

The Corporation of the City of Kawartha Lakes
Committee of the Whole Report

Report Number WWW2019-010

Date: July 16, 2019
Time: 10:00 a.m.
Place: Council Chambers

Ward Community Identifier: All

Title: Review of Mandatory Connection By-law 2014-255

Description: Council has requested By-Law 2014-255 to come to the Committee of the Whole for review.

Author and Title: Amber Hayter, Supervisor Water and Wastewater Operations

Recommendation(s):

That Report WWW2019-010, **Review of Mandatory Connection By-law 2014-255**, be received; and

That this recommendation be brought forward for consideration at the August 13, 2019 regular Council meeting.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

By-Law 2005-75 “A By-Law to Require Owners of Buildings to Connect such Buildings to Water Works and Wastewater Works in the City of Kawartha Lakes” was adopted by CKL on April 12, 2005. Although this by-law came into effect, it was not actively enforced due to limited resources and restricted powers of enforcement within the by-law wording. A number of the definitions were ambiguous, powers of entry were not included, and the penalties for non-compliance were inadequate. As part of the Lean Six Sigma Black Belt project, the by-law was reviewed in 2014 by staff from multiple departments (Public Works, Engineering and Corporate Assets, Property & Building, Revenue & Taxation and Municipal Law Enforcement) to determine ways in which to improve the overall effectiveness of the by-law and program. A number of informational gaps were identified within. Due to the extent of the proposed improvements, a new by-law was adopted by Council on Sept 9, 2014 to address the identified shortages, By-law 2014-255 “A By-law to Require Owners of Buildings to Connect Such Buildings to Drinking Water Systems and/or Wastewater Collection Systems in the City of Kawartha Lakes”, referred to as the “Mandatory Connection By-law”.

There were a large number of properties (approximately 160) identified that qualified for connection to municipal services. Staff were led by the City’s Office of Strategy Management to organize a pilot project in Fenelon Falls to strategically phase in the connection process. The aim was to connect required buildings without putting a strain on the City’s various departments required to administer the program. 36 properties in Fenelon Falls were identified to front municipal watermains and/or sewer mains but were serviced by private water and/or septic systems. 11 properties were removed due to restrictions on wastewater capacity at that time, leaving 25 properties to form the pilot group. During the course of the pilot, Council conditionally exempted 22 of the eligible 25 properties until such time as both water and wastewater services became available to them. The properties conditionally exempted from connection in Fenelon Falls were still benefiting from the service that was available to them (such as increased property values, reduced insurance rates due to fire protection, access to dependable services, and a guaranteed safe drinking water source). Given this, Council decided that although the properties weren’t required to connect at this time they would be required to pay the fixed rate portion of the user rate to help reduce the financial pressures on the current users, aid in offsetting any required increases to the user rates and to support Council’s initiative to make our municipal systems financially sustainable.

Under the direction of Council, a presentation was provided to Council in the Fall of 2018 to deliver an overview of the mandatory connection process, including an update on the pilot project in Fenelon Falls, potential alternatives for addressing

physical connection requirements that are outlined in the by-law, as well as a comparison of CKL's by-law with other "mandatory connection" by-laws from other municipalities across Ontario. The presentation showed evidence that the Mandatory Connection by-law is consistent with those in other municipalities.

As part of the review, alternatives were discussed on how to better implement the program in order to ease the financial burdens placed on the properties that fell within the boundaries of municipal services. It was determined that the most practical solution was to enforce the mandatory connect process with properties only at the time their private infrastructure (drinking water well and/or septic system) fails. The property owner would already be required to make a significant financial investment whether they had to install a new private system or connect to the municipal services available to them. Removing the 18 month timeline also reduced pressures placed on the various City departments administering the process. At the September 25, 2018 Council Meeting, staff were directed to prepare the necessary amendments to the by-law to reflect what was decided:

WWW2018-008

Water Wastewater Service Connection Strategy

David Kerr, Manager, Environmental Services

CR2018-591

Moved By Councillor James

Seconded By Councillor Yeo

That Report **WWW2018-008, Water Wastewater Service Connection Strategy**, be received; and

That staff be directed to prepare the necessary amendments to By-Law 2014-255, A By-Law to Require Owners of Buildings to Connect Such Buildings to Drinking Water Systems and/or Wastewater Collection Systems in the City of Kawartha Lakes, to require property owners who meet requirements of mandatory connection process to connect to available municipal water and/or wastewater services upon failure of their private infrastructure.

