



**Subject: Re-establishment of Lot Boundaries for Areas in Abasand, Beacon Hill and Waterways Affected by the 2016 Wildfires**

**APPROVALS:**

Jamie Doyle, Director  
Bob Couture, Executive Director  
Annette Antoniak, Interim Chief Administrative Officer

**Administrative Recommendation:**

That the Municipality request that the Minister of Environment and Parks direct the Director of Surveys to re-survey the land and place monuments at the corners of lots in the areas of Abasand, Beacon Hill and Waterways affected by the 2016 wildfires.

**Summary and Background:**

The May 2016 wildfires in Fort McMurray destroyed approximately 2000 structures in the Urban Service Area. After the wildfire, the owners were required to clean their lots and remove any debris including removing basements and foundations and restoring lots to pre-construction condition. This demolition and cleanup work was completed primarily by contractors hired by the property owner or their insurance company. In the case of lots that were not cleaned up by the Municipality's specified deadline of September 30, 2016 contractors were hired by the Municipality to complete the cleanup.

During this process of excavating and backfilling, lot boundaries and lot grading has been disturbed. Typically, at the time of subdivision approval, a surveyor would install monuments in the ground to mark lot boundaries. During the process of demolition, these monuments were lost, excavated or broken, making it impossible to identify lot boundaries.

**Redevelopment:**

The Land Use Bylaw and the Alberta Building Code sets out regulations such as building setbacks, building separation distance, and ground coverage etc. required for construction. Since the monuments that identify lot boundaries on the ground are lost, the Municipality and home owners are facing difficulty to identify exact boundaries for the issuance of development/building permits to begin construction.

**External Communications:**

The Planning and Development Department reached out to local surveyors to understand the process for re-installing these monuments and re-establishing lot boundaries.

The local surveyors indicated that prior to 1988 surveying standards required monuments be placed at every block corner. However, current surveying standards require monuments be placed at the corner of every lot. Since a number of areas affected by wildfires are prior to 1988, monuments were originally placed at block corners rather than corners of every lot. This makes

evidence of any of the original survey monuments more challenging to locate. It was discovered through a survey that only a small amount of monuments were located in the South Beacon Hill area.

Based on recommendations from local surveyors, the Planning and Development Department and Recovery Task Force in consultation with Legal Services have reviewed the *Surveys Act* to determine what options are available for replacement of the destroyed survey monuments. The options were evaluated in terms of time, resources, effort and to better understand the legal requirements and the differences between the two options available.

The Planning and Development Department contacted the Director of Surveys to seek his opinion on how to deal with this issue. The Director of Surveys is an Alberta Land Surveyor employed by the Alberta Government and designated by the Minister of Environment and Parks to administer the Alberta Surveys Act. The Director of Surveys summarized both options below:

### **Option 1**

#### **Re-Establishing Survey Monuments:**

Where a monument cannot be found, a surveyor, based on the best evidence s/he can find, can re-establish/install a new monument at the location that, in the opinion of the surveyor, is the actual position or closest to the actual position of the original monument. After installing/re-establishing these monuments, the surveyor will prepare a Monument Plan showing the location of new monuments and register it with Alberta Land Titles.

Since the location of the new monument is the opinion of the surveyor, it does not obtain a governing status. In the event that at a later date, an original monument is found, the original monument will legally govern the property boundary. This can give rise to conflicting views about the best evidence available to re-establish the original location of the monument or conflicting professional opinions from different surveyors. These issues may lead to disputes between property owners about the location of property boundaries and residents may be required to rely on the Court process to obtain a resolution.

The process of re-establishing monuments, however, is straightforward. The Municipality may choose to hire a surveyor/surveying firm to locate the best evidence available (of the original survey monuments), re-establish new monuments and register a Monument Plan. This process will not result in a change to any Certificates of Title for the affected properties.

Since this process involves field work, it is unlikely a surveyor could start the process until early spring. The process is likely to take a few months to complete. Given the potential for a Monument Plan to be challenged and the lack of certainty it provides, Administration is not in support of this option.

