM would have audited financial results to use in preparing their submission. This is not the case. The 2014 audit for the RM does not include a Schedule 9 for the Grand Marais utility. The RM's 2015 audited financial statements, due June 30, 2016, had not been finalized at the time the application was received.

The RM should have filed a request for an appropriate extension with the PUB, given the lack of audited information.

The RM's 2014 application provided a rationale for sharing the costs of operating the utility amongst all lots in the Sunset Bay Estates. The Board does not find that the RM's application provided the evidence required to change the methodology.

The Board recommends a stronger consultation with the area haulers in making estimates and assumptions about the use of the lagoon in Grand Marais to better support future applications. The RM was proactive in providing Notice of its intentions in making application to the PUB, but the Board feels that the RM should have conferred with the haulers collectively prior to deciding on how to proceed with methodology in setting and implementing the wastewater tipping fees.

The Board finds the RM should have been more diligent in preparing its rate study and estimates. The impact on users is material, and applications should be prepared using audited figures and sound methodologies.

The Board finds that any contribution to the Lake Friendly certification program should be funded from the RM's general operating fund, and should not be included in the operating costs of the utility. Future applications made to the PUB should not include a provision for this program in the utility rates.

The Board finds that all users of the lagoon should be contributing to the operating costs and will approve an initial interim rate for wastewater tipping fees. Without audited figures or other sound methodology to calculate an indicated rate, the Board will approve a charge of \$1.00 per cubic meter, as was proposed by the stakeholders at the public hearing. This charge will be based on the full capacity of the hauler's truck, as proposed by the RM in its application.

The Board encourages the RM to collect information about the usage of the lagoon, and the costs of operating the utility, to allow for a more accurate rate application.

The Board recommends that all future applications be prepared using the PUB's guidelines. The Board does encourage applicants to confer with Board staff where there is uncertainty about Board recommended methodology and, where variation is proposed, that the variation be clearly substantiated in the application.

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. The Board's Rules may be viewed on the Board's website at www.pubmanitoba.ca.

5.0 IT IS THEREFORE ORDERED THAT:

- 1) Revised wastewater rates for the Rural Municipality of St. Clements, Grand Marais wastewater utility, related to connected customers, BE AND ARE HEREBY DENIED.
- 2) Initial wastewater tipping fees for the Rural Municipality of St. Clements, Grand Marais wastewater utility, BE AND ARE HEREBY APPROVED on an initial interim basis, in accordance with the attached Schedule "A", effective September 1, 2017.
- 3) The Rural Municipality of St. Clements submit a copy of its wastewater rate By-law to the Public Utilities Board once it has been amended to reflect the decisions in this Board Order, and received third and final reading.
- 4) The Rural Municipality of St. Clements, Grand Marais wastewater utility review its wastewater rates for adequacy and file a report with the Public Utilities Board, as well as an application for revised rates if required, by no later than December 31, 2018.

Fees payable upon this Order - \$1,500.00

THE PUBLIC UTILITIES BOARD

"MARILYN KAPITANY, B.Sc. (Hons.), M.Sc."
Acting Chair

"JENNIFER DUBOIS, CPA, CMA"
Acting Secretary

Certified a true copy of Order No. 52/17 issued
by The Public Utilities Board

Acting Secretary

The Rural Municipality of St. Clements

SCHEDULE "A"
SEWER RATES
BY-LAW NO. 26-2016

1. COMMODITY SEWER RATES – SEMI ANNUAL FIXED RATE

<u>Sewer</u>	<u>Vacant Lots</u>	<u>Connected Lots</u>
January 1 st , 2017	\$ 43.91	\$ 58.54

2. FIXED SEMI ANNUAL SEWER CHARGES

	<u>Service Charge</u>	<u>Sewer Charge</u>	<u>Total Sewer Charge</u>
January 1 st , 2017:			
Vacant Lots	\$ 21.04	\$ 43.91	\$ 64.95
Connected Lots	\$ 21.04	\$ 58.54	\$ 79.58

3. SEPTAGE DUMPING CHARGE

All septic haulers need to have a Municipal business licence and indicate the truck capacity to receive a permit. Effective September 1, 2017 the hauled sewage shall be \$1.00 per cubic meter, charged to the Sewage Hauler, payable monthly. This would be charged based on 100% of the waste hauler's tank capacity.

4. SERVICE CALL-OUTS

- (a) There will be a charge to property owners for a call out rate of \$50.00 per hour, during regular working hours, for municipal stall plus actual costs any materials required, and for any private contractor to clean out the sewer service and/or disconnect, turn off, or turn on, reconnect, flush and/or thaw the water services or repair the water meter for the businesses and/or institutions.
- (b) After hours call out rate is \$100.00 per hour plus actual cost for a private contractor.
- (c) Costs of connecting to the utility mains and installing, maintaining, and repairing service connections will be paid by the customer.

5. BILLINGS TO PENALTIES

Accounts shall be billed semi-annually (twice a year) and shall be due and payable thirty days after the date of billing. A late payment charge of 1 ¼% per month shall be charged on the dollar amount owing after the billing due date and shall compound monthly.

6. DISCONNECTING FOR NON-PAYMENT

- (a) The Public Utilities board has approved the Conditions Precedent to be followed by the municipality with respect to the disconnection of service for non-payment including such matters, as notice and the right to appeal such action to the Public Utilities Board. A copy of the Conditions Precedent is available for inspection at the Municipal office.
- (b) In the event that services are disconnected in accordance with the above noted Conditions Precedent, there shall be a termination fee of \$30.00 charged to the consumers account.
- (c) Prior to services being reconnected, payment of all arrears, penalties, disconnection charges, etc. as well as a reconnection fee of \$30.00 must be paid in full or suitable payment arrangements made.

7. OUTSTANDING UTILITY CHARGES

Any account that remains outstanding for more than 30 days may be added to the property taxes in accordance with Subsection 252(2) of *The Municipal Act*. Because sewer services may be provided and billed to a tenant, information about accounts outstanding may be shared with the property owner. An administration charge of \$25.00 will be charged per tax roll for addition of outstanding utility charges to the tax accounts.