

Subject: Lease of Lot 81ER, Block 61, Plan 052 xxxx (Signal Road)
- Reserve Designation Conversion - Bylaw No. 15/008
- Reserve Use Exception - Bylaw No. 15/009

APPROVALS:

Keith Smith, Director
Brian Moore, Executive Director
Marcel Ulliach, Chief Administrative Officer

Administrative Recommendations:

1. THAT Bylaw No. 15/008, being a bylaw to convert an Environmental Reserve designation to a Public Utility Lot designation, be read a first time.
2. THAT Bylaw No. 15/009, being a bylaw to authorize the use of certain environmentally reserve lands as a construction laydown site, be read a first time.
3. THAT the public hearing for Bylaws 15/008 and 15/009 be held on June 23, 2015.

Summary:

The Municipality received a request from Rogers Communications Inc. (Rogers) to lease 0.12 hectares (0.29 acres) of land, legally described as Lot 81ER, Block 61, Plan 152 xxxx (Attachment 3) for the purpose of installing a 70 metre self-support telecommunications tower, according to the terms outlined in the Letter of Intent dated February 2, 2015 (Attachment 4). The land is currently designated as Environmental Reserve (ER). The *Municipal Government Act* (MGA) restricts the use of ER lands; therefore, it is recommended that the Municipality convert the ER designation to Public Utility Lot (PUL) only for the portion of leasable land to be used for erecting the telecommunications tower.

An area of approximately 2.8 hectares (6.9 acres) within Lot 63ER, Block 31, Plan 782 2691 has been used as a snow dump in previous years, and since 2011, is in use as a construction laydown yard. According to Section 671(1) of the MGA, Environmental Reserve must be left in its natural state or be used as a public park. However, as per section 676(1)(a) of the MGA, Council may, by bylaw, use an Environmental Reserve for a purpose not specified in Section 671(1).

Background:

The Municipality received a lease request from Rogers to use 0.12 hectares (0.29 acres) of the cleared ER lands within the former Thickwood snow dump (Lot 81ER) for the purpose of erecting a telecommunication tower, for a term of five years, with the right to extend for three further consecutive periods of five years each. The proposed lease area is part of the site in use as a construction laydown yard.

A circulation regarding the Rogers lease request was conducted with municipal departments and public utility franchise companies. No objections were received. Therefore, upon adoption of

the proposed bylaw, the newly created PUL will facilitate the proposed tower lease for Rogers and at least one additional service provider, to address increases in cellular demands, and to satisfy Industry Canada mandated co-location requirements.

Approximately 10 years ago, the 2.8 hectares (6.9 acres) within Lot 63ER was cleared for use as a municipal snow dump. At that time, compliance with Section 676(1) of the MGA was not sought in order to effect this change in the use of ER lands. Subsequently, in 2011, Administration took advantage of a major cost saving opportunity by creating a construction laydown site within the previously cleared snow dump lands to facilitate major underground infrastructure rehabilitation in the Thickwood area, replacing water, storm and sewer lines, as well as roads and sidewalks.

In late 2014, a survey and subdivision was undertaken to facilitate the telecommunication tower lease, by re-designating the site to a Public Utility Lot. During the process, residents expressed concerns about the laydown yard. Subsequently, a public engagement was held on January 8, 2015 to document concerns from residents living in proximity to the former snow dump.

Concerns expressed included: site contamination, embankment erosion and slope stability, a possible lack of planned site restoration, thinning vegetation, and general concerns about the impact of construction to the serenity of the area. Additional concerns included interruption of the trail system, safety hazards created by public access to/ misuse of the construction laydown yard, and non-compliance with the MGA.

Some residents also posed questions regarding financial compensation they believe is due to them for potentially decreased property values resulting from construction and related to the proximity of the proposed telecommunication tower.

Positive comments recognized Administration's efforts to create a timely and useful project information forum, supported a revision from ER to PUL solely for the proposed lease site (Lot 81ER), and acknowledged that property values and public safety are ultimately protected by upgrading underground infrastructure.

Section 677 of the MGA allows a municipality to authorize the construction of a roadway and public utility on, in, over, or under reserve land if the interests of the public will not be adversely affected. Given the timeframe and concerns expressed by the public, Administration recommends Council approve the use of the ER lands as a laydown yard until 2019, pursuant to section 676(1) of the MGA.

The continued use of the site as a construction laydown yard intermittently until 2019 will facilitate cost reductions for transporting equipment, labour and materials by providing an easily accessible site in the vicinity of major capital infrastructure projects. It is estimated that current savings as a result of utilizing this site for construction lay down have been approximately \$4,756,000 over four construction seasons.

Based on public feedback, the municipality will undertake to improve the current construction situation and impact on residents by undertaking the following:

- Removing 35,000 cubic metres of fill from the snow dump site to other project sites, including Real Martin Drive cemetery project site;
- Lot 64MR will be used solely for displaced residential parking during construction;
- Environmental, geotechnical and slope stability studies will be undertaken;
- Hours of construction will be restricted to between 7am and 7pm to lessen the impact to residents during evening hours;
- Steel fencing will be installed around the construction site to limit pedestrian access and ensure site safety;
- Trails impacted will be temporarily rerouted to ensure uninterrupted use and enjoyment for residents;
- A permanent trail program will be implemented at completion of construction; and
- An intensified street cleaning program will be implemented in 2015 and remain in place until the laydown yard is removed.

Administration is recommending the conversion of the ER designation on Lot 81ER (the proposed lease site), to a PUL designation, facilitating the proposed lease request. It is also recommended that Bylaw No. 15/009 be passed authorizing the use of Lot 63ER, the 2.8 hectare snow dump site, for a construction laydown yard, until completion of the underground infrastructure replacement in 2019. This will facilitate the use and comply with section 676 of the MGA.

Budget/Financial Implications:

The Municipality will realize an annual lease payment of \$15,000 plus GST, with incremental rate increases of 10% set at five year intervals.

The continued use of Lot 63ER as a construction laydown yard will result in approximate savings of \$1,188,000 per year related to (equipment, operator, fuel and rental charges). Should the Municipality decide that the site will no longer be used as a construction laydown yard, project costs will increase.

Rationale for Recommendations:

Administration supports the conversion of the proposed lease area to a Public Utility Lot, facilitating a telecommunications tower, ensuring that our community continues to enjoy modern urban amenities and that the region's electronic connectivity keeps pace with technological innovations.

Despite converting the ER designation to a PUL designation, both of which have usage criteria restrictions under the *Municipal Government Act*, the subject lands will also remain restricted to uses allowed under its current Land Use Bylaw zoning classification, PR – Parks and Recreation District.

Given the residents' concerns with the construction laydown yard, Administration will impose conditions to mitigate the impact it has on the residents. As such, Administration recommends the use of the construction laydown yard within the Environmental Reserve lands until the end of August, 2019.

Attachments:

1. Bylaw 15/008
2. Bylaw 15/009
3. Subject Area Map
4. Letter of Intent dated February 2, 2015