

MUNICIPALITY OF MIDDLESEX CENTRE

BY-LAW NUMBER 2012-043

BEING A BY-LAW TO GOVERN THE SALE AND OTHER DISPOSITION OF LAND

WHEREAS Section 270 (1) of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, requires a municipality to establish and maintain policies governing the sale or other disposition of its land;

AND WHEREAS the Council of the Municipality of Middlesex Centre deems it expedient to establish and adopt a policy with respect to the sale or other disposition of land;

NOW THEREFORE the Council of the Municipality of Middlesex Centre enacts as follows:

1. Definitions

In this By-law, unless the context otherwise requires:

- (a) "Appraisal" means a written opinion / letter of opinion by an individual with training and experience in valuing real property and the fixed improvements thereon, as the amount that the real property or any right, title or interest in the real property might be expected to realize if sold in the open market;
- (b) "Chief Administrative Officer" means the Chief Administrative Officer of the Municipality;
- (c) "Clerk" means the Clerk of the Municipality;
- (d) "Council" means the Council of the Municipality;
- (e) "Land" means any right, title, interest or estate the Municipality has in real property and the fixed improvements situate thereon and appurtenances thereto, including without limitation a leasehold interest or estate therein;
- (f) "Meeting" means any regular, special Committee or other meeting of Council or one of the Committees of Council open to the public;
- (g) "Municipality" means the Municipality of Middlesex Centre;
- (h) "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 that in the opinion of the Clerk has such circulation within the Municipality of Middlesex Centre as to provide reasonable notice to those affected by or interested in the subject Land Sale;
- (i) "Sale" means the sale or other disposition of Surplus Land by the Municipality and includes the granting of an easement, a lease for a term of 21 years or longer and any transaction in which an option to purchase Land is given by the Municipality, whether documented in a stand-alone option agreement or in a lease, regardless of term, or in any other legally binding document; and the words "Sell" and "Sold" shall have comparable meanings; and
- (j) "Surplus Land" means any Land declared surplus under Section 3.1 of this By-Law.

2. Application

2.1 This By-law shall apply to the Sale of all classes of Land owned by the Municipality, save and except the Sale of any of the following:

- (a) Land Sold under Section 110 of the *Municipal Act, 2001, S.O. 2001, c.25* being Municipal Capital Facilities;
- (b) Land to be used for the establishment and carrying on of industries and industrial operations and incidental uses;
- (c) Land sold under Part XI of the *Municipal Act, 2001, S.O. 2001, c.25*;

- (d) Road allowances, whether or not opened, unopened, closed or stopped up;
- (e) Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*;
- (f) Land formerly used for railway lines if Sold to an owner of land abutting the former railway land;
- (g) Land that does not have direct access to a highway if Sold to the owner of land abutting that Land;
- (h) Land repurchased by an owner in accordance with section 42 of the *Expropriations Act*; and
- (i) Any Land transferred to the Municipality as security until the financial obligations of the previous owner have been complied with to the satisfaction of the CAO or designate.

2.2 Notwithstanding Section 2.1 above, this By-law shall not apply to:

- (a) the Sale of Surplus Land to a municipality;
- (b) the Sale of Surplus Land to a local board, including a school board and a conservation authority;
- (c) the Sale of Surplus Land to the Crown in right of Ontario or Canada or any of their agencies; and
- (d) the exchange of Land with a land owner as part of a procedure that requires the acquisition of that owner's lands for municipal purposes;
- (e) the lease of Land for a term of less than 21 years; and
- (f) the granting of an easement over municipally owned Land, as approved by Council.

3. Sale of Land

3.1 When Council has deemed that it is desirable to Sell Land, the Council shall, during a meeting open to the public, pass a resolution declaring any such Land surplus to the needs of the Municipality.

3.2 Council may obtain from a Registered Ontario Land Surveyor a survey of the Surplus Land prior to a Sale thereof.

3.3 Council shall obtain an appraisal of the Surplus Land prior to any Sale thereof. Appraisals shall be used solely as a guide and shall not be determinative of the terms or price upon which Council may Sell the Surplus Land. Council may consider all relevant factors to determine an acceptable price for the Surplus Land, including, without limitation, the history of the Land or related properties.

3.4 Notice

- (a) The Clerk shall publish a notice of a proposed Sale of Surplus Land at least once in a Newspaper and shall cause notice of the proposed Sale to be posted on the Municipality's website.
- (b) The notice shall specify that anyone wishing to comment on the proposed Sale may do so by delivering such comment in writing to the Clerk at the Municipality's office.
- (c) The final date for submitting such comments shall be specified in the notice. Any comments received shall be considered by Council which, in its sole discretion, shall decide if any further action shall be taken.

- 3.5 Council shall, in its sole discretion, determine, by resolution, the method by which the Sale of any particular parcel of Surplus Land is to be conducted. The alternative methods are: Sale by public tender, Sale by real estate firm or broker, direct Sale to a landowner, or Sale without real estate firm or broker.

