

THE CORPORATION OF THE MUNICIPALITY OF RED LAKE

BY-LAW No. 1883-14

BEING A BY-LAW TO ESTABLISH POLICIES WITH RESPECT TO THE SALE AND OTHER DISPOSITION OF LAND

WHEREAS Subsection 270 (1) of the *Municipal Act*, 2001, provides that a Municipality shall adopt and maintain policies with respect to its sale and other disposition of Land;

NOW THEREFORE the Council of The Corporation of the Municipality of Red Lake **HEREBY ENACTS AS FOLLOWS:**

LAND DISPOSITION POLICIES

1. **Definition** - In this By-Law,
 - (a) "Chief Administrative Officer" means the Chief Administrative Officer of The Corporation;
 - (b) "Clerk" means the Clerk of The Corporation;
 - (c) "Corporation" means The Corporation of the Municipality of Red Lake;
 - (d) "Council" means the Council of The Corporation;
 - (e) "Disposition" includes
 - (i) the sale of Land; and
 - (ii) the Leasing of Land or the granting of easements or other rights in Land that has the effect of granting the use of or right in Land directly or by entitlement to renewal for a period of 21 years or more;
 - (f) "Land" shall include buildings, structures and an estate or interest in land of any nature including without limitation an easement, restrictive covenant or right of way;
 - (g) "Municipal Newsletter" means a printed publication in sheet form, intended for general circulation, published by the Corporation regularly at intervals of not longer than four (4) weeks, consisting, in great part, of information with respect to the programs and activities in the Municipality and circulated free of charge to the public;
 - (h) "Municipal Website" means the Corporation's electronic community information site for the public to access information, selected websites containing a variety of pages and online services and information and is used as a tool for providing service;
 - (i) "Newspaper" means a printed publication in sheet form, intended for general circulation, published regularly at intervals of not longer than a week, consisting in great part of news, of current events, of general interest and sold to the public and to regular subscribers;
 - (j) "Notice" means a written, printed, published, verbal, electronic or posted notification or announcement;

1. **Definition - continued** - In this By-Law,
 - (k) "published" means published in a newspaper or in a Municipal Newsletter that, in the opinion of the Clerk, has such circulation within the Municipality as to provide reasonable notice of a matter to those affected thereby.
2. **Reports of the Clerk** - It is the duty of the Clerk to report to and advise Council from time to time with respect to:
 - (a) Land which may be considered as surplus to the requirements of the Municipality;
 - (b) expressions of interest in Municipal Lands;
 - (c) known requirements of public utility providers or other persons in respect of lands owned by the Municipality and under consideration for sale or other disposition; and
 - (d) the recommended method of disposing of Lands considered for Disposition.
3.
 - (1) **Appraisals – Clerk’s Duty** - The Clerk shall be responsible for obtaining one or more independent appraisals of fair market value prior to consideration by Council of a By-Law to sell, lease, or otherwise dispose of Lands except in such cases where an appraisal is not required by Statute and not, in the opinion of the Clerk, necessary or advisable in the circumstances.
 - (2) **Exception – Appraisal Unnecessary** - Where the Clerk determines that an appraisal is not necessary or advisable, the Clerk shall, in his or her Report to the Council provide a statement as to the manner by which the proposed sale price or rent was determined and the reason why an appraisal was not obtained.
 - (3) **Exclusions – Classes of Land** - Notwithstanding Subsections 1 and 2 of this Section, an independent appraisal is not required in the case of the Disposition of the following classes of Land, unless the Clerk is of the opinion that an appraisal is necessary or advisable:
 - (i) Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*;
 - (ii) Closed highways if sold to an owner of land abutting the closed highways;
 - (iii) Land formerly used for railway lines if sold to an owner of land abutting the former railway land;
 - (iv) Land that does not have direct access to a highway if sold to the owner of land abutting that land;
 - (v) Land repurchased by an owner in accordance with Section 42 of the *Expropriations Act*;
 - (vi) Land sold under Sections 107, 108 and 110 of the *Municipal Act* or under substituted provisions therefore relating to grants, small business counselling services, and municipal capital facilities; and
 - (vii) Easements granted to public utilities or to telephone companies.

- (4) **Exclusions – Public Bodies** - Notwithstanding Subsection 1 of this Section, an independent appraisal is not necessary in the case of the Disposition of Land to the following public bodies:
- (i) A municipality;
 - (ii) A local board, including a school board and a conservation authority;
 - (iii) The Crown in right of Ontario or Canada and their agencies.
- (5) **Bonusing Statement** - Where the proposed sale price, rent, or other consideration for Lands is less than market value in the opinion of the Clerk or the Appraiser, the Report to Council shall include a Statement as to compliance with the bonusing requirements of the *Municipal Act*, 2001.

DISPOSAL PROCEDURES

4. **Surplus Declaration and Disposition Terms** - Where Council has determined that Land is no longer required for Municipal purposes it may:
- (i) declare the Land to be surplus to the requirements of the Municipality; and
 - (ii) at the same meeting or at a later meeting approve the manner or process by which this Disposition of the Land will be carried out.
5. (1) **Methods of Disposal** - The method to be used to dispose of Lands includes, but is not limited to:
- (i) public auction;
 - (ii) public tender;
 - (iii) direct sale;
 - (iv) land exchange;
 - (v) call for proposals; and
 - (vi) listing of the property with a real estate broker.
- (2) **Terms and Conditions** - The Council may, by By-Law or Resolution:
- (i) establish an acceptable minimum reserve bid;
 - (ii) fix any other term or condition of the sale;
 - (iii) direct that the sale will be subject to the requirements of an Agreement of Purchase and Sale; and
 - (iv) delegate to the Chief Administrative Officer the authority to settle terms and conditions of Agreements of Purchase and Sale to the extent not prescribed by Council, including, without limitation, requiring the making of Improvements on the Land, and the authority to agree to the extension or abridgement of time as relates to transactions on such terms as he or she deems appropriate.

