

SMOKY LAKE COUNTY

A G E N D A: County Council: Committee of the Whole Meeting

for the purpose of **Administration**, to be held on

Tuesday, **May 4, 2021** at 10:00 A.M.

Virtual through Zoom Platform

<https://us02web.zoom.us/j/82874522910?pwd=bGJNY3ZKQmFPNXUzYUhKekdGOWd3QT09>

Meeting ID: 828 7452 2910 Passcode: 105222

And with Council physically present in the County Council Chambers, Smoky Lake.

1. **Meeting:**
Call to Order

2. **Agenda:**
Acceptance of Agenda:
as presented or subject to additions or deletions.

3. **Minutes:**
No Minutes.

4. **Request for Discussion:**

5. **Issues for Information:**
5.1 North East Muni-Corr Ltd. Letter Dated February 17, 2021 - Re: Long-term Planning Efforts to Achieve Self-sustainability. © *(discussed under executive session)*

6. **Correspondence:**

7. **Delegation:**
7.1 Rodd C. Thorkelsson, Partner, Brownlee LLP, Real Estate, Banking, Municipal and Public Utilities Division, Edmonton @10:00 a.m. – Re: North East Muni-Corr Ltd. Letter Dated February 17, 2021. *(discussed under executive session)*

8. **Executive Session:**
1. Land and Legal Issue: in respect to North East Muni-Corr Ltd.'s proposal of additional municipal funding contributions, additional administration fees, increases to annual right-of-way fees, and a "Loss of Use & Adverse Effect Fee for Water Services Commissions Utility Right of Way Agreements", as per the correspondence received from the President of North East Muni-Corr Ltd., dated February 17, 2021, under the Authority of the FOIP Act, Section 24: Advice from Officials. *(in reference to 5.1 & 7.1)*

Adjournment.



Smoky Lake County
Box 310
Smoky Lake, Alberta
T0A 3C0

February 17, 2021

Dear Council,

North East Muni-Corr Ltd. is quickly approaching their 20-year anniversary. The not-for-profit Company was incorporated on January 24, 2002 but operated as a Committee at least a year earlier. Over the past 20 years, the Company has successfully acquired the 300km. CN right of way lands that pass through the ten member communities, established the 99-foot corridor as Alberta's Iron Horse Trail, rebuilt the burnt Beaver River Trestle and provided right of way access to eight Municipal and Water Services Commissions water lines. All these accomplishments have been a great benefit to our region in terms of the recreational, attraction and tourism opportunities and the rate payer savings for water line right of way access at no cost.

With these 20 years under our belt, North East Muni-Corr Ltd. has been able to determine the annual costs of operating the Company and our annual budget deficit is consistently around \$70,000.00. We currently sit with approximately \$160,000.00 in operating funds and \$550,000.00 in reserve. The Company holds some property that is available for sale however, at this time, there is no interest in these properties. With an eye to the long term, we prefer to hang onto the land for a time when it will be of value rather than just dumping it on the market. The reserve funds the Company holds is earmarked for ensuring the asset we have continues to be intact and available for residents in our communities for many generations to come.

An example of what we use the reserve funds for would be the eighteen trestles in the right of way. As per our Master Agreement, North East Muni-Corr Ltd. is responsible for all the maintenance and repair work required on the trestles and, as we learned, this can take a fair chunk of funding to manage. When the Beaver River Trestle partially burnt in 2012, North East Muni-Corr Ltd. committed roughly \$500,000.00 to the rebuild not to mention three years of staff time working on grant applications, fundraising, and overseeing the reconstruction from start to finish. The trestles have now been under our care and control for a number of years and many of them need repair work. North East Muni-Corr Ltd. will be contracting out this work in 2021 as well as conducting a full assessment to ensure they are safe for public use.

At our current rate and with all things remaining equal, North East Muni-Corr Ltd. will be out of operating funds in less than two and a half years at which time, the Company would implement requisitioning the ten Municipal members annually as sanctioned in the Master Agreement.

North East Muni-Corr Ltd. Requisition Table for \$70,000.00 Annually		
Municipality	Requisition Percent	Requestion Amount / Year
City of Cold Lake	15.2%	10,640.00
M.D. of Bonnyville	24%	16,800.00
Town of Bonnyville	6.9%	4,830.00
Village of Glendon	0.7%	490.00
Town of Elk Point	1.8%	1,260.00
County of St. Paul	24%	16,800.00
Town of St. Paul	6.6%	4,620.00
Village of Vilna	0.2%	140.00
Smoky Lake County	19%	13,300.00
Town of Smoky Lake	1.6%	1,120.00

As many of you may recall in 2018, North East Muni-Corr Ltd. introduced the idea of invoicing the Water Services Commissions who have utility lines within the right of way. This was met with a scalding response from several of the Municipalities and Commissions and were told we would be sued if we do this. Since that time, North East Muni-Corr Ltd. has worked with our legal advisors and established a committee which was tasked with bringing forward sustainability options for the Company to try and keep from having to requisition the Municipalities. This committee has spent the last year reviewing agreements, obtaining legal advice, and communicating with a variety of representatives from utility companies and the oil and gas industry to ascertain what linear loss of use is valued at and what formulas are being used for fees. It was particularly important for the committee to find a balance between fulfilling their duty as a member on the North East Muni-Corr Board while being cognizant of the affects their recommendations would have on the Municipalities and Water Services Commissions.