Sale by Public Tender

Should Council determine to Sell a particular parcel of Surplus Land by tender the following shall apply:

- (a) Costs incurred or anticipated for the Sale of the Surplus Land such as legal fees, survey fees, appraisal fees, encumbrances, advertising, and improvements, shall be established;
- (b) An estimated bid price shall be established; such estimate shall not be less than the appraised value plus the additional costs referred to in clause (a) above. Notwithstanding the foregoing, Council may accept an amount less than the estimated bid amount;
- (c) The Clerk shall publish an advertisement of the proposed Sale for two (2) consecutive weeks in a Newspaper and shall cause notice of the proposed Sale to be posted on the Municipality's website. The advertisement (i) shall include a brief description of the Land, including a small location sketch, (ii) shall specify the final date that offers will be accepted and (iii) shall include the following statement: "the highest or any offer may not necessarily be accepted";
- (d) The tender documents shall be delivered in person to the Clerk by the date specified in the advertisement; and
- (e) Any tender otherwise acceptable to the Chief Administrative Officer shall be submitted to Council for approval of the sale price.

Sale by Real Estate Firm or Broker

Should Council determine to engage a real estate firm or broker to Sell a particular parcel of Surplus Land, the following applies:

- (a) Costs incurred or anticipated for the Sale of the Surplus Land such as legal fees, survey fees, appraisal fees, encumbrances, advertising and improvements shall be established;
- (b) A listing price shall be established which shall not be less than the appraised value plus the additional costs referred to in clause (a) above;
- (c) The Chief Administrative Officer, or designate, shall be authorized to sign the agreement of purchase and sale or other document evidencing the Sale transaction, such as an easement document, a lease for a term of 21 years or longer and any transaction in which an option to purchase Land is given by the Municipality, whether in a stand-alone option agreement or in a lease, regardless of term, or in any other legally binding document;
- (d) The offers to purchase the Surplus Land shall be submitted to the Chief Administrative Officer or designate on a standard offer to purchase form or form drafted by a lawyer and shall provide for an irrevocable period of at least fourteen (14) days;
- (e) The Municipality may make a counter offer subject to Council approving the sale price; and
- (f) All offers otherwise acceptable to the Chief Administrative Officer shall be submitted to Council for approval of the sale price.

Direct Sale to a Landowner

Should Council determine to Sell a particular parcel of Surplus Land directly to a landowner, (other than a mortgagee or chargee) who owns land which abuts the Surplus Land or an owner of other land in close proximity (other than a mortgagee or

chargee) who claims legal interest in the Land such as, but not limited to, an easement, a right-of-way, possessory title or a restrictive covenant. The following shall apply:

- (a) Costs incurred or anticipated for the Sale of the Surplus Land such as legal fees, survey fees, appraisal fees, encumbrances, advertising and improvements shall be established;
- (b) An estimated sale price shall be established which shall not be less than the appraised value plus the additional costs referred to in clause (a) above. Notwithstanding the foregoing, Council may accept an amount less or higher than the estimated sale price;
- (c) All agreements otherwise acceptable to the Chief Administrative Officer shall be submitted to Council for approval of the sale price.

Sale without real estate firm or broker

Should Council determine to Sell a particular parcel of Surplus Land without retaining a real estate firm or broker, the following shall apply:

- (a) Costs incurred or anticipated for the Sale of the Surplus Land such as legal fees, survey fees, appraisal fees, encumbrances, advertising and improvements shall be established; and
- (b) An estimated sale price shall be established which shall not be less than the appraised value plus the additional costs referred to in clause (a) above. Notwithstanding the foregoing, Council may accept an amount less or higher than the estimated sale price;
- (c) The Chief Administrative Officer, or designate, shall be authorized to sign the agreement of purchase and sale or other document evidencing the Sale transaction, such as an easement document, a lease for a term of 21 years or longer and any transaction in which an option to purchase Land is given by the Municipality, whether in a stand-alone option agreement or in a lease, regardless of term, or in any other legally binding document;
- (d) The Municipality may make a counter offer subject to Council approving; and
- (e) All offers acceptable to the Chief Administrative Officer shall be submitted to Council for approval.

3.6 Council shall take all such action as is required to carry out the Sale of Surplus Land in accordance with the agreement of purchase and sale entered into with the purchaser or other document evidencing the Sale transaction, such as an easement document, a lease for a term of 21 years or longer and any transaction in which an option to purchase Land is given by the Municipality, whether in a stand-alone option agreement or in a lease, regardless of term, or in any other legally binding document.

3.7 Council shall have the absolute discretion to accept any proposal to Sell Surplus Land, to judge the acceptability of any terms or conditions of the Sale and to judge the sufficiency or acceptability of any price proposed by any purchaser.

3.8 In the event there is no apparent party with an immediate interest in acquiring a particular parcel of Surplus Land, the Municipality may take steps to identify a party interested in acquiring such Surplus Land. These steps may include, but are not limited to, listing such Surplus Land for Sale with a real estate company and/or posting an advertisement offering the Surplus Land for Sale, with any information necessary for the successful Sale of the Surplus Land.

4. Any declaration that Land is surplus made by Council in accordance with By-law No. 2004-135 prior to the time when this By-law comes into force shall be deemed to be a declaration that such Land is surplus in accordance with section 3.1 of this By-Law.

5. The publication of a notice of the proposed Sale of Surplus Land in a Newspaper in accordance with By-law No. 2004-135 prior to the time when this By-law comes into force

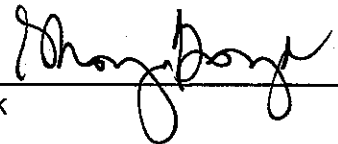
shall be deemed to be the publication of a notice of the proposed Sale of such Surplus Land in accordance with section 3.1 of this By-Law.

6. By-law No. 2004-135 is repealed.
7. This By-law shall come into force and take effect on the date of its final passing.

READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED on this 9th day of May, 2012.



Mayor



Clerk