

Subject: Tarsands Lions Club Lease Renewal**APPROVALS:****Jamie Doyle**_____
Director_____
Chief Administrative Officer**Recommended Motion:**

THAT Administration be directed to advertise the disposition of a portion of a municipal reserve parcel in accordance with Section 606 of the *Municipal Government Act* (being the lease of a portion of Lot 7R, Block 23, Plan 315TR); and

THAT a Public Hearing be held on March 8, 2022, prior to Council's consideration of the lease of a portion of Lot 7R, Block 23, Plan 315TR.

SUMMARY:

The Municipality is the registered owner of a parcel of land that is registered as a "municipal reserve parcel" pursuant to the *Municipal Government Act* ("MGA"), being Lot 7R, Block 23, Plan 315TR (the "Reserve Parcel"). The Tarsands Lions Club (the "Club"), a registered non-profit organization, has leased the subject property since January 1, 1979.

The last signed lease agreement between the Municipality and the Club lapsed on August 31, 1998. Since that time the Club has operated "month to month" under that expired lease. A new lease was approved by Council in 2004 but not executed. Land Administration has been working with the Club to finalize a new lease that, at the request of the Club, would only encompass the portion of the Reserve Parcel housing the clubhouse, garage, and fire pit area, all as shown on Attachment 1 (Schedule "A" - Subject Area Map). The maintenance of the remainder of the park, including the parking area, would revert to the responsibility of the Municipality, namely the Parks and the Roads branches of Public Works Department.

BACKGROUND:

The Club obtained a Ground Lease for most of the Reserve Parcel on January 1, 1979. Since that time, the lease has been renewed repeatedly, namely September 1, 1983, September 1, 1988, and again on September 1, 1993; in all instances the term was for five (5) years. The last lease extension between the Municipality and the Club, expired August 31, 1998 (Attachment 2). As a result, the Club has been in a "month to month"

tenancy under the over hold clause within the lease since 1998 and subject to all of the conditions of the lease agreement, except as to duration and the terms pertaining to the maintenance of the park.

The Club currently uses and maintains the clubhouse, a small garage and fire pit area located on Reserve Parcel. Since the commencement of their tenancy in 1979 the Club has contributed significantly to the community. Revenues raised over the years from park fees and clubhouse rentals have helped many organizations, including but not limited to the Wood Buffalo Food Bank Association, the Fort McMurray SPCA, the School Breakfast Programs, Unity House and the Northern Lights Health Foundation.

On December 1, 2000, the Municipality received a letter from the Club requesting that the lease be renewed. In July 2002 the Municipality forwarded correspondence to the Club looking to reaffirm the Club's position from 2000 and advising them that a meeting would be scheduled to discuss the new lease.

Internal discussions were held in January 2004 between Land Management and Parks and Roads branches concerning maintenance of the park, as well as future transportation projects that would affect the leased property. Correspondence was directed to the Club on May 14, 2004, acknowledging the internal review, and advising that Land Management was not able to proceed further with the Lease Agreement until it was determined how future transportation improvements would affect the leased property.

A report to Council regarding a "new lease agreement" for the Reserve Parcel with the Club was unanimously approved by Council on September 14, 2004 (Attachment 3). A new lease agreement for a ten (10) year term with a commencement date of October 1, 2004 was presented to Council and Council concurrently approved the new lease as per the attached draft lease. The proposed lease allowed the tenant (i.e. the Club) to maintain a recreational park for the general public, consistent with the Lower Town Site Area Redevelopment Plan, for a rental fee of One Dollar (\$1.00) per year. The lease was also structured to not impede future road or utility construction required to accommodate the Lower Town Site redevelopment. The Prairie Loop Boulevard and Prairie Loop bridge over the Hangingstone River ultimately required the use of the southern portion of the leased property identified in the 1993 lease.

The proposed new lease was never finalized due to various delays on the part of both the Municipality and the Club. The Club wishes to enter into a new lease for a portion of the Municipal Reserve site as identified in Attachment 1.

ALTERNATIVES:

1. Continue to Lease the subject land to the Tarsands Lions Club by entering into a new lease for a nominal fee of \$1.00 a further term of five (5) years commencing on January 1, 2022, with the option to renew for three (3) consecutive five (5) year terms and the Lessee being responsible for all costs associated with utilities, insurance and the necessary maintenance and repair of any tenant improvements.

As per the requirements for advertising in the MGA, should Council choose this alternative, Administration will advertise the proposal and present for consideration the Lease Renewal at a subsequent Public Hearing.

2. Do not approve the proposal for the requested lease and therefore not proceed to advertising.

BUDGET/FINANCIAL IMPLICATIONS

If the lease proceeds to a public hearing and is approved by Council, no direct budgetary or financial impact will result. The Municipality has resumed maintenance obligations for much of the Reserve Parcel outlined in the 1998 Lease, so these obligations have been historically budgeted for.

If the proposed lease is not renewed, the Municipality will need to address the continued occupation of the improvements (i.e. buildings) constructed by the Club on the Reserve Parcel. The 1993 Lease defines such improvements as the property of the Municipality.

RATIONALE FOR RECOMMENDATION(S)

Administration recommends that the matter of an existing "overholding" land lease between the Club and the Municipality, encompassing a portion of the Reserve Parcel, be addressed by entering into a new lease agreement for a further term of five (5) years commencing on January 1, 2022. This agreement would include an option to renew for three (3) consecutive five (5) year terms thereafter, for a nominal fee of One Dollar (\$1.00) per year; with the Lessee being responsible for all costs associated with utilities, insurance and the necessary maintenance and repair of all tenant improvements. This agreement would further address the disposition of improvements made to the Reserve Parcel by the Club, at the end of the term.

Non-profit organizations contribute significantly to the quality of life in the Municipality. These organizations find it more and more challenging to acquire suitable space from which to provide programming and services, given the rising cost of real estate in our region. Because the Lions Club operates as a non-profit organization, several of its more viable means of raising funds and providing services to the community include renting out the clubhouse or via government programs associated with use of the clubhouse facility.

The Municipality has a practice of entering into similar agreements with other non-profit organizations regarding similar facilities. These agreements have provided use of municipal land for nominal financial compensation.

Council approval is required to authorize any lease where a nominal fee is proposed.

Section 70 of the MGA requires that the disposition of an interest in land for less than fair market value or of land used for a park purposes be advertised. This is not required when the subject premises are to be used by a registered non-profit organization. The Tarsands Lions Club are a "non-profit organization" as defined in section 241(f) of the MGA.

However, as the subject property is designated as "Reserve", sub-section 674(1)(a)(i) of the MGA overrules section 70 and further stipulates that prior to any sale, lease or other disposal of any interest in a Reserve parcel, a Public Hearing must be held in accordance with section 230 of the MGA and advertised in accordance with section 606 of the MGA.

For Council to consider this use under a required new lease, the following must occur prior to Council's consideration:

- The matter be advertised following the requirements in Section 606 of the MGA
- Council must conduct a public hearing in accordance with Section 230 of the MGA

As this a procedural report only at this stage, any Council debate would not take place unless Council agrees to advertise the proposed disposition and until after the requisite public hearing has been advertised, held and concluded.

Strategic Priorities:

Responsible Government

Attachments:

- 1. Schedule A - Subject Area Map Tarsands Lions Club**
- 2. Tarsands Lease Agreement 01 Sep 1993**
- 3. Council Approval of Agenda Bill 04-139 14 Sep 2004**