



The Corporation of the Municipality of Arran-Elderslie

Information Report

Report From: Sylvia Kirkwood, Chief Administrative Officer

Meeting Date: June 27, 2022

Subject: CAO

Attachments: Appendix A: Resolution 26-02-2022

Report Summary

In accordance with the Resolution 26-02-2022 passed by Council on January 31, 2022, which stated that due to the high cost of providing stormwater management services in urban communities that the costs for engineering, maintenance and replacement of this infrastructure be removed from general taxation and the costs of such be funded by the Water and Sewer Division.

Since then, Staff have completed a review of this matter and have obtained a legal opinion regarding options for cost recovery, implemented a departmental realignment of the responsibility of storm sewers and have determined the next steps in order to report back to Council with costs and implications of addressing this Resolution.

Background

On January 31, 2022, Council received a Notice of Motion (Resolution 26-02-2022) which outlined concerns with the high costs of delivering stormwater sewer systems in urban areas. The purpose of these systems is to divert surface water into an underground system that appropriately discharges the water away from areas of development. The Municipality currently provides municipal water, storm and sanitary sewer services to three (3) communities in Arran-Elderslie – Chesley, Tara and Paisley.

The Resolution states that the costs of the storm systems which include maintenance, repair and replacement should be borne upon those that are directly benefiting from these services.

Staff were requested to consider removing the costs of this service from the general taxation revenue collected across the municipality and move the costs to be paid from the Water/Wastewater System.

Analysis

A storm sewer is infrastructure designed to drain excess rain, melting snow, runoff and groundwater from impervious surfaces such as paved streets, parking lots, sidewalks and building roofs. Some of the water is absorbed into the ground and what is not is directed into storm drains where it is carried to stormwater management ponds and/or waterways. The size of the storm sewer and/or pond is dependent on the amount of water that is anticipated to be received from the urban development. The objective and purpose is to reduce possibilities of basement flooding in heavy rain events, protecting the health of the waterways.

Historically, in some older cities stormwater and sanitary services were combined which resulted in a number of issues including environmental impacts, overburdening of systems, etc. These combined systems are no longer permitted and storm and sanitary sewers are now separated and discharge is treated differently.

In the built-up communities of Tara, Chesley and Paisley, the majority of lands are serviced by municipal water, sanitary and storm sewers. Currently, properties that are municipally serviced are only paying for connections to water and sanitary systems. The general taxpayer takes on the burden for storm sewer costs in the urban communities.

In the rural or non-urban areas of the Municipality servicing for development is done by private well and septic and storm drainage is dispersed over the pervious areas of the property and roadside ditches.

Opinion on Cost Recovery

As previously stated, currently the stormwater management services in urban communities are being funded by general property tax. The Municipality is seeking to change this model so that individual properties that are benefitting from the services are directly paying for them.

As part of the initial review to move the costs and burden of the repair, maintenance and installation of storm sewers to the Water and Sewer Division of the Public Works Department, Staff sought to obtain a legal opinion. The legal opinion was to address using water and sanitary reserve funds that have been obtained for water and sanitary services only and using this to offset the costs of providing storm services. Independent advice has indicated that based on the review of the *Municipal Act* and case law, any fees collected under the Municipality's sanitary and water user fees by-law cannot be used towards payment for repairs of the Municipality's stormwater management system. A charge or fee of money collected can only defray the cost of the specific service being provided by the Municipality. Based on case law, a fee or charge to be valid must be tied to what it is being collected for.

If fees are collected for sanitary and water services and those funds are used for a stormwater management system, the fees are no longer tied to what they are being charged for.

The recommended method to do so would be for the Municipality to pass a Stormwater Fees and Charges By-law pursuant to sections 11 and 391 of the *Municipal Act*. Under this Act the Municipality has the authority to impose a fee or charge for capital costs related to stormwater management systems. The Municipality also has the power to impose a fee or charge related to the administration, enforcement and the establishment, acquisition and replacement of its capital assets, including stormwater management systems. An advantage of doing this includes providing a stable and dedicated funding source, and fair and equitable fees based on run-off contribution, rather than on property value. In addition, there is the advantage of using a stormwater rate or user fee that is reflective of the amount of usage of the service.

Therefore, it is recommended that should the Municipality wish to remove the costs of the stormwater system from the general tax revenue it should pass a Stormwater Fees and Charges By-law pursuant to the *Municipal Act*. The by-law will enable the Municipality to collect fees in respect to the costs associated with the provisions of a stormwater management system, including administration, enforcement, acquisition, improvement and replacement. The by-law will outline a clear rationale for the imposition of the fees and charges.

Public Works

On June 27, 2022, the Public Works Division realigned the responsibility for the repair, maintenance and replacement of storm sewers to the Water & Sewer Division. This Division is already responsible for the services related to water and sanitary sewers. The 2022 Operating Budget allocated approximately \$25,500 of costs related to stormwater catchbasin work. These costs will now be the responsibility of the Water & Sewer Division to administer.

The Public Works Department has commenced a review of our current stormwater management system. This was identified in the 2022 Capital Budget as ID 3130 - Stormwater Study. GSS Engineering has commenced the study and it is expected to be completed by the end of the year. The Stormwater Study will provide an overview of the status of our system and the anticipated future work and required costs to maintain the system.

This Study will assist to determine the costs of the system and will provide the necessary background information towards establishing an appropriate user pay fee. As previously stated, a future Stormwater User Fee must be based on a clear rationale for imposing the fee/charge.

Conclusion

Staff have commenced the first step towards reallocation of the cost of stormwater sewers in our urban areas from the general taxpayer to the user of the services by:

- relocating the management of these systems to the current Division responsible for water and sanitary services.
- continue to work with GSS Engineering to ensure the timely completion of the Stormwater Study in 2022.
- Based on the completion of the Stormwater Study Staff will then be able to undertake the development of an appropriate user fee for stormwater services.
- Staff will bring this forward to a future Council meeting for review and consideration.

Link to Strategic/Master Plan

6.1 Protecting Infrastructure, Recreation and Natural Assets

6.4 Leading Financial Management

Financial Impacts/Source of Funding

No costs are associated with this Information Report. Upon completion of the Stormwater Management Study Review currently underway by GSS Engineering (Capital Project ID 3130 – \$70,000) a complete analysis of the costs associated and the appropriate user fee will be determined. The user-pay analysis and full financial review and budgeting impacts will be outlined in a future Council Report.

Approved By: Sylvia Kirkwood, CAO