

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

Report Number WWW2019-007

Date: September 10, 2019

Time: 1:00 p.m.

Place: Council Chambers

Ward Community Identifier: All Wards

Title: Requirement to Connect to Municipal Services Review

Description: Council has requested a review of the implications and potential impacts of altering By-law 2014-255

Author and Title: Rob MacPherson, Water and Wastewater Technician

Recommendation(s):

That Report WWW2019-007, Requirement to Connect to Municipal Services Review, be received; and

That this recommendation be brought forward to Council for consideration at the September 24, 2019 Regular Council Meeting.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

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”, known as the “Mandatory Connection By-law” has undergone a number of reviews and adjustments by a combination of City departments (Public Works, Engineering and Corporate Assets, Property & Building, Revenue & Taxation and Municipal Law Enforcement) over the last six years in order to improve its overall effectiveness.

Under the direction of Council, a presentation was provided to Council in September of 2018 to deliver an overview of the mandatory connection process, 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. At the September 25, 2018 Council meeting, 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, while also taking into account the long term viability of the water and wastewater infrastructure for CKL. 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 but that the properties would still be required to pay the Fixed Rate fees associated with maintaining the water and wastewater infrastructure. Staff were directed to prepare the necessary amendments to the by-law to reflect what was decided. The amendments were made and a report was brought before Council and endorsed on January 15, 2019:

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

Although the amendments were endorsed, Council directed staff to review the implications of altering the Mandatory Connection By-law even further to reduce financial pressures on properties required to connect, through the following resolution:

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

Over the course of 2018 and 2019, a number of properties that meet the requirements for connection 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 and/or septic system. As all properties within their respective municipal servicing boundaries are supporting the City's water and wastewater infrastructure in a consistent manner each motion has failed to date. Although this did lead to a resolution being passed at the Regular Council Meeting of June 18, 2019 to review the Mandatory Connection By-law:

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

At the Special Council Meeting of July 16, 2019 a presentation and report were provided to Council, whereby they adopted the following resolution:

CR2019-433

Moved By Councillor Dunn
Seconded By Councillor Yeo

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

That staff be directed to report back in September 2019 with options for amending the Mandatory Connection By-law to provide relief from mandatory connections for the 134 properties not currently connected to municipal services, up to and including complete exemption from the by-law.

Carried

This report addresses the direction of Council from the January 15, 2019 (CR2019-033) and July 16, 2019 (CR2019-433) resolutions.

Rationale:

As part of the presentation provided to Council in September, 2018 and in July, 2019 (appendix B) the following aspects were compared to other municipalities' by-laws within Ontario: 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. It was apparent that Kawartha Lakes is in alignment with the other programs. 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. Currently, there are over 500 vacant properties that will also connect to municipal services once developed.

The ability to exempt properties, including farm properties where compliance with mandatory connection requirements are either unrealistic and/or cost prohibitive currently exists as part of Section 24 of By-law 2018-039 "A By-law to Regulate Water and Wastewater Services in the City of Kawartha Lakes". There is a provision to allow properties to present their case to the High Water Bill/Mandatory Connection Committee. If the committee finds merit in the discussion an exemption can be made through the discretion of Council. Should the Committee no longer function in the future, the by-law enables exemption requests to come forward to the Director of Public Works for review. Should exemption not be recommended by the Director, ultimately requests can also come to Council via deputation.:

"24.01 High Water Bill Adjustment and Mandatory Service Connection

Appeals Committee: A High Water Bill Adjustment and Mandatory Service Connection Appeals Committee is established to hear and rule on appeals pertaining to high water bill adjustments and the requirement for mandatory service connections (required by Section 2.01, 2.02 and 2.03 of By-law 2014-255, as amended).

2019-008 Effective January 15, 2019

24.02 **Authority:** The High Water Bill Adjustment and Mandatory Service Connection Appeals Committee may recommend to Council approval of high water bill adjustments or exemptions from mandatory service connections without prejudice or precedent to any other similar matter.

2019-008 Effective January 15, 2019"

One more factor must be taken into account which only applies to manufacturing, industrial, and commercial properties that fall under the Mandatory Connection By-law. According to Section 106 of the Ontario *Municipal Act, 2001*, the municipality is prohibited from directly or indirectly assisting these types of properties through "bonusing" (authorizing the usage of tax payer dollars to "...provide a business an exemption, a charge or a levy"). If Council does decide

to provide exemptions (removal of fixed rate or complete exemption from by-law), they could only apply to residential properties as the municipality is unable to supersede the Provincial Act.

Staff does not recommend any changes to the current process to exempt properties as this is the most effective way to review the properties on a case-by-case basis.

At the July 16 Council meeting staff were asked to review a number of options for amending the by-law to provide relief for the currently identified 134 properties of the requirements under the Mandatory Connection By-law. After reviewing a number of options and given that the by-law has been reviewed and amended extensively over the last two years, Staff recommend that the by-law remains as it is currently written and implemented using current practices. This will allow for the continued funding for the operation and maintenance of existing water and wastewater infrastructure for the municipal services available to property owners in a fair manner. 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. The City's mandatory connection process is also very much in line with the other municipalities in Ontario. It is the most consistent and reasonable manner for the residents to contribute their fair share of the cost to maintain and optimize the municipal water and wastewater services, while still protecting the environment for current and future generations residing in Kawartha Lakes.

