

M A N I T O B A) Order No. 37/09
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THE PUBLIC UTILITIES BOARD ACT) April 14, 2009

BEFORE: Graham Lane, CA, Chairman
 Susan Proven, P.H.Ec., Member
 Monica Girouard, C.G.A., Member

THE RURAL MUNICIPALITY OF WEST ST. PAUL
LOCAL IMPROVEMENT DISTRICT NO. 5 (RIVER'S EDGE)
CONFIRMATION OF INITIAL SEWER RATES

Executive Summary

By this Order, the Public Utilities Board (Board) confirms the directions of interim *Ex Parte* Order 145/08, with respect to 2008 and 2009 charges for sewer utility service in the Rural Municipality of West St. Paul (R.M.) - Local Improvement District No. 5 (River's Edge).

For 2008, connected customers have or are obliged to pay \$177.50, and for 2009 and until rates are further amended, \$355.00.

Also, by this Order, the R.M. is required to file a revised rate study by January 31, 2010.

Background

Order 145/08, issued October 23, 2008, approved initial interim rates for the sewer utility servicing the subdivision River's Edge, newly acquired by the R.M. from the developer.

The Board then approved an initial "part-year" rate of \$177.50 for 2008 and a full-year rate of \$355.00 to commence 2009. As the matter was then urgent, as the R.M. assumed operating responsibilities for the utility in 2008, the Board, after review, approved the R.M.'s application without requiring prior public notice.

The R.M. provided the Board with both the utility's operating costs to the date of the ownership transfer, an estimate of the balance of operating costs for 2008, and a forecast for 2009,

while noting that a rate study would be filed with the Board in early 2009.

The rates were to be charged to all lot owners (97 in total), on the basis the subdivision was largely sold with homes either built or under construction.

The R.M. was required to provide notice to lot owners of the Board's decision, so as to provide an opportunity for lot owners to review the Order and indicate concerns, if any, to the Board.

Application

On March 13, 2009, the R.M. filed the required rate study and requested that the Board confirm interim rates. The Board then provided ratepayers to March 31, 2009 to respond to the R.M.'s proposal; the Board only received two responses.

In its application, the R.M. advised that the developer had met the utility's operating expenses from January to May of 2008, with the balance of 2008 expenses accruing to the R.M. (\$12,527.15).

The interim rate for 2008 generated revenues of \$17,217.50, producing a surplus of \$4,690.35. If the approved 2009 annual rate had been in effect for all of 2008, the R.M. advised that, based on total operating expenses for 2008 including developer costs, the R.M. would have expected to report a \$8,255 surplus.

Based on the above, the R.M. advised that the initial rates were appropriate, and sought confirmation, i.e. final approval.

While a surplus was earned in 2008, the R.M. noted that, as the R.M. had not operated the utility on a full year basis, there still remained uncertainty as to the quantum of annual operating costs. The R.M. noted an outstanding warranty issue of \$6,355, a matter to be resolved with the developer. If the R.M. is required to pay, it will be recorded in operating expenses in 2009, and this would result in a much lower surplus for the year.

The R.M. also noted that the interim rates made no provision to build reserves to meet either future requirements or the amortization of capital assets required by new accounting requirements.

In this regard, the R.M. noted that the utility's current reserve fund balance of \$129,864.37 is expected to increase with further developer contributions. As part of the subdivision agreement, the developer is required to contribute \$2,000 for each lot, this to be added to a reserve fund. The aggregate contribution from the developer is estimated to be \$186,000 (for 93 lots).

The funds are to be used if and when the Waste Water Treatment Plant is decommissioned, and upon the introduction of a centralized sewage treatment facility in the area. As part of final negotiations, the R.M. is seeking the remaining contributions due from the developer.

The R.M. advised that it plans to review its utility rates again in late 2009, and will then provide the Board a report on rate adequacy.

The R.M. reported that the original capital cost of the sewer system paid by the developer is as follows:

Waste Water Treatment Plant	\$637,000 (2006)
Gravity sewer system	<u>\$312,125</u>
Total	\$949,125

The total utility operating costs projected for 2009 are as follows:

Administration	\$ 850
Sewer collection & treatment	<u>\$33,500</u>
Total	\$34,350

The projection includes \$3,425 for contingencies. The annual rate of \$355.00 per lot was expected to generate revenue of \$34,435.00, with an \$85.00 surplus.

