

Declaration of Petition Sufficiency – Manor Estates (Stage II) – Gravity Sewer Servicing April 2, 2020

From: Reegan McCullough, County Commissioner - CAO

Background:

- On February 27, 2020, Sturgeon County received a petition by email, signed by 55 individuals between the dates of July 6, 2019 and February 15, 2020.
- The purpose statement in the petition is “That Council of Sturgeon County investigate costs associated with a municipal wastewater sewer system upgrade (low pressure sewer conversion to gravity sewer) to our lots. The petition is to initiate the investigation phase that will provide residents a cost per lot estimate.”

Determining Petition Sufficiency:

- The *Municipal Government Act* (MGA) prescribes the requirements for petitions made to municipal Councils in Alberta.
- A petition must be filed with the CAO and the CAO is responsible for determining if the petition is sufficient; that is, if the petition meets the requirements for a petition as required by the MGA.
- Within 45 days after the date on which a petition is filed, the CAO must make a declaration to Council on whether the petition is sufficient or insufficient. This document serves as the declaration of sufficiency required by the MGA (note that Ministerial Order No. MSD:022/20 has extended the deadline to make a declaration to October 1, 2020).
- If a petition is not sufficient, Council is not required to take any notice of it.

Assessment of the Petition:

Number of Petitioners

Requirement: Section 223(2)(a) of the MGA requires that a petition be signed by electors of the municipality equal in number to at least 10% of the population.

Determination: The petition is signed by 55 individuals, who are assumed to be electors of the municipality (an elector is a person eligible to vote in a municipal election). The population of Sturgeon County as of its 2019 municipal census is 20,506. The number of petitioners is not at least 10% of the population of Sturgeon County and therefore this requirement is not met.

Identical Statement of Purpose

Requirement: Section 224(1) of the MGA requires that a petition consist of one or more pages, each of which must contain an identical statement of the purpose of the petition.

Determination: The petition presented contains the purpose statement on page 1, but pages 2 and 3 do not include an identical purpose statement and therefore this requirement is not met.

Telephone Number or E-mail Address

Requirement: Section 224(2)(c.1) of the MGA requires that a petition include, for each petitioner, the petitioner's telephone number or e-mail address, if any.

Determination: The petition does not include the telephone number or e-mail address for any petitioner and therefore this requirement is not met.

Affidavits of Witnesses

Requirement: Section 224(3) of the MGA requires that each signature on the petition be witnessed by an adult person who must (a) sign opposite the signature of the petitioner, and (b) take an affidavit that to the best of the person's knowledge, the signatures witnessed are those of persons entitled to sign the petition.

Determination: Each signature on the petition has been witnessed, but witness affidavits have not been submitted with the petition. Section 224(3.1) of the MGA requires that these affidavits be attached to the petition, and therefore this requirement is not met.

Statement of Representative

Requirement: Section 224(4) of the MGA requires that the petition have attached to it a signed statement of a person stating that (a) the person is a representative of the petitioners, and (b) the municipality may direct any inquiries about the petition to the representative.

Determination: The petition did not include a signed statement of a representative attached to it and therefore this requirement is not met.

Counting Petitioners

Requirement: Section 225(3) of the MGA states that, in counting the number of petitioners on a petition, there must be excluded the name of a person:

(a.1) whose signatures is witnessed but for which no affidavit is attached to the petition,

(b) whose signature appears on a page of the petition that does not have the same purpose statement that is contained on all the other pages of the petition, or

(g) who has signed the petition more than 60 days before the date on which the petition was filed with the CAO.

Further, section 226.2(3) states that every page of a petition must contain a statement that the personal information contained in the petition will not be disclosed to anyone except the CAO and his delegates, and will not be used for any purpose other than validating the petition.

Determination: No affidavits of witnesses have been attached to the petition, and therefore none of the petitioners shall be counted.

Even had the witness affidavits been attached, 40 of the 55 petitioners would have been excluded since their signatures appeared on pages where an identical purposes statement was not contained.

Even had the above requirements been met, only 25 signatures would have been counted as the remaining 30 signatures were signed more than 60 days before the petition was filed with the CAO.

Even had all the above requirements been met, the clause included at the bottom of each page regarding the protection of privacy does not meet the requirements of section 226.2(3), and therefore none of the petitioners would have been counted.