Other Alternatives Considered:

If Council chooses to consider amending the by-law to provide relief from mandatory connection for the 134 properties not currently connected to municipal services, staff reviewed the following options.

Alternative 1

One possible amendment for consideration is to remove section 2.06 of the Mandatory Connection By-law, which requires property owners who meet the requirements for mandatory connection to pay the Fixed Rate charges for water and/or wastewater as per the provisions of the By-law to Regulate Water and Wastewater Services in the City of Kawartha Lakes (By-law 2018-039, as amended). The requirement to make a physical connection to the system at the time of failure of an existing private system would remain. Staff does not recommend this alternative as removing the revenue currently being collected from the 134 properties places additional financial 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, which will result in increased rates. Those properties subject to mandatory connection still benefit from having

the services available to them with increased property values, potential reduced insurance premiums, reduced risk from contamination and drought effects, guaranteed safe drinking water source. Exempting these properties allows them to continue to benefit from the services without fairly contributing to the operations and maintenance of the infrastructure.

Alternative 2

The second alternative for amending the by-law would be to exempt the currently identified 134 properties from all requirements of the Mandatory Connection by-law, which includes paying the fixed rate and connecting to municipal services at the time their private infrastructure fails. Exempting the properties that are realistically capable of connecting to municipal services and fall within the servicing boundaries is an inefficient use of the existing municipal services, is not in line with Provincial Planning policies that all municipalities in Ontario follow, and creates unequal requirements for dwellings benefitting from the services. It must also be reiterated that once the private infrastructure 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.

If Council chooses this option, Staff would be seeking additional guidance on capacity allocation. There is no point in reserving capacity allocation for properties that will never connect to the system. This capacity can be allocated to new development. Should the residents choose to connect to the system in the future, capacity would need to be confirmed before connection would be granted.

With alternative 2, there is also the potentially harmful impact on the environment and public health that coincides with properties that have private services. Private water and septic systems are seldom maintained to federal and provincial guidelines. Private septic systems are often unable to treat the wastewater with the same effectiveness as a municipal facility, which can lead to adverse effects, which could include nitrates and other pollutants contaminating surrounding soils and surface and groundwater resources. Private homeowners may also not be treating their private water source as effectively as a municipal system would, that could lead to adverse health effects. Free water testing available to private well owners only tests for bacteria and does not test for other organic and inorganic parameters that are legislated for municipal systems, which could have potential health effects. If the identified properties are permanently exempted the risks of causing harm to human health and the environment increases.

Financial/Operation Impacts:

The City assuming fiscal responsibility for installation of water and sewer infrastructure to property lines for those properties required to connect to City

services will vary significantly for each property connecting. Cost factors that can influence the price include:

- Location of main in right of way (long side service or short side service, extents of road restoration required)
- Road profile and surface type (urban, rural, sidewalk, presence of curb)
- Depth of main infrastructure (possible rock excavation, dewatering requirements)
- Time of year (winter work can impact completion of road restoration, road cuts are to be maintained until restoration completed)
- Amount of services being installed at once (water, sewer, or both)

Taking into account these factors, the average price range quoted by local vendors for installation of water and sanitary sewer infrastructure to property line from existing mains within the road allowance is \$20,000 to \$30,000 (for both services). Taking the average cost (\$25,000 for both services or \$12,500 for single service) into account for the 134 properties that meet the requirements of the Mandatory Connection By-law this represents an approximate cost of \$2,025,000 to connect the properties to municipal services (106 single service properties and 28 water and sewer). As this cost represents 10.4% of the 2019 Water and Wastewater Division budget, a significant increase to the user rate would have to occur for the Division to pay for this cost. This would also place an unfair burden on the rest of the users connected to the services and already contributing their reasonable share for the upkeep of the infrastructure. It must also be mentioned that if the City were to assume the financial responsibility of these installations, it would set an unfair precedent towards not only the residents that have already paid for municipal services installations but also for the 500+ properties currently undeveloped within CKL that would connect to municipal services once developed.

Of the 134 properties that meet the requirements of the Mandatory Connection By-law but maintain private infrastructure, 133 have been paying the Fixed Rate portion of the User Rate, the last property is currently out of compliance and working with By-Law. 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.

The total 2019 revenue from these 134 properties is \$58,381.92, which represents 0.30% of the 2019 Water and Wastewater Division 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 fairly and consistently 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.

Servicing Implications:

The basis of the report is how critical 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 in a fair manner to all residents. By-Law 2014-255 plays a key part in the future success of those goals.

Consultations:

Director of Public Works, Public Works

Supervisor, Water and Wastewater Operations, Public Works

Senior Engineering Technician, Engineering & Corporate Assets

Attachments:

Appendix A – By-Law 2014-255



Appendix A By-law
2014-255.pdf

Appendix B – Water Wastewater Mandatory Connection By-law Presentation



Presentation Water
Wastewater Mandator

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