



Memo

TO: Mayor and Council

SUBJECT: Utility Overage Charges – Another Staff Report

DATE: June 23, 2023

FROM: Chief Administrative Officer

BACKGROUND

Despite not meeting the requirements of the Water Leak Policy, the property owner of Lot 2, Plan 10983 sought council intervention to seek a write-off of a utility overage charge for June 2022. On receipt by individual members of council of a subsequent appeal from the homeowner after staff's response to his earlier appeal there was a ground swell of sympathy for the homeowner from council members despite him not meeting the prescribed terms of the Water Leak Policy. The response in writing in part from the owner was "I turned off the connection which I believe controls that line as soon as I discovered the leak which did not require a plumber". Without any "repairs" it appears the mere closing of a valve resulted in water wastage being instantly eliminated. As the resident put it "This was as simple as turning a light switch off". It has been apparent that certain members of council seem to want to justify the write-off for a variety of unrelated reasons that clearly contradict the existing policy on leaks. The appeal has gotten an inordinate amount of attention resulting in council requesting a plethora of staff feedback.

Staff Observations

It appears that leaving a valve or a tap open can now also be interpreted to mean a leak!

There should be no forgiveness for the overage charge for something that could and should have been avoided and which had no basis in fact to qualify as a water leak. However, if council is desirous of broadening the requirements under which a reduction can be issued or have council determine the appropriateness of a claim each time, then the current policy needs to be revised or eliminated entirely so staff may not have to be subjected to ridicule at a meeting of council or a reversal of a decision legitimately and fairly made on the basis of an existing council policy. Our water consumption plan which we are required to submit for each application on a water or sewer grant application may after all have no basis in fact if the current policy is amended. Loud and persistent complaints alone should not be the bases for reversals of overage billings.

The council determined it was appropriate to waive the overage charges and a recommendation was passed at the COTW of May 9th, 2023. At a previous meeting of April 25th, 2023 arguments were put forward in favour of the homeowner but no resolution was passed at that meeting.

A recommendation was made at the last COTW which did not reference an individual, his address or the amount of the adjustment or why. The matter was clearly dealt with in a non-transparent manner. There was a shroud of secrecy when it came to divulging the name of individual who was seeking forgiveness for an overage charge. Staff were directed not to divulge his name.

By requesting an exemption from charges by way of a letter to each council member, the taxpayer had waived his right to privacy for no response could have been forthcoming without him being named.

It behooves council to be aware that a public body may under section 33 of the Freedom of Information and Protection of Privacy Act permit the disclosure of personal information in any of the following circumstances:

(p) for the purposes of

- i) a payment to be made to or by the government or a public body,
- (ii) authorizing, administering, processing, verifying, or cancelling a payment, or
- (iii) resolving an issue regarding a payment;

How else could an appeal be resolved if not by naming the appellant?

I would also be remiss if I did not also point out excerpts from the Code of Conduct policy that are very relevant to this case and highlighted in yellow below.

These Members are expected to:

- *Make decisions that benefit the Town;*
- *Act lawfully and within the authorities of the B.C Local Government Act, B.C. Community Charter, and other applicable enactments;*
- *Behave in a manner that promotes public confidence, including actively avoiding any perceptions of conflicts of interest, improper use of office, or unethical conduct;*
- *Be free from undue influence and not act to gain financial or other benefits for themselves, family, friends, or business interests;*
- *Conduct their business in a transparent, efficient, accountable, and respectful fashion;*
- *Conduct their business with integrity, accountability, respect, leadership, and their conduct in the performance of their duties and responsibilities must be above reproach;*
- *Refrain from any form of discriminatory conduct against another elected official, staff, or the public;*
- *Demonstrate the same ethical principles during both meetings that are open and closed to the public; and*
- *Promote principles of transparency, accountability and civility through their decisions, actions, and behaviour.*

One individual's claim or benefit does not necessarily represent the public interest if it was not made in the best interests of the Town. If it does, then all similar overuse charges or appeals made may well have to be subjected to a council review if such review is included as part of that policy regulation. It needs to be remembered that council represents the full community not selected individuals.