At our February 8, 2021 North East Muni-Corr Ltd. Board meeting, the committee brought forward a Fee Schedule document with the following recommendations:

- A) Change all agreements from ten-year renewable terms to five-year renewable terms and switch to annual invoicing. This will give the Board an opportunity to review the terms and fees on a regular basis and help with a consistent cash flow making annual budgets more manageable. This also helps with keeping track of the ownership of the pipelines. We are running into instances where companies have been sold or folded 5-6 years ago and we were not notified so a lot of time is being used to track down current pipeline owners and trying to collect back fees.
- B) Introduce an Administration Fee for all Crossing, Lease, Temporary Licence of Occupation, Industry Utility Right of Way Agreements and Access Letters. This fee is designed to offset the time staff is putting into these types of agreements which can involve site visits and multiple back and forth calls and correspondence.
- C) Increase the annual fee for Utility Right of Way Agreements.
- D) Introduce a Loss of Use & Adverse Effect Fee for Water Services Commissions Utility Right of Way Agreements.**

- E) Introduce a new agreement with an Administration Fee to deal with instances where siding lands are used for construction lay down areas.

Loss of Use & Adverse Effect:

The concept of loss of use and adverse effect is if a pipeline goes through a farmer's field and removes 10 acres of crop land from production, the loss of use would be, as an example, \$400.00/acre = \$4,000.00 annually. In the case of North East Muni-Corr Ltd., there is no loss of crop land so the committee had to analyze what our loss of use and adverse effect would be. In this instance, it is administration costs and liability. The committee used a simple formula to figure out the number of acres based on data obtained from the Water Services Commissions which included the length of pipeline in the corridor, the diameter of the pipe and a one metre set back on either side of the line. The committee felt this assessment was more than fair as Municipal utility right of way regulations state the ROW width is to be twice the depth of the pipeline from surface to the crown of the pipe to a minimum of 4.5metres in width. Using an average per acre cost from the oil, gas and utility industries, the annual budget deficit and taking other sources of income into consideration, the committee recommended the loss of use and adverse effect fee be set at \$600.00/acre per year. At the February 8, 2021 North East Muni-Corr Ltd. Board meeting, all ten Board members unanimously passed a motion to approve the 2021-09 Fee Schedule Policy with Attachment 2021-09A Fee Schedule.

When North East Muni-Corr Ltd. was formed, the Board was not in the position of having 20 years of hindsight. That Board did not realize the size of utility water lines that would be going in the right of way, the loss of use and costs to the Company to have them there and that they would be dealing with Commissions rather than the ten members. Neither could the Board have foreseen the decline of the oil and gas industry or the ramifications of a pandemic on Municipal assessment and Provincial funding. The committee discussed the following points:

- A) The ongoing costs to North East Muni-Corr Ltd. because of having the water utility lines in the right of way. These include surface issues, ongoing maintenance, and administration along with annual monitoring. An example is the spring opened by construction where we now have water seeping year-round in the right of way which must be monitored.
- B) The hardships Municipalities are having and the budget cuts they are now experiencing with no anticipated change in the future. To add another burden in the form of an annual requisition from North East Muni-Corr Ltd. would put most of the Municipalities in a tough position as they typically do not have a means of cost recovery for something of this nature.
- C) Most of the water utility water lines are owned by Commissions who are not members of the Company and are not legally precluded from paying a right of way access fee as per the Master Agreement. While they did not have to pay for the right of way access which saved our community rate payers thousands of dollars, they should not be exempt from paying for loss of use and adverse effect. Additionally, Commissions have a means of recovering the costs of getting water to the end user.

In conclusion, we are asking the ten Municipal members of North East Muni-Corr Ltd. to support, in principle, our long-term planning efforts to achieve self-sustainability. We have 7 agreements coming up for renewal between 2021 and 2031 and Water Services Commissions would not be subject to the fee until their current Agreement term expires. This allows them plenty of time to plan for and implement cost recovery measures. The additional Administration Fees and rate

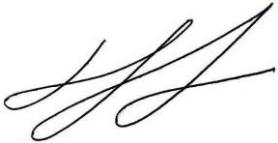
increase for the Industry Utility Right of Way Agreements are intended to help cover the annual deficit as we phase in the Loss of Use and Adverse Effect fee for the water lines.

Here is a draft example of what those costs would be for some of the water lines based on \$600.00 / acre. Please note, this is not a complete list and is intended only to provide you with an example.

Water Utility Line	Term Renewal	Number of Acres	Amount / Year
Smoky Lake – Spedden	2023	29.96	17,976.00
Spedden – Ashmont	2025	6.09	3,654.00
Ashmont – Mallaig	2028	11.42	6,852.00
Cold Lake – Bonnyville	2028	17.35	10,410.00
Smoky Lake – RR130	2030	27.77	16,662.00

If you have any questions, we encourage you to first contact your North East Muni-Corr Ltd. Board representative and/or Alternate who would have been involved in these discussions at the meetings. If they require any additional information, they can contact our office for assistance.

Sincerely,



Dwayne Yaremkevich
President
North East Muni-Corr Ltd.

- cc. City of Cold Lake
- M.D. of Bonnyville
- Village of Glendon
- Town of Elk Point
- Town of St. Paul
- Town of Bonnyville
- Village of Vilna
- Town of Smoky Lake
- County of St. Paul