

# Wheatland County

## Request for Decision

Regular Council Meeting

August 18, 2020

Report prepared by: Matt Boscariol



### Lakes of Muirfield – Update and Completion Documents

#### **Recommendation from Administration**

WHEREAS the County has received all transfers, conveyances, consents and assignments from 0747744 B.C. Ltd. and Muirfield Land Corporation to complete the transfer of all developer assets within the Lakes of Muirfield development to the County, and

WHEREAS County only awaits completion of the regulatory process of Alberta Environment and Parks to complete the change of name to the Water Licences, the Approval and the Registration,

NOW THEREFORE BE IT RESOLVED

THAT the Council authorize administration to direct the County's legal counsel to proceed, with the release of the final completion documents, the release of the original Letters of Credit, and the release of funds payable to the Developer and payable to the County, in accordance with the Transfer, Sale and Disposition Agreement dated effective April 30, 2020, between the County, 0747744 B.C. Ltd. and Muirfield Land Corporation.

#### **Chief Administrative Officer's Comments**

N/A

#### **Report**

##### **Division: Division 5**

At the April 24 Regular Meeting of Council, Council directed the following:

THAT Council direct administration and Wheatland County legal representation to pursue working with 0747744 B.C LTD ("The Developer") on finalizing the "Transfer Commitment" between Wheatland County and The Developer; and further

THAT the Transfer Commitment be effective for May 1, 2020 ("the Effective Date"), with all other steps and exchanges occurring in due course; and further

THAT the security and releases are delivered on or before the Effective Date, and release upon completion of all steps; and further

THAT administration report back to Council on the Completion Date with completed transfers including document exchange, and confirmation of Water Licenses issued to the County;

NOW THEREFORE BE IT RESOLVED

THAT Wheatland County assume operations and responsibility for the water system as of the effective date.

As this process has been both expeditious and extensive, administration has achieved several major milestones that ensure residents have a high quality of living in the Lakes of Muirfield. Further, administration has been working closely with various external government agencies and organizations, as well as the Lakes of Muirfield Home Owners Association (the “LOMHOA” – the GM of Community and Development Services serves as the administrative representative for the County). Administration and staff are also working with residents to improve processes related to the operations within the Lakes of Muirfield, and the County’s operations (example, property standards, Peace Officer involvement, public works maintenance rotation).

Administration has completed the following, or is near completion:

**Transfer of Lands and Instruments:** Transfer of all titles to all lands contained within the Lakes of Muirfield development owned by 0747744 B.C. Ltd. (the “Developer”) was completed on July 9, 2020, and titles and reporting documents provided to the County. The transfer of all but Two (2) of the easements/utility rights of way held by the Developer and Muirfield Land Corporation (“MLC”) was completed on July 9, 2020, and titles and reporting documents provided to the County. Two (2) Utility Right of Way agreements were required by the Land Titles Office to be transferred separately from the remainder of the instruments, and confirmation of transfer of these last Two (2) instruments is expected shortly.

**Transfer of Water License:** The Change of Name process has been initiated with Alberta Environment and Parks (“AEP”). The change of name procedure was confirmed by AEP as the appropriate process, as the ownership of the appurtenant/related lands and facilities has changed to the County effective April 30, 2020. This avoided the necessity of undertaking a transfer of Water License, and the conditions and issues that transfer processes can give rise to (e.g. holdbacks of portions of the water allocation). The County is currently awaiting completion of the change of name from AEP. Completion is likely dependent upon, and intended to be concurrent with, the transfer of the underlying Approvals and Registrations.

**Transfer of Registrations & Approvals:** AEP required Form of Consent to Transfer Approval No. 219185-01-00, regarding ownership and operation of a potable water system, which has been executed by the Developer and the County, and has been submitted to AEP for processing the transfer. AEP also required Form of Consent to Transfer Registration No. 220092-00-00, regarding operation of a storm drainage system, which has been executed by MLC and the County, and submitted to AEP for processing the transfer.

**Conveyances and Assignments of Agreements:** All assignments of agreements relevant to the conveyance of the assets of the Developer and MLC have been provided by the Developer and MLC, and received by the County and/or our office, consisting of:

- General Conveyance;
- General Assignment of Contracts, by the Developer;
- General Assignment of Contracts, by MLC

**WID Agreements:** The Use of Works Agreement and the existing Commercial Water Conveyance Agreement between the Developer and the Wester Irrigation District (the “WID”) were assigned to the County under the General Assignment of Contracts. The County has received the confirmation of the WID’s consent to the assignment of the WID agreements to the County. The County is dealing directly with the WID with respect to the execution of a new replacement Commercial Water Conveyance Agreement to permit the continued access to raw water through the works of the WID

**Commercial Lease:** The existing commercial lease with Whitefeather Investments Inc. (the “Tenant”) was assigned to the County under the General Assignment of Contracts. The County is dealing directly with the Tenant with respect to on-going landlord and tenant matters, including payment of rentals and consents to special events.