Carried

The amended by-law was then submitted back to Council, which was endorsed on January 15, 2019:

WWW2019-003

Amendments to By-law 2014-255, Requirement to Connect to Municipal Services

Amber Hayter, Supervisor, Water and Wastewater Operations

CR2019-032

Moved By Deputy Mayor Elmslie
Seconded By Councillor Veale

That Report WWW2019-003, **Amendments to By-law 2014-255, Requirement to Connect to Municipal Services**, be received; and

That Section 2.01 of By-law 2014-255 be amended to read: “Subject to section 2.02 herein the owner of any Building as defined herein where such service or services have capacity, shall be responsible for the physical installation of a private sanitary lateral and/or private water service at the Owners expense and shall be responsible for the payment of all fees and charges payable to the Municipality for the installation and connection of a municipal sanitary lateral and/or water service in accordance with the provisions of this By-law and any and all by-laws governing connections to municipal drinking water systems and wastewater collection systems upon failure and/or the need for replacement of their existing private water supply and/or sewage/septic disposal system(s). For further explanation refer to Appendix 1: Connection Diagram.”; and

That Section 2.02 of By-law 2014-255 be amended to read: “Subject to section 2.01, in the event that water and/or wastewater services become available after the date of passage of this By-law, persons described in section 2.01 shall connect their premises directly to the services in accordance with section 2.01 upon failure of their water and/or sewage/septic disposal system(s).”; and

That Section 2.03 by By-Law 2014-255 be amended to read: “Notwithstanding sections 2.01 and 2.02, in the event that

Carried

Another report will be brought to Council prior to the end of Q3 2019 to address the following resolution from the January 15, 2019 Council meeting:

CR2019-033

Moved By Deputy Mayor Elmslie

Seconded By Councillor Richardson

That staff be directed to investigate the financial implications and potential impacts of:

- The City assuming fiscal responsibility for installation of water and sewer infrastructure to property lines for those properties required to connect to City services;
- Options to exempt farm or other properties where compliance with mandatory connection requirements is either unrealistic and/or cost prohibitive;
- Discontinuing fixed rate charges for properties that are unlikely to hook up to City services; and

That staff report back to Council by end of Q3 2019.

Carried

At the Regular Council Meeting of June 18, 2019, the following resolution was passed, to bring forward the Mandatory Connection By-law for Council to review and discuss.

CR2019-399

Moved By Councillor Seymour-Fagan

Seconded By Councillor Yeo

That the Mandatory Connection By-law be brought forward to Council at a July 2019 meeting for review.

Carried

This report addresses that direction.

Rationale:

As part of the presentation in September, 2018 a comparison of other municipalities by-laws within Ontario for the following aspects were reviewed: timing of connection, stipulated connection distances, inclusion of requirements to decommission/disconnect old private systems, Power of Entry clauses, fines, hardship clauses, loan programs, and associated fees, and it determined that

Kawartha Lakes is in alignment with the other programs, and by extension the 2014 Provincial Policy Statement under the *Planning Act, 1990*.

A number of properties that meet the requirements for connecting to municipal services once their private infrastructure fails have come forward to Council and staff requesting an exemption to the payment of the fixed rate charges, until such time of failure and/or need for replacement of their existing private water supply. Each motion has been unsuccessful to date as all properties within their respective municipal servicing boundaries are supporting the City's water and wastewater infrastructure in a consistent manner. As noted in the background information of this report, the Mandatory Connection by-law has undergone multiple amendments to determine an appropriate way in which the long term viability of the water and wastewater infrastructure for the City of Kawartha Lakes is being considered, while also taking into account the financial implications being presented to residents.

Consideration should be given to the potential harmful impacts to the environment and public health that coincides with properties that have private services. The Earth Sciences Sector of Natural Resources Canada estimates that approximately 20 percent of homes with private wells contain at least one contaminant of concern due to unseen infiltration through such things as improper well seals. Septic treatment systems are an even larger environmental concern as they are quite often installed in less than satisfactory soil conditions and are seldom maintained to federal and provincial guidelines. They are often unable to treat wastewater effluent with the same effectiveness as a municipal wastewater facility, which can lead to bacterial, nitrate and other pollutants contaminating surrounding soils and surface and groundwater resources. A Mandatory Connection By-law helps reduce the risk to the environment and human health by ensuring safe drinking water and effective treatment of wastewater to those residents within servicing boundaries, keeping in line with the City's strategic priority of a Healthy Environment and maintaining water quality.

