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**GANGES SEWER LOCAL SERVICES COMMISSION
SPECIAL MEETING**

Notice of Meeting on Thursday, March 9, 2023 at 10:00 AM
Creekside Meeting Room, #108-121 McPhillips Ave, Salt Spring Island, BC

Gary Holman

David Toynbee

Mike de Carle

Colin Whyte

Zoom:

<https://us06web.zoom.us/j/84107604288?pwd=RVNKR1JGWmZWcWRMNy93Rnl0UHp3Zz09>

AGENDA

1. Territorial Acknowledgement / Call Meeting to Order
2. Election of the Chair
3. Approval of Agenda
4. Outstanding Business

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- 4.1 Sewer Leak Adjustment - 107 Atkins Road

2-7

There is no recommendation. This report is for information only.

5. Next Meeting – TBD
6. Adjournment

To ensure quorum, advise Shayla Burnham 250 537 4448 if you cannot attend.



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**REPORT TO GANGES SEWER LOCAL SERVICES COMMISSION
MEETING OF THURSDAY, MARCH 09, 2023**

SUBJECT SEWER LEAK ADJUSTMENT – 107 ATKINS ROAD

ISSUE SUMMARY

Review of Summerside Strata Corporation (107 Atkins Road, Salt Spring Island) request for a sewer leak billing adjustment from the 2014-2018 billing periods.

BACKGROUND

The Summerside Strata Corporation (Strata) made an appeal to the Ganges Sewer Local Services Commission (Commission) (Appendix A, Appendix C) at their October 7, 2022, meeting (no quorum) to seek reimbursement for sewer charges. In June 2021, the 39-unit Strata, submitted a sewer leak adjustment request in the amount of \$42,124.68 (Appendix B) on the basis that between the years 2014 to 2018, it was overbilled for water from its water service provider, the North Salt Spring Waterworks District (NSSWD), an improvement district and water provider independent of the Capital Regional District (CRD). The Ganges Sewer Service charges are based on water consumption, and NSSWD provides consumption amounts to the CRD for each billing period.

In September 2018, NSSWD replaced the water meter for the property. No adjustment was requested at that time from CRD. NSSWD did not revise its water consumption amounts for these prior years nor has it provided the CRD with any leak adjustment information.

The CRD denied the sewer leak adjustment on the basis that the CRD is only able to offer refunds in certain circumstances pursuant to s. 397(2)(e) of the *Local Government Act (LGA)*. This section requires any refund or billing adjustment powers to be present in a bylaw. Utility billing adjustments are outlined in the CRD Bylaw No. 3864, Sections 7 and 8 as follows:

7. Utility Bill Appeal

- (a) Any Consumer obtaining a utility bill may formally register a complaint or dispute with the General Manager regarding the amount of any charge on the utility bill, **no more than thirty (30) days from the date of billing.**
- (b) The General Manager will review the complaint and may reduce the utility bill amount if:
 - i) there is an error in the calculation of the bill amount; or
 - ii) another circumstance exists that makes payment of the full bill amount unjust.

8. Utility Bill Adjustments for Leaks in the Service Line

- (a) No adjustment shall be made for leaks in internal plumbing systems and fixtures, including faucets and toilets, or leaks in an irrigation system on the Property.

[...]

- (h) Where the sewer charges are based on the water consumption volumes and a water leak adjustment has been approved, the consumption for sewer charges will be adjusted in accordance with the water consumption adjustment.
- (i) Where the sewer charges are based on the water consumption volumes and a water leak is in an irrigation system, the General Manager may adjust the sewer charges based on water consumption during the same billing period in the previous year; CRD Integrated Water Services shall absorb the remainder of the sewer consumption cost.
- (j) A sewer leak adjustment will be considered only for the billing period the water leak was detected and the previous billing period in which the leak occurred to a maximum of two (2) billing periods.
- (k) Only one leak adjustment for water and sewer per Property within a twelve (12) month period shall be permitted.
- (l) A leak adjustment application form must be submitted within 30 days of the billing date of the utility bill.

