

Council Report

Report Number: RS2021-008

Meeting Date: April 20, 2021

Title: **Authorize the Amended Easement in Favour of Enbridge Gas Inc. on Municipal Owned Land Behind 61 to 65 Colborne Street, in the Geographic Village of Fenelon Falls, City of Kawartha Lakes (PIN: 63155-0099)**

Description: Underground gas pipe to be located under City parking lot with third party rights to travel over. Property further identified being identified as Part 7 on 57R-10826.

Author and Title: Robyn Carlson, City Solicitor

Recommendations:

That Report RS2021-008, **Authorize the Amended Easement in Favour of Enbridge Gas Inc. on Municipal Owned Land Behind 61 to 65 Colborne Street, in the Geographic Village of Fenelon Falls, in the City of Kawartha Lakes**, be received; and

That Council direct the Mayor and Clerk to execute all documentation related to complete the grant of easement, substantially in the form as set out in Appendix E.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background

At the Council Meeting of September 15, 2020, Council adopted the following resolution:

CR2020-267

That Report RS2020-020, **Authorize a Grant of Easement in Favour of Enbridge Gas Inc. in the Geographic Village of Fenelon Falls, City of Kawartha Lakes (PIN 63155-0099)**, be received; and

That Council allow for the Mayor and Clerk to execute all documentation related to the Grant of Easement.

Subsequent to obtaining direction from Council, Enbridge Gas Inc. ("Enbridge") requested that amendments to the approved easement be made. This report addresses that request.

The proposed grant of easement previously approved by Council on the recommendation of the Land Management Committee is attached as Appendix D. The form of easement recommended by Enbridge is attached as Appendix E.

Appendix A is a general location map. Appendix B is an Aerial Map. Appendix C is the Plan 57R-10822.

The Franchise Agreement between the parties, being By-law 2005-104 and attached as Appendix G, governs the rights and responsibilities of the parties when Enbridge is locating within a right of way, provides guidance in that it sets out what the agreement would be between the parties should Enbridge have decided to locate in the road.

Rationale

The version approved by Council provided for cost recovery of \$8,500. The proposed version provides for minimal cost recovery. The Franchise Agreement does not provide for cost recovery of staff time (Legal costs associated with easement negotiation and drafting and Engineering costs associated with review of engineering drawings, valued at \$1,5000 and \$6,500, respectively), but does provide for recovery for external legal costs associated with registration of the easement on title to City property (valued at \$500).

The version approved by Council provided for the removal of the gas service upon decommissioning. The proposed version provides that Enbridge may either remove the

gas service upon decommissioning, or keep the gas service in its location. The proposed version of the agreement is consistent with the Franchise Agreement.

The version approved by Council provides that, if the City is exposed to incremental costs associated with the location of the gas service (such as costs to work around the infrastructure when putting in other underground utilities), the City will recover these costs. The proposed version of the agreement states that the City will not be reimbursed for these costs. The proposed version of the agreement is consistent with the Franchise Agreement.

The version approved by Council provides that, if the City has to relocate Enbridge's infrastructure, the City will pay 100% of its relocation costs. The proposed version of the agreement and the Franchise Agreement state that the City will pay 35% and Enbridge will pay 65% of the relocation costs. City Staff recommend that, in lieu of cost recovery, it revise this provision so that it is in line with the Franchise Agreement.

The version approved by Council and the proposed version both provide for relocation to the street on 2 years' notice. The Franchise Agreement states that "reasonable" notice will be provided for relocation within the parking lot.

The balance of the provisions remain the same or substantially the same.

Third party rights exist over this property, which allow identified third party property owners to travel over this property. Accordingly, any work done by Enbridge will need to maintain an access corridor over the property for these easement holders, or minimally impair such access.

Other Alternatives Considered

Council could decide not to proceed with allowing the grant of easement in favour of Enbridge Gas Inc. Enbridge Gas Inc. could install their infrastructure within the road allowance and proceed through the Municipal Consent process.

Council could direct staff to renegotiate the Franchise Agreement with Enbridge so that future locations are subject to the City obtaining cost recovery associated with drafting the easements and reviewing the documents.

Alignment to Strategic Priorities

The recommendations set out in this Report align with the following strategic priority:

- Good Government

- Support community infrastructure as a partner and advocate to maintain and encourage expansion of demanded community infrastructure and institutions.

Financial/Operation Impacts

The City will expend approximately \$8,000 in administering this easement, which will not be reimbursed by Enbridge. Construction of the gas line will cause some disruption to downtown businesses that use the parking lot for access, as the majority of the parking lot will be unavailable for parking for the duration of construction.

Consultations

Director of Engineering and Corporate Assets

Attachments

Appendix A – General Location Map



Appendix A -
General Location Map

Appendix B – Aerial Map



Appendix B - Aerial
Map.pdf

Appendix C – Plan 57R-10826



Appendix C -
57R10826.pdf

Appendix D – Grant of Easement (Previously Approved by Council)



Appendix D - Grant
of Easement (Previous

Appendix E – Proposed Grant of Easement



Adobe Acrobat
Document

Appendix F – Drawing



Appendix F -
Drawing B.pdf

Appendix G – By-law 2005-



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-%20Bylaw%202005-

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