

THE CORPORATION OF THE TOWNSHIP OF McNAB/BRAESIDE

BY-LAW NO. 2013-50

A by-law to repeal by-law No. 98-47 and to establish a policy and procedures, including the giving of notice, governing the sale or other disposition of land owned by the Township of McNab/Braeside.

WHEREAS Section 270 (1) of the Municipal Act, 2001 S.O. 2001, c.25, as amended (the “**Act**”) requires a municipality to adopt and maintain policies with respect to the sale and other Disposition of Land;

AND WHEREAS Section 270 (5) of the Act requires a municipality to adopt and maintain policies to try to ensure that is it accountable to the public for its actions and that its actions are transparent to the public;

AND WHEREAS the Council of the Corporation of the Township of McNab/Braeside passed By-law 98-47 to establish procedures with respect to the sale and disposition of land owned by the municipality on November 3rd 1998 pursuant to predecessor legislation;

AND WHEREAS the Council of the Corporation of the Township of McNab/Braeside is desirous of repealing By-law No. 98-47 and updating its policies and procedures relating to the sale and disposition of land owned by the Township of McNab/Braeside;

NOW THEREFORE the Council of the Corporation of the Township of McNab/Braeside enacts as follows:

SECTION 1: PREAMBLE AND DEFINITIONS

1. Short Title

This By-law may be referred to as the “Sale and Disposition of Land By-law”

2. Purpose

This By-law is enacted for the purposes of establishing a policy and procedures for the Disposition of Land owned by the Township and to foster the following principles in order that the best interests of the Township are advanced and maintained:

- a. consistency and due process,
- b. transparency and accountability, and
- c. flexibility and responsiveness.

3. Headings

The division of this By-law into parts and the insertion of headings are for the convenient reference only and shall not affect interpretation of the By-law.

4. Definitions

For the purposes of this By-law:

- a. “**CAO/Clerk**” means the Chief Administrative Officer/Clerk of the Township;
- b. “**Council**” means the Council of the Township;
- c. “**Disposition**” means the sale, transfer, conveyance or exchange of the fee simple interest in Land or the granting of a lease for a term of 21 years or longer, and “**Dispose**” and “**Disposal**” shall have the same meaning;
- d. “**Land**” means real property and includes any building or improvement thereon;

- e. **"Market Value"** means the most probable price which Land should bring in a competitive and open market at the time of Sale or listing under all conditions requisite to a fair Sale, the buyer and seller each acting prudently, knowledgeably and in their own best interests;
- f. **"Municipal Act"** means Municipal Act, 2001, S.O. 2001, c. 25, as supplemented, amended or replaced from time to time;
- g. **"Notice"** means notice given in accordance with Section 9 of this By-law.
- h. **"Planning Act"** means the Planning Act, R.S.O. 1990, c P. 13 as supplemented, amended or replaced from time to time;
- i. **"Sale"** and **"Sold"** means the Sale and other Disposition of Land and includes a lease of twenty-one years or longer;
- j. **"Township"** means the Corporation of the Township of McNab/Braeside; and
- k. **"Valuation"** means a determination of Market Value by independent appraisal or written letter of opinion satisfactory to the CAO/Clerk.

5. Scope

This By-law shall apply to Disposal of all Lands by the Township, save and except:

- a. Cemetery plots owned by the Township;
- b. Land transferred to the Township for security or for temporary roads or other works in connection with any agreement to which the Township is a party under the Planning Act;
- c. Land which is 0.3 metres or less in width and acquired by the Township in connection with an approval or decision under the Planning Act;
- d. Land Sold for the arrears of taxes, which shall be subject to the procedures set out in Part XI of the Municipal Act;
- e. Lands Disposed of pursuant to sections 107, 108 or 110 of the Municipal Act;
- f. Land transferred to another municipality or the Crown in right of Ontario or Canada including their local boards and agencies; and
- g. Land transferred to, or vested in the Township which neither the Township nor the registered owner intended to vest or be transferred.

SECTION 2: PROCEDURES PRIOR TO THE DISPOSAL OF LAND

6. Initial Request

- a. All enquiries regarding the Sale of Township-owned Land should be directed to the CAO/Clerk.
- b. Individuals interested in seeking approval for the Sale of Land owned by the Township must provide a letter of request to the CAO/Clerk (a **"Letter of Request"**). The Letter of Request must contain all of the following:
 - i. the municipal address of the individual making the request;
 - ii. contact information of the individual making the request;
 - iii. the reasons for the request to purchase the Land, including the proposed or intended use thereof;
 - iv. the address and/or legal description of the Land in question; and,
 - v. a location sketch of the said Land.
- c. The CAO/Clerk will verify that all Lands described in any Letter of Request

prepared in accordance with Subsection 6.b are owned by the Township.

- d. The CAO/Clerk may circulate the Letter of Request to Township staff or any other person, agency or public body that the CAO/Clerk deems it appropriate to consult and may request input with respect to the appropriateness of the proposed Disposal as well as recommendations regarding any conditions to be imposed on the Disposition.
- e. Based on a review of the Letter of Request and feedback received from Township staff or any other person, agency or public body consulted by the CAO/Clerk, if any, the CAO/Clerk shall:
 - i. Prepare an information report to Council explaining why the Disposition of Lands described in a Letter of Request is not recommended; OR,
 - ii. Prepare a report to Council recommending the Disposition of Lands described in a Letter of Request together with any conditions which are recommended to be imposed on any such Disposition.

7. CAO/Clerk May Initiate Process

The CAO/Clerk may initiate the process described in Section 6 of this By-law if the CAO/Clerk deems that doing so is in the best interests of the Township.