An excerpt from paragraph 12 which is contained in both the current and previous Codes of Conduct that all current members have subscribed to reads thus:

Members, therefore, shall not interfere with the administrative functions of the Town or with the professional duties of Town staff; nor shall they impair the ability of staff to implement Council policy decisions.

It is indeed curious that facts on the ground matter not when it is now made the responsibility of staff to provide evidence that would justify the overage billing charges particularly in this one instance by also requiring that the opinion of other employees be provided. A report was requested of a unionized employee for the 2022 overage. It was indeed inappropriate to present an employee's report which I had verbally conveyed to the council, but which process seemed unreasonable to council. A report from the Superintendent, PW and Engineering Services is attached instead to this report.

An inordinate amount of energy has been expended on this issue whereby individual council members have each assumed the role of a "commissioner of inquiry" with staff having to justify their rationale when it comes to implementation of council policy decisions which may be now contrary to their way of "thinking" despite the existence of clear policies or other enactments.

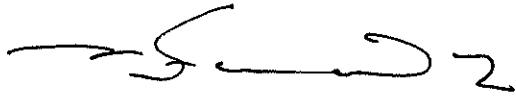
In 2017, the overage charges for this resident were written off (see attachment). It needs to be noted that overages were also consistently incurred prior to the implantation of billings being tied to metered use. Curiously as soon the latter occurred in 2014 overages by design or accident ceased immediately.

If staff had indeed misinterpreted the current policy on water leaks, then council may have a legitimate basis for a write-off. If so, the following must be included in any write-off resolution:

- The name of the appellant being considered for a write-off;
- The address of the affected residence;
- The amount or amounts being reversed; and
- The reason for council's decision.

If the intent is to simply thwart an existing council policy instead, then clearly staff have an obligation to not comply with a directive that can only be considered inappropriate and unethical.

Council did indicate that it wants to undertake a review of the Water Leak policy. It needs to be noted any revised policy cannot be made to take effect retroactively.



Joseph A. Fernandez

Memo

To: Chief Administrative Officer

Subject: Don Palmer

Date: June 18, 2023

From: Superintendent Public Works

Mr. Fernandez

I spoke with the public works staff member that attended the site to see what the issue was with the water use overage.

Mr. Palmer explained and did a walk through the site explaining to the staff member what happened in this situation.

The public works member feels it was a freak situation where an old valve was leaking or left open under an old building.

Jas Sandhu



Meter ID	Period	Date Read	Source	Reading	Consumption	Invoiced
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Account Number : 10860