6. **Public Notice - Method** – When Council has made the surplus direction and given the approval referred to in Section 5 or, in the case of a potential direct sale, where Council intends to consider doing so, notice to the public of the proposed Disposition of Land shall be given by at least one of the following methods, as the Clerk may deem reasonable in the circumstances:
 - (a) inclusion in an agenda of a public meeting of Council;
 - (b) posting a clearly visible sign on the Lands for a period of not less than five (5) days during the 30 day period prior to the public meeting of Council;
 - (c) posting on the Municipal Website for a period of not less than five (5) days during the 30 day period prior to the public meeting of Council;
 - (d) publication one or more times in a newspaper or in a Municipal Newsletter;
 - (e) notice procedures as may be prescribed by law in relation to specific kinds of Land;

7. **Public Notice – Contents** - Notice or advertisement of a proposed Disposition shall contain at least the following information:
 - (a) a general description of the manner by which the Disposition is proposed to be carried out;
 - (b) the location of the Land by reference to a Map or Plan, Municipal address or legal description, or combination thereof;
 - (c) a general description of the Land and of any buildings, fixtures or other improvements thereon;
 - (d) the name, title, address and telephone number of the person retained by or within the Corporation’s administration having information about the Land and the proposed Disposition;
 - (e) the latest date by which inquiries may be made of the person referred to in Clause 7(d);
 - (f) the date when any bids, proposals, offers or other expressions of interest are required; and
 - (g) the date when Council may consider the matter if determined at the date of the notice.

8. **Posted Sign – Contents** - Written notice of a proposed Disposition given by posted sign in accordance with Clause 6 (b) shall contain at least the information referenced in Clauses 7 (a), (c), (d), (e) and (f).

9. **Extended Notice** - The requirements of Sections 5, 6, 7 and 8 are minimum requirements and the Clerk is authorized to give notice to the public of a proposed Disposition in any extended manner if, in the opinion of the Clerk, that extended manner is reasonable in the circumstances.

10. **Substantial Compliance** - Where a notice does not strictly comply with the provisions of this By-Law, but would substantially inform a reasonable person of the subject matter to which the notice relates, the notice shall be deemed to be adequate and in compliance with this By-Law.
11. **Waiver of Notice** - Any person who is entitled to notice in accordance with this By-Law may waive the requirement for that notice at any time.
12. **Council Discretion** - Notwithstanding that the public notice of the intended Disposition has been given and that one or more interested parties may present to Council an Offer to Purchase or an Offer to Lease the real property, nothing shall restrict the absolute discretion of Council to retain the Land or to dispose of the Land on such terms and conditions as may be fixed by Council, which shall include the power to sell or Lease the real property for nominal consideration, when otherwise lawful, and to whomever it wishes, regardless of whether the Disposition is to the party who apparently has presented the best offer.

PUBLIC LAND REGISTER

13. **Lands Listed** - The Clerk shall maintain a Public Land Register listing and describing Land owned by the Corporation and which has been declared surplus, except for the following classes of Land:
 - (i) Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*;
 - (ii) Highways;
 - (iii) Land formerly used for railway lines; and
 - (iv) Land leased for a term which, including renewal rights, does not exceed 21 years.
14. **Description of Lands** - The Public Land Register shall contain the following information with respect to each parcel of Land listed in it:
 - (a) the municipal address where one has been assigned, and a general description of the location, which may include reference to a Map or Plan;
 - (b) the approximate size by reference to dimensions or area, or both; and
 - (c) whether the Land is owned by or leased to the Corporation.
15. **Additional Information** - The Public Land Register may, for any parcel of Land, contain any information additional to that set out in Section 13 of this By-Law which the Clerk considers relevant, including:
 - (a) a legal description;
 - (b) a description of any buildings, fixtures or improvements;
 - (c) whether Council has declared the Land to be surplus and particulars of any approved method of disposition of the Land; and

15. **Additional Information -continued.**

- (d) whether the Corporation, as owner, has granted a lease or other rights to occupy the Land, and, if so, a summary of the rights granted, including the term.

16. **Deletion of Disposed Lands** - The Clerk shall delete all reference to a parcel of Land in the Public Land Register following the completion of a disposition of that Land resulting in the Corporation no longer holding any legal interest therein.

ENACTMENT

17. **Effective Date** - This By-Law shall come into force and take effect upon the final passing thereof.

SHORT TITLE

The short title of this By-Law is the "Disposition of Land By-Law" and references hereto may be made using the said short title.

READ a FIRST AND SECOND TIME this 22nd day of April, 2014.

Phil T. Vinet, Mayor

Shelly L. Kocis, Clerk

READ a THIRD TIME and FINALLY PASSED this 22nd day of April, 2014.

Phil T. Vinet, Mayor

Shelly L. Kocis, Clerk