8. Declaration of Intent to Sell Land

On receipt of a report from the CAO/Clerk recommending the Disposal of Land owned by the Township as in Section 6.e.ii of this By-law, Council may, by resolution, formally declare the Township's intent to sell such Land and direct the CAO/Clerk to return to Council with a further report or recommendation after Notice has been given in accordance with Section 9 of this By-law.

9. Notice of Intent to Dispose of Land

- a. The CAO/Clerk shall give Notice of the Township's intent to sell Land using one or several of the following methods:
 - i. Publication in a newspaper having general circulation in the Township;
 - ii. Listing the Lands on the Council Agenda and/or the Township's website or in Township facilities as Lands intended for Sale;
 - iii. Posting a sign on the subject Land indicating the Township's intent to sell; OR,
 - iv. Any other means of communication which Council has determined, by resolution, is reasonable and appropriate in given circumstances.
- b. In addition to the Notice requirements in Section 9.a of this By-law, Notice shall be given by registered mail to any person appearing on the tax roll for the Township as the owner of any Land abutting the Land which the Township intends to sell.
- c. Notice of the Township's intent to Dispose of Land shall include;
 - i. A map, address or legal description identifying the subject Lands,
 - ii. Where to obtain additional information; and,
 - iii. Details of how public comments will be received by Council.
- d. A Notice respecting the intent to Dispose of Land comprising all or part of a "highway" as defined in the Municipal Act shall also include notice of intent to permanently close the relevant portion of such highway.

10. Valuation

- a. Before proceeding with Disposal of Land, the Township shall obtain at least one Valuation of the Land.
- b. Notwithstanding the above requirement, the Township shall not be required to obtain a Valuation where Council directs, by resolution, that a Valuation is not warranted for a particular parcel of Land.

SECTION 3: DISPOSITION OF LAND

11. CAO/Clerk's Report Following Notice and Valuation

Following service of Notices in accordance with Section 9 of this By-law and receipt of a Valuation of the subject Land, if necessary, but in any event no sooner than ten (10) business days (excluding statutory holidays in the Province of Ontario) following service of Notices, the CAO/Clerk shall:

- a. Prepare an information report to Council explaining why the Disposition of Lands described in a Notice is not recommended; OR,
- b. Prepare a report to Council recommending the Disposition of Lands described in a Notice together with recommendations as to:
 - i. any conditions to be imposed on the Disposition;
 - ii. the method of Disposal to be undertaken in accordance with Section 13 of this By-law; and,
 - iii. the consideration to be paid to the Township, if any, on the Sale of the Land.

12. Council Approval of Disposal

On receipt of a report from the CAO/Clerk prepared in accordance with Section 11 of this By-law, Council may, by by-law, authorize the Disposal of Land and:

1. Select one of the methods of Disposal listed in Section 13 of this By-law;
2. Impose such conditions on the Disposal as Council deems appropriate in the circumstances; and/or
3. Provide direction to staff regarding the consideration to be received by the Township on the Disposal of the Lands.

13. Methods of Disposition of Land

- a. Methods for the Disposition of Land by the Township include:
 - i. Public auction;
 - ii. Direct sale based on the receipt of a bona fide offer of purchase received following the listing of the Lands with one or more property listing services or agents or otherwise;
 - iii. Land exchange;
 - iv. Request for proposals; OR,
 - v. Public tender.
- b. Notwithstanding Subsection 13.a, Council may, by resolution, authorize any such alternative method of Disposal as Council may deem appropriate in the circumstances.

- c. All bids, proposals and/or offers shall be presented to Council for consideration unless Council has, by resolution, delegated to the CAO/Clerk the authority to review and approve such bids, proposals and/or offers and conclude the Disposal of Land without further reference to Council.

14. Costs of Disposal

All costs associated with the Disposition of Land, including legal costs, appraisal costs, land transfer tax and registration costs, shall be borne by the party or parties acquiring the Land, unless otherwise directed by Council.

15. Disposition of Land to Township Employees

Before Council considers the Disposal of Land or passes any resolution described in either Sections 7 or 12 of this By-law, any employee of the Township who has any interest, pecuniary or otherwise, and either direct or indirect, as such terms are defined in the *Municipal Conflicts of Interest Act* R.S.O 1990, c. M. 50, as amended from time to time, in such Disposal shall so advise the CAO/Clerk. The CAO/Clerk shall determine what, if any, steps are necessary to ensure that such an interest does not negatively impact the integrity of the Land Disposal process established in this By-law.

16. Absolute Discretion of Council

Notwithstanding that Notice may have been given or one or more interested parties may have presented a bid, proposal or offer to purchase Land, nothing shall fetter the absolute discretion of Council to retain or Dispose of any Land on such terms and conditions as may be fixed by Council, which shall include the power to sell Land for less than Market Value and to select the person to whom the Land will be transferred regardless of whether the Disposition is to the party which apparently has presented the best offer.

SECTION 4: CONFLICT AND TRANSITION

17. Review

The manner in which the Township carries out the Disposition of Land, is consistent with the *Municipal Act*, and this By-law, as applicable, is not open to review as the Township is deemed to have acted in good faith.

18. Severability

The terms and provisions of this By-law shall be severable and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, inoperative or invalid, the remainder of the By-law shall continue to be in full force and effect.

19. Repeal

By-law No. 98-47 is hereby repealed.

20. This By-law shall come into force and take effect upon the final passing thereof.

READ a first time this **15 day of October, 2013.**

READ a second time this **15 day of October, 2013.**

READ a third and final time and passed this **15 day of October, 2013.**

MAYOR

CAO/CLERK