Account Name : PALMER, DONALD E

Service Address : 100 STANLEY RD

Route/Sequence : / 0

71892825	26	05-02-13	Hand-Held	2792	0	
71892825	26	06-03-13	Hand-Held	2800	8	February, 2013
71892825	26	09-04-13	Hand-Held	2816	16	March, 2013
71892825	26	03-05-13	Hand-Held	2839	23	April, 2013
71892825	26	06-06-13	Hand-Held	3147	308	May, 2013
71892825	26	04-07-13	Hand-Held	3401	254	June, 2013
71892825	26	08-08-13	Hand-Held	4008	607	July, 2013
71892825	26	05-09-13	Hand-Held	4430	422	August, 2013
71892825	26	07-10-13	Hand-Held	4955	525	September, 2013
71892825	26	07-11-13	Hand-Held	5652	697	October, 2013
71892825	26	05-12-13	Hand-Held	5860	208	November, 2013
71892825	27	06-01-14	Hand-Held	5867	7	7 December, 2013
71892825	27	06-02-14	Hand-Held	5873	6	6
71892825	27	04-03-14	Hand-Held	5879	6	6
71892825	27	03-04-14	Hand-Held	5886	7	7
71892825	27	01-05-14	Hand-Held	5892	6	6
71892825	27	05-06-14	Hand-Held	5899	7	7
71892825	27	03-07-14	Hand-Held	5907	8	8
71892825	27	07-08-14	Hand-Held	5916	9	9
71892825	27	02-09-14	Hand-Held	5922	6	6
71892825	27	02-10-14	Hand-Held	5930	8	8
71892825	27	06-11-14	Hand-Held	5938	8	8
71892825	27	04-12-14	Hand-Held	5943	5	5
71892825	27	05-01-15	Hand-Held	5951	8	8
71892825	28	05-02-15	Hand-Held	5957	6	6
71892825	28	05-03-15	Hand-Held	5966	9	9
71892825	28	07-04-15	Hand-Held	5975	9	9
71892825	28	07-05-15	Hand-Held	5984	9	9
71892825	28	01-06-15	Hand-Held	5991	7	7
71892825	28	02-07-15	Hand-Held	6000	9	9
71892825	28	31-07-15	Hand-Held	6008	8	8
71892825	28	04-09-15	Hand-Held	6018	10	10
71892825	28	01-10-15	Hand-Held	6023	5	5
71892825	28	04-11-15	Hand-Held	6033	10	10
71892825	28	03-12-15	Hand-Held	6045	12	12
71892825	28	07-01-16	Hand-Held	6078	33	33
71892825	29	04-02-16	Hand-Held	6130	52	52 \$20.68 Invoice Paid
71892825	29	03-03-16	Hand-Held	6146	16	16
71892825	29	01-04-16	Hand-Held	6157	11	11
71892825	29	05-05-16	Hand-Held	6176	19	19
71892825	29	02-06-16	Hand-Held	6186	10	10
71892825	29	07-07-16	Hand-Held	6197	11	11

Meter ID	Period	Date Read	Source	Reading	Consumption	Invoiced	
71892825	29	04-08-16	Hand-Held	6209	12	12	
71892825	29	06-09-16	Hand-Held	6223	14	14	
71892825	29	06-10-16	Hand-Held	6231	8	8	
71892825	29	03-11-16	Hand-Held	6238	7	7	
71892825	29	01-12-16	Hand-Held	6241	3	3	
71892825	29	05-01-17	Hand-Held	6346	105	105	\$52.64 Invoice - Adjusted w/leak on town property notation
71892825	30	02-02-17	Hand-Held	6547	201	201	\$172.02 Invoice - Adjusted March 1/17
71892825	30	02-03-17	Hand-Held	6556	9	9	
71892825	30	04-04-17	Hand-Held	6569	13	13	
71892825	30	04-05-17	Hand-Held	6588	19	19	
71892825	30	01-06-17	Hand-Held	6602	14	14	
71892825	30	05-07-17	Hand-Held	6612	10	10	
71892825	30	03-08-17	Hand-Held	6622	10	10	
71892825	30	07-09-17	Hand-Held	6634	12	12	
71892825	30	05-10-17	Hand-Held	6643	9	9	
71892825	30	02-11-17	Hand-Held	6653	10	10	
71892825	30	07-12-17	Hand-Held	6665	12	12	
71892825	30	04-01-18	Hand-Held	6672	7	7	
71892825	31	01-02-18	Hand-Held	6680	8	8	
71892825	31	01-03-18	Hand-Held	6690	10	10	
71892825	31	05-04-18	Hand-Held	6703	13	13	
71892825	31	03-05-18	Hand-Held	6711	8	8	
71892825	31	01-06-18	Hand-Held	6740	29	29	
71892825	31	05-07-18	Hand-Held	6753	13	13	
71892825	31	02-08-18	Hand-Held	6779	26	26	
71892825	31	06-09-18	Hand-Held	6791	12	12	
71892825	31	04-10-18	Hand-Held	6799	8	8	
71892825	31	01-11-18	Hand-Held	6810	11	11	
71892825	31	06-12-18	Hand-Held	6821	11	11	
71892825	31	03-01-19	Hand-Held	6828	7	7	
71892825	32	07-02-19	Hand-Held	6838	10	10	
71892825	32	01-03-19	Hand-Held	6845	7	7	
71892825	32	04-04-19	Hand-Held	6858	13	13	
71892825	32	02-05-19	Hand-Held	6871	13	13	
71892825	32	04-06-19	Hand-Held	6935	64	64	\$24 Invoice Paid
71892825	32	04-07-19	Hand-Held	6949	14	14	
71892825	32	01-08-19	Hand-Held	6971	22	22	
71892825	32	05-09-19	Hand-Held	6982	11	11	
71892825	32	03-10-19	Hand-Held	6990	8	8	
71892825	32	01-11-19	Hand-Held	6999	9	9	
71892825	32	05-12-19	Hand-Held	7010	11	11	
71892825	32	02-01-20	Hand-Held	7018	8	8	
71892825	33	06-02-20	Hand-Held	7027	9	9	
71892825	33	05-03-20	Hand-Held	7035	8	8	