The R.M. provided its cost allocation methodology, this with respect to shared services and equipment between the utility and the general operations of the municipality. The R.M. advised that the allocation is based on tracked time.

For rate setting purposes, the R.M. estimated it would expend 35.3 hours (at a cost of \$25.00 per hour) on the utility in 2009, rounded to \$850.00. Operator time is allocated between each Local Improvement District (LID) based on time spent. A provision of costs related to Council time was not assigned, but is to be reflected in future applications.

The R.M. indicated that when they assumed ownership 72

properties were connected. Another customer was connected in June, with three more in July, one in September, two in October, and one more each in November and December, totalling 81 connections in total as of December 31, 2008. To March 31, 2009, one additional customer was connected, bringing the total of connected lots to 82.

The Board asked the R.M. if it had considered prorating charges based on when connections are made, but the R.M. advised against the approach because of precedent, where proration did not occur, and because prorating bills would increase administration time and costs.

The R.M. further noted that in another of its LIDs, it continues to charge a customer not connected to the system. The R.M. also noted that of the now 97 lot owners in the new subdivision only one customer has complained about rates to the Board.

Customer Complaints

On November 9, 2008 a customer complained on the basis that their home was not expected to be completed until early 2009. As this complaint was received following the issuance of Order 145/08, the Board notified the customer that their correspondence would be considered when the Board considered confirmation of the Order.

Another complaint was received in late March 2009, this from an anonymous source. The complaint related to water quality, not sewer rates, the subject being considered by the Board. As well, the Board understands that lot owners obtain their water

supply from private wells, and not from the R.M. Without knowing the name and/or address of the writer, the Board is unable to investigate and respond.

Board Findings

Having considered the Application, the Board will confirm as final the interim initial rates approved in Order 145/08. While the Board notes there remains some uncertainty with respect to the level of operating costs projected for 2009, it finds the R.M. forecast reasonable, noting that an \$85 surplus is being projected for 2009.

On some occasions the Board has noted that municipalities are assuming ownership of utilities from developers long before the utilities are sustainable based on user rates alone. In such cases, to require a few users to pay for the full costs of the utility would cause significant rate shock and be unjust.

In many cases, the lots remaining are owned by the developer who up until the transfer of ownership occurred had the responsibility to sell the lots in the subdivision; without the sale of an adequate number of lots it would be difficult for a utility to be viable on a stand alone basis. In such cases, the Board has approved a per lot charge, to allow for viability even though there were lots with no homes on the lots.

In Order 145/08 the Board approved the recovery of the charge from each lot owner on the basis of the evidence provided indicating homes were either built or near built on all lots.

The latest evidence indicates this is not the case and that the subdivision was well-developed prior to the transfer of ownership, this allowing for the sustainability of the utility on a stand alone basis. Approximately 75% of the number of lots in the subdivision had been connected to the utility.

The Board has done an estimate of the financial impact on the utility if the charge of \$177.50 was prorated based upon the month in which the connection occurred and notes that for 2008 the utility would have earned approximately \$755.00 less revenue (revised from the R.M.'s estimate).

Noting a surplus was earned in 2008 of approximately \$4700.00, the Board believes that prorating will not significantly impact on the viability of the utility and, accordingly, will order the proration of the 2008 and 2009 and thereafter charges based upon the month connected.

Refunds or credits will need to be made to be consistent with this Order.

The Board accepts the offer of the R.M. to file a revised rate study to determine the adequacy of rates after a longer period of ownership by the R.M. has occurred. This rate study is to be filed by January 31, 2010.

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.

IT IS THEREFORE ORDERED THAT:

1. Interim Ex Parte Order No. 145/08 be and is hereby confirmed.
2. The Rural Municipality of West St. Paul prorate the charges approved in Order No. 145/08 based on the month the connection to the utility occurs, and providing a refund or a credit to those due a refund and who connected in 2008.
3. The Rural Municipality of West St. Paul file a revised rate study by January 31, 2010.

Fees payable upon this Order - \$250.00

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, CA"

Chairman

"GERALD BARRON, FCGA"

Acting Secretary

Certified a true copy of Order
No. 37/09 issued by The Public
Utilities Board

Acting Secretary