Mandatory Connection requirements also ensure that any new developments within serviced areas are connected to the municipal infrastructure available to the property, ensuring that capital investments made by CKL can be recovered through user rates collected.

If the by-law remains as it currently is written, this will allow for the continued funding for the operation and maintenance of existing water and wastewater infrastructure and accounts for the municipal services available to property owners. This is consistent with the 2014 Provincial Policy Statement under the *Planning Act, 1990*. The Policy highlights the preference for municipal water and wastewater services for servicing settlement areas while emphasizing the efficient use and optimization of existing municipal services.

Other Alternatives Considered:

At this time Staff does not recommend any alternations to the current By-Law.

Council may wish to have Staff evaluate the impacts of relief to the fixed rate for those not connected to the systems. Staff does not recommend this alternative as it places additional burden on the current water and wastewater users (approx. 13,000 water users, approx. 11,000 wastewater users) to sustain the water and sewer infrastructure, that those properties subject to mandatory connection still benefit from. This will result in increased rates to existing users.

Financial/Operation Impacts:

To date, 133 properties that meet the requirements of the Mandatory Connection By-law have been paying the Fixed Rate portion of the user rate. These properties meet the requirements to connect to municipal services but still maintain private infrastructure. Based on the fees included as Schedule A to By-law 2018-039 "Water and Wastewater Services in the City of Kawartha Lakes" for a 5/8" – 3/4" meter size the 2019 annual fixed rate cost for water service is \$366.72 (or \$30.56 per month) and the sewer service rate is \$354.72 (or \$29.56 per month). This would result in a total annual fee of \$721.44 for properties that fronted both municipal water mains and sewer mains.

In 2017, a small amount of \$3,813.34 was collected in revenue from properties in Fenelon Falls that were part of the pilot project. Following by-law amendments to have all eligible properties pay the fixed rate portion in 2018, \$41,975.53 was collected in revenue. The 2018 revenue collected represents approximately 0.22% of the 2018 Water & Wastewater operating budget of \$18,944,884. Currently \$39,479.85 has been collected for 2019, bringing the total revenue from these properties to \$85,268.70.

The total annual revenue resulting from the recent amendments to the by-law is \$58,381.92 which represents 0.31% of the operating budget. If Council decides to amend the by-law to remove the requirement for properties to pay the fixed rates when they have access to municipal services, these costs will then be placed onto the remaining users. This revenue allows for the reduction of financial pressures on the current users and helps counteract required increases to the user rates in a fair and consistent way for every property that benefits from having access to municipal water and wastewater services.

Relationship of Recommendation(s) to the 2016-2019 Strategic Plan:

The recommendation to Council is consistent with the Council Adopted Strategic Plan in several ways:

Goal 1 “Vibrant and Growing Economy” – will be met through the proper servicing and collection of appropriate user fees to fund the maintenance, capacity and growth of the municipal water and wastewater systems.

Goal 3 “Healthy Environment” - will be met through community preparedness by ensuring that the necessary funds are secured in order to sustain water and wastewater infrastructure necessary to protect and prevent any adverse impacts towards the environment.

Enabler 3 “Municipal Service Excellence” – E3.3 Service Excellence – E3.3.1 –Review and adopt best municipal practices (and continue to review operational efficiencies using lean methodology).

This Report is also in line with the City’s values, specifically continuous improvement and excellence, as the by-law aids in the sustainability of the municipal drinking water systems and wastewater systems as well as provides excellent, efficient, and safe services for the public of Kawartha Lakes.

Review of Accessibility Implications of Any Development Policy:

N/A

Servicing Implications:

The basis of the report is how essential it is to provide safe drinking water to residents, protect the environment and ensure fiscal sustainability of the City’s drinking water and wastewater systems. By-Law 2014-255 is integral to the success of those goals. For additional clarity, please review the background section of the report.

Consultations:

Manager, Environmental Services

Director of Public Works, Public Works

Senior Accounts Clerk II, Utility Billing

Attachments:

Appendix A – By-Law 2014-255



Appendix A By-law
2014-255.pdf

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Department Head: Bryan Robinson