The meter replacement of NSSWD’s equipment occurred in September 2018. Ten quarterly billing periods occurred up to June 2021. No appeal was raised within the 30-day timeline of each bill; no leak adjustment was raised within the 30-day timeline of each bill. The CRD is unable to consider an appeal outside of the powers delegated to the General Manager in Bylaw No. 3864.

The water consumption reported by NSSWD is outlined in Table 1. The period of the request for a sewer adjustment is highlighted in blue (2014-2018). In 2019 the water consumption drops back to a normal range; in 2020 consumption increases to almost the same level as the period between 2014-2018; in 2021 consumption drops less than 12.5% of the average annual consumption; and in 2022 consumption returns to normal.

Table 1: Summerside Strata – Total Water Consumption 2009-2022

Year	Aggregate	Per Unit (lmg Gal)	Per Unit (m ³)	
2009	805,593	21,200	96.4	
2010	931,800	23,892	108.6	
2011	805,600	20,656	93.9	
2012	799,900	20,510	93.2	
2013	893,200	22,903	104.1	
2014	1,065,000	27,308	124.1	} Period of the sewer adjustment request
2015	1,056,000	27,077	123.1	
2016	1,105,000	28,333	128.8	
2017	1,119,300	28,700	130.5	
2018	1,424,800	36,533	166.1	
2019	856,086	21,951	99.8	Consumption normal range
2020	1,041,172	26,697	121.4	Consumption above the normal range
2021	107,536	2,757	12.5	Consumption below the normal range
2022	873,510	22,398	101.8	Consumption normal range

There are two avenues of a billing adjustment request, both of which must occur within 30 days from the date of billing: (1) an *“appeal” – demonstrating error in calculation of the bill amount; or (2) another circumstance making payment unjust – and a “leak adjustment”*, where the consumer demonstrates that through no fault of theirs and not as part of its own system of pipes or connections, excess water use occurred or was recorded. An appeal is only for one billing period; a leak adjustment can go back at most two billing periods.

Assuming the CRD was able to consider a leak adjustment for sewer outside the 30-day time period, due to the operation of 8(j), the earliest time period an adjustment could be considered would be the 2019 billing cycle: a time period after the allegedly faulty meter had been replaced. No adjustment would be necessary, as the meter readings at that point were correct, although the abnormally low water consumption in 2021 cannot be explained (by NSSWD) which would have resulted in a lower sewer charge for the year, in the range of \$773.69 compared to 2022 (2021 per unit \$264.45; 2022 per unit \$1,308.14).

CONCLUSION

The CRD did not provide a leak adjustment to the Summerside Strata Corporation for sewer billing issues from 2014 to 2018 due to the s.397 LGA two-year limitation for making claims against the CRD; and the Strata did not meet the conditions of a sewer charge adjustment outlined in Bylaw 3864.

RECOMMENDATION

There is no recommendation. This report is for information only.

Submitted by:	Karla Campbell, BPA, MBA, Senior Manager, Salt Spring Island Electoral Area
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

ATTACHMENT(S)

- Appendix A: Appeal Letter to Ganges Sewer Local Services Commission
- Appendix B: Summerside Sewer Charges 2009-2019
- Appendix C: Summerside Talking Notes

Linda Underwood
President - Summerside Strata Plan VSI5366
[REDACTED]-107 Atkins Road
Salt Spring Island, British Columbia
V8K 2X6

June 18, 2021

Gary Utter
Chair - Ganges Sewer Local Service Commission
108-121 McPhillips Avenue
Salt Spring Island, British Columbia

Dear Mr. Utter,

This letter is a follow up to conversations and correspondence with CRD staff and Regional Director, Gary Holman regards what our strata sees as an over charge in sewer billing between the years 2014-18.

The strata have come to a no-fault settlement agreement with the North Salt Spring Water District regards what we saw as overbilling for water consumptions during years 2014-18 and we are now following up with you to inquire regards the charges for sewer. Mr. Holman recommended that we contact you and request a meeting with the Ganges Sewer Local Service Commission.