### **Option 2**

#### **Re-surveying the Area:**

The process for a re-survey is well defined in the *Surveys Act* and based on a five step process:

- Step 1:** Council passes a resolution requesting the Minister of Environment and Parks to direct the Director of Surveys to re-survey the land and place monuments at the corners of the lots.
- Step 2:** Director of Surveys will then publish a notice of survey for two weeks asking the public if they have any knowledge of the location of any original monuments or any evidence that may relate to the original location of these monuments. Anyone with this knowledge will be required to appear and provide evidence to the Director of Surveys.
- Step 3:** After the notice is published for a period of two weeks, the Director of Surveys must wait for a further period of two weeks before commencing the field work. The Director of Surveys will be responsible for conducting the field work and including hiring surveyors to conduct the field work. The process for conducting the field work will be similar to the field work required for re-establishing monuments. The surveyors will go out in the field, locate any evidence available about the location of original monuments and replace missing monuments with new ones.
- Step 4:** The Surveyors will then prepare a “Plan of Re-survey”. The Plan of Re-survey will be published by the Director of Surveys for a period of two weeks and notice will be given of a hearing date, to be held a minimum of two weeks after the last day on which the Plan of Re-survey is published. Affected property owners will have an opportunity to attend at the hearing and voice any concerns. The hearing may result in corrections or amendments to the Plan of Re-survey and the final plan will be submitted to the Minister of Environment and Parks.
- Step 5:** The Minister of Environment and Parks confirms/approves the “Plan of Re-survey” and the newly placed survey monuments become legally governing monuments superseding any historical ones. The Director of Surveys will register the Plan of Re-survey with Alberta Land Titles and the Land Titles Registrar may make any required alterations to the Certificates of Title for the affected properties.

Because public notice and a public hearing are part of this process, a re-survey could require more time than merely re-establishing the original monuments. However, the new Plan of Re-survey cannot be challenged in Court and will provide residents with certainty about the boundaries of their properties.

Since the field work required for both options is the same, the Director of Surveys recommends that we proceed with a re-survey. In the opinion of the Director of Surveys, the certainty that results from the re-survey process is more compatible with long-term settlement, more likely to preserve property values and avoid legal disputes among property owners. The re-survey would ensure monument placement at the corners of each lot and ensure that the new plan is in accordance with current legislation. The Director of Surveys believes that the winter months could be used to meet the notice requirements and complete required administrative work, with a goal of conducting the field work in the spring. In the case of a re-survey, the Director of

Surveys ultimately has control of the timeline; however, the Director has indicated that a re-survey in Fort McMurray would be a top priority.

**Differences between two options:**

The process for Option 1 and Option 2 are outlined below:

Considerations	Re-Establishing Monuments	Plan of Re-survey
Time Required	Only for field work	Field work, administrative approvals, and advertising
Cost to be paid by	Municipality/submitted to GoA for reimbursement	Municipality/submitted to GoA for reimbursement
Will new monuments legally govern the property boundaries and supersede any historical monuments that are subsequently located?	No	Yes
Can this be legally challenged?	Yes	No
Will land titles change?	No	The Registrar may amend Certificates of Title
Is public consultation required?	No	Yes
Who controls the process?	The Municipality	The Director of Surveys

1. Since the monuments are lost, it is difficult to establish property lines which can cause problems for land owners and the Municipality for the purposes of enforcement and conflict resolution.
2. Since the lot boundaries are not clear, development permits issued with the older lot boundaries (which could potentially change after the re-survey) could result in legally non-conforming developments.
3. The clarification regarding lot boundaries will support Safety Codes to ensure that the regulations under the Alberta Building Code are met.
4. The Surveys Act confirms that the results of a re-survey cannot be challenged in a Court of Law. While the process involved in a re-survey may take more time than re-establishing the monuments, it ensures that the public has an opportunity to express any concerns with the process.
5. The Plan of Re-survey will create legally certain property boundaries; a re-survey is more consistent with long-term re-settlement of the fire affected neighbourhoods.
6. The costs for the majority of the work (field work) will be the same for both options and if the public consultation and initial administrative work required for a re-survey is completed during winter months, it is likely the field work could be started in the spring (which is also the case for the option of re-establishing monuments).

**Budget/Financial Implications:**

As with re-establishing monuments, the cost of a re-survey has not yet been determined and will be the responsibility of the Municipality. The Municipality will submit the cost for the re-survey

to the Government of Alberta (GoA) for reimbursement under the Disaster Recovery Program or other funding programs.

**Strategic Plan Linkages:**

Pillar 1 – Building Responsible Government

Pillar 4 – Building an Effective Land Strategy

Pillar 6 – Building a Sustainable Region