Meter ID	Period	Date Read	Source	Reading	Consumption	Invoiced	
71892825	33	02-04-20	Hand-Held	7045	10	10	
71892825	33	01-05-20	Hand-Held	7058	13	13	
71892825	33	05-06-20	Hand-Held	7072	14	14	
71892825	33	02-07-20	Hand-Held	7083	11	11	
71892825	33	06-08-20	Hand-Held	7104	21	21	
71892825	33	03-09-20	Hand-Held	7118	14	14	
71892825	33	01-10-20	Hand-Held	7127	9	9	
71892825	33	06-11-20	Hand-Held	7146	19	19	
71892825	33	03-12-20	Hand-Held	7158	12	12	
71892825	33	07-01-21	Hand-Held	7175	17	17	
71892825	34	04-02-21	Hand-Held	7186	11	11	
71892825	34	04-03-21	Hand-Held	7196	10	10	
71892825	34	08-04-21	Hand-Held	7211	15	15	
71892825	34	06-05-21	Hand-Held	7225	14	14	
71892825	34	07-06-21	Hand-Held	7243	18	18	
71892825	34	02-07-21	Hand-Held	7255	12	12	
71892825	34	05-08-21	Hand-Held	7275	20	20	
71892825	34	07-09-21	Hand-Held	7291	16	16	
71892825	34	01-10-21	Hand-Held	7305	14	14	
71892825	34	04-11-21	Hand-Held	7319	14	14	
71892825	34	02-12-21	Hand-Held	7331	12	12	
71892825	34	06-01-22	Hand-Held	7345	14	14	
71892825	35	03-02-22	Hand-Held	7357	12	12	
71892825	35	03-03-22	Hand-Held	7371	14	14	
71892825	35	07-04-22	Hand-Held	7386	15	15	
71892825	35	02-05-22	Hand-Held	7397	11	11	
71892825	35	02-06-22	Hand-Held	7417	20	20	
71892825	35	07-07-22	Hand-Held	8168	751	751	\$655.08 Invoice - Disputed
71892825	35	04-08-22	Hand-Held	8181	13	13	
71892825	35	13-09-22	Hand-Held	8195	14	14	
71892825	35	06-10-22	Hand-Held	8204	9	9	
71892825	35	03-11-22	Hand-Held	8215	11	11	
71892825	35	01-12-22	Hand-Held	8227	12	12	
71892825	35	05-01-23	Hand-Held	8239	12	12	
71892825	36	02-02-23	Hand-Held	8248	9	9	
71892825	36	02-03-23	Hand-Held	8257	9	9	
71892825	36	05-04-23	Hand-Held	8268	11	11	
71892825	36	04-05-23	Hand-Held	8278	10	10	
71892825	36	02-06-23	Hand-Held	8288	10		