**R.V. Storage Lot:** The County has retained the services of the existing manager of the R.V. Storage Lot, for the purposes of managing the storage arrangements with residents. Further formal agreements will be provided to the manager. In the interim, operations as usual have been preserved and continue in the ordinary course.

**Releases and Return of Letters of Credit:** The final release of the following items is currently awaiting the confirmation from AEP that the change of Name on the Water Licences, and the transfer of Approval and Registration, are completed:

- Mutual Release signed by the County, the Developer and MLC;
- Release of Security, signed by the County
- Original Letters of Credit
- Payment to the County’s credit of adjustments for security deposits and RV storage fees as follows:
  - security deposit of \$6,000.00, provided under the commercial lease agreement with Whitefeather Investments Inc.;
  - builder deposit of \$25,000.00, provided by Indus Homes Inc. under the Lakes of Muirfield Architectural Controls; and
  - security deposits or other adjustment amounts relating to the RV storage contracts (totaling \$1,095.06)

**Water Operations:** The County has retained Rocky View Utility Corporation (“RVUC”) to provide for interim operation and billing services. Operations and billings for water services have been preserved and continue the regular process. The County will assess water operations, and the assumption of operations by the County from RVUC, during this interim period. Administration will continue to keep Council apprised of recommendations moving forward.

**Wastewater Operations:** The County has been engaging with LOMHOA to provide for interim operations of the Wastewater system. The County is in the process of retaining RVUC to provide for interim operation and/or billing services concurrent with water operations and billing services. Operations and billings for wastewater services as usual can be preserved and continue in the ordinary course with these arrangements, though ongoing associated costs are being reviewed by the County. The County will assess wastewater operations, and the assumption of operations by the County from RVUC, and the assumption of ownership of the system from LOMHOA, during this interim period.

**Land Sales:** The County has retained Heather Dougall and John Kearney of Royal LePage Benchmark Realty (the “Realtor”) for the marketing of the lands within the Lakes of Muirfield, a relevant listing agreement is being prepared. A Template for “Lands Sale Agreement” has been reviewed by the County and the Realtor and revised accordingly to be ready for use with lot sales. Further, a Template Lot Reservation Agreement for potential use with, and encouragement/engagement of, builders has been reviewed by the County and the Realtor and revised accordingly to be ready for use with builders. The Developer’s intellectual property, trade names, and websites transferred to the County under the General Conveyance. The County is working directly with the Realtor and the Developer’s former website manager to control web-information and to transfer all useful intellectual property to the County, to reduce or eliminate publication of misinformation about the Development, and to coordinate accurate realtor and County marketing and disclosure.

Planning and Development is currently reviewing the Direct Control Bylaw (DC-7), and internal/external circulation is in process. In addition to the updates for each component of the transaction, administration has identified several ongoing items that require Council approval. Both administration and legal counsel note that as the transfer of property is completed (subject to the two transfers in process – noted in the Releases, Returns, and Letters of Credit section), and only regulatory processes remain, we recommend that the early release of the foregoing documents, Letters of Credit, and funds at this time. There is a low risk to the county.

### **Relevant Policies, Practices, and Legislation**

*The Municipal Government Act*

*The Public Utilities Act*

### **Alignment with the Strategic Plan**

- Wheatland County is committed to provide services that recognize and encourage balanced, sustainable, long term growth and opportunities. We advocate prudent use of our resources and promote a quality of life for our citizens that reflect our agriculture heritage.
- Providing consistent, accountable, innovative governance.
- WC is committed to serving the needs of our diverse rural community.

### **Response Options**

Option 1: THAT the proposed recommendation is accepted/approved.

Option 2: THAT the proposed recommendation is not accepted/approved.

Option 3: THAT an alternate recommendation is accepted/approved.

### **Implications of Recommendation**

#### **General**

Continue to provide updates to Council and the community

#### **Organizational**

Staff will continue the work required to complete the transaction, as per Council's direction.

#### **Financial**

Ongoing work with legal counsel requires both monetary and staff time.

#### **Environmental, Staff, and Public Safety**

N/A

### **Follow-up Action / Communications**

Continue to update Council and Lakes of Muirfield residents (including the "HOA").

## Report Approval Details

Document Title:	Lakes of Muirfield - Transaction Update to Council.docx
Attachments:	
Final Approval Date:	Aug 5, 2020

This report and all of its attachments were approved and signed as outlined below:

A handwritten signature in black ink, appearing to read "Brian Henderson", written in a cursive style.

Brian Henderson