Declaration:

The petition submitted on February 27, 2020 is deemed insufficient as it does not meet the requirements of the following sections of the *Municipal Government Act*:

- 223(2)(a)
- 224(2)(c.1)
- 224(3)(b)
- 224(3.1)
- 224(4)
- 225(3)(g)
- 226.2(3)

Protection of Personal Information in Petitions

Section 226.2(1) of the MGA states that any personal information contained in a petition must not be disclosed to anyone except the CAO and his delegates, and must not be used for any purpose other than validating the petition.

Requirement for Council to take Notice of the Petition:

In accordance with section 226(3) of the MGA, as the petition is not sufficient, Council is not required to take any notice of it.



Reegan McCullough
County Commissioner – CAO

April 7, 2020
Date

Appendix "A"

Sections 221 to 226 of the *Municipal Government Act*

Petition sufficiency requirements

221 A petition is sufficient if it meets the requirements of sections 222 to 226 or, where those requirements are modified by bylaw under section 226.1, if it meets the requirements as modified.

Who can petition

222 Unless otherwise provided in this or any other enactment, only electors of a municipality are eligible to be petitioners.

Number of petitioners

223(1) A petition must be signed by the required number of petitioners.

(2) If requirements for the minimum number of petitioners are not set out under other provisions of this or any other enactment then, to be sufficient, the petition must be signed,

- (a) in the case of a municipality other than a summer village, by electors of the municipality equal in number to at least 10% of the population, and
- (b) in the case of a summer village, by a number of the electors of the summer village equal to at least 20% of the number of summer village residences in the summer village.

Other requirements for a petition

224(1) A petition must consist of one or more pages, each of which must contain an identical statement of the purpose of the petition.

(2) The petition must include, for each petitioner,

- (a) the printed surname and printed given names or initials of the petitioner,
- (b) the petitioner's signature,
- (c) the street address of the petitioner or the legal description of the land on which the petitioner lives,
 - (c.1) the petitioner's telephone number or e-mail address, if any, and
- (d) the date on which the petitioner signs the petition.

(3) Each signature must be witnessed by an adult person who must

- (a) sign opposite the signature of the petitioner, and

(b) take an affidavit that to the best of the person's knowledge the signatures witnessed are those of persons entitled to sign the petition.

(3.1) The petition must have attached to it the affidavits referred to in subsection (3).

(4) The petition must have attached to it a signed statement of a person stating that

(a) the person is the representative of the petitioners, and

(b) the municipality may direct any inquiries about the petition to the representative.

Counting petitioners

225(1) A petition must be filed with the chief administrative officer and the chief administrative officer is responsible for determining if the petition is sufficient.

(2) No name may be added to or removed from a petition after it has been filed with the chief administrative officer.

(3) In counting the number of petitioners on a petition there must be excluded the name of a person

(a) whose signature is not witnessed,

(a.1) whose signature is witnessed but for which no affidavit is attached to the petition,

(b) whose signature appears on a page of the petition that does not have the same purpose statement that is contained on all the other pages of the petition,

(c) whose printed name is not included or is incorrect,

(d) whose street address or legal description of land is not included or is incorrect,

(e) if the date when the person signed the petition is not stated,

(f) when a petition is restricted to certain persons,

(i) who is not one of those persons, or

(ii) whose qualification as one of those persons is not, or is incorrectly, described or set out, or

(g) who signed the petition more than 60 days before the date on which the petition was filed with the chief administrative officer, unless a bylaw under section 226.1(1)(e) provides otherwise.

(4) If 5000 or more petitioners are necessary to make a petition sufficient, a chief administrative officer may use a random statistical sampling method with a 95% confidence level to determine the sufficiency of the petition, instead of counting and checking each petitioner.

Report on sufficiency of petition

226(1) Within 45 days after the date on which a petition is filed, the chief administrative officer must make a declaration to the council or the Minister on whether the petition is sufficient or insufficient.

(2) Repealed 1995 c24 s26.

(3) If a petition is not sufficient, the council or the Minister is not required to take any notice of it.

Protection of personal information in petitions

226.2(1) Despite any provisions of this Act, the *Freedom of Information and Protection of Privacy Act* or any other enactment, personal information contained in a petition

(a) must not be disclosed to anyone except the chief administrative officer and the chief administrative officer's delegates, if any, and

(b) must not be used for any purpose other than validating the petition.

(2) Minimal disclosure that occurs inadvertently in the course of collecting signatures to the petition is not a breach of subsection (1).

(3) Every page of a petition must contain a statement that the personal information contained in the petition

(a) will not be disclosed to anyone except the chief administrative officer and the chief administrative officer's delegates, if any, and

(b) will not be used for any purpose other than validating the petition.