We recognize that our request does not meet the criteria of regional bylaws but hope that the Commission will be willing to hear our special circumstances.

For your information we have attached a spreadsheet that shows the water consumption reported by the CRD between 2009-2019. This spreadsheet shows our calculations of an adjusted consumption and billed amount based on the average of six years (2009 to 2013 plus 2019).

We look forward to hearing from you.

Sincerely,

[REDACTED]
Linda Underwood
President – Summerside Strata Council

cc. Don James - VP Strata Council

Attachment: Summerside Sewer Charges 2009-2019

Summerside Sewer Charges 2009-2019

Year	Consumption Reported by CRD	Billed Amount	Rate Per Gallon	Adjusted Consumption	Adjusted Billed Amount	Over Billed Amount
2009	21,200.00	371.70	0.010457	NA		
2010	23,892.00	458.98	0.012932	NA		
2011	20,656.00	442.88	0.014179	NA		
2012	20,510.00	484.74	0.016321	NA		
2013	22,903.00	510.67	0.015748	NA		
2014	27,308.00	584.34	0.015905	21,852	497.56	86.78
2015	27,077.00	583.07	0.015994	21,852	499.50	83.57
2016	28,333.00	899.31	0.026446	21,852	727.88	171.43
2017	28,700.00	1074.70	0.032220	21,852	854.07	220.63
2018	36,533.00	1438.28	0.035263	21,852	920.57	517.71
2019	21,951.00	946.69	0.036294			
				Overpayment per Unit		
				Total overpayment		42,124.68
<p>A flat rate of \$150.00 is added to the consumption rate</p>						

Linda:
Overpayment per unit multiplied by 39 units

Linda:
Average of years 2009 to 2013 plus 2019 (6 yrs)

Talking points
Linda Underwood, Don James Summerside Strata Council
Friday, October 7, 2022

Why we are here – seeking reimbursement for owners of the thirty-nine units at Summerside for the period when water consumption was misreported to the CRD

NSSWD Background

- Between 2014-2018 Strata saw steady increase in water consumption reported and billed amount (see excel spreadsheet).
- NSSWD asserted that it was likely due to leakage, strata went about checking for any leaks that might exist. Checked every toilet, shut off each section of waterline – no leakage found. Queried meter function. In September 2018 NSSWD replaced meter. NSSWD reported that meter was damaged during replacement process.
- Between 2014-2018 Summerside owners were overbilled approximately 42,000.00. When meter replaced, reported consumption went down to 2013 levels.
- Confidential, no-fault agreement with NSSWD in March 2021.

CRD Background

- Initiated phone conversations w/ CRD D.J. Bridgewood shortly after agreement with NSSWD
- Email communication with CRD April 2021 – inquiring about charges for sewer
- May 2021 Andrew Hoge responded (Bylaw 3864 Section 8) request to “provide relevant water consumption volume related to a water leak adjustment”
- May 2021 contacted CRD Director Gary Holman
- June 2021 email from Karla Campbell indicating that the CRD would present our request Ganges Sewer Commission for consideration
- June 2021 follow up letter and conversation with G. Utter requesting meeting with Sewer Commission – indicated that when a meeting was called, we would be put on the agenda
- March 2022 reinitiated conversation with Sewer commission. G. Utter indicated that they were waiting to hear from CRD
- June 2022 letter from Ted Robbins (Bylaw 3864 Section 7 and 8) indicating because “the meter replacement of NSSWD’s equipment occurred in September 2018” and “no appeal was raised within the 30-day timeline of each bill; no leak adjustment was raised with the 30-day timeline of each bill. Therefore, the CRD cannot grant a sewer leak billing adjustment or consider an appeal based on the bylaw criteria and timelines related to the request.”
- September 2022 conversation with Gary Holman

Considerations

- Recognize that our request may not fall within the language of existing bylaw language
- Negotiated agreement with NSSWD – compromised on amount
- Willingness to negotiate with CRD and compromise on timing and amount
- Fairness issue