

**Bylaw 18-2023 Northern Bear Water and Wastewater Services Franchise Bylaw and Associated Franchise Agreement****Report Purpose**

To establish a bylaw to prohibit any other person from providing the same or a similar utility service as the franchisee (Properties of Northern Bear Inc. and Touchwood Holdings Ltd.) in that portion of Strathcona County which is generally depicted in Schedule "B" attached to this bylaw, and to approve the proposed Franchise Agreement for submission to the Alberta Utilities Commission.

**Recommendations**

1. THAT Bylaw 18-2023 Northern Bear Water and Wastewater Services Franchise Bylaw, a bylaw to prohibit any other person from providing the same or a similar utility service as the franchisee (Properties of Northern Bear Inc. and Touchwood Holdings Ltd.) in that portion of Strathcona County which is generally depicted in Schedule "B" attached to this bylaw, be given first reading.
2. THAT the Franchise Agreement as set out in enclosure 2 of the July 4, 2023 Utilities report be approved, and that administration apply to the Alberta Utilities Commission for approval of the Franchise Agreement.

**Our Strategic Goals**

Goal 3 - Responsible Development

**Report**

Under the original Area Structure Plan (ASP), utility services for Northern Bear were to be the responsibility of the Condo Association(s), with the County having no ownership or operational responsibility for developer's improvements including water and wastewater infrastructure. This was reflected in the original master development agreement. As condo associations were created, and through subsequent assignments and amendments, provision of water and wastewater utility services for Northern Bear was the sole responsibility of Properties of Northern Bear Inc. (PNB). The infrastructure used for providing water and wastewater service to the residents and golf course in Northern Bear is privately owned by PNB.

In August 2015, the County submitted two applications to the Alberta Utilities Commission (AUC), seeking approval of a long-term water supply agreement and a franchise agreement with PNB. In their April 2016 ruling, the AUC approved the long-term water supply agreement, but found that the franchise agreement was not in the public interest at the time. The AUC indicated in their ruling that they were prepared to consider a franchise agreement between Strathcona County and PNB once PNB had submitted and received approval for its rates and terms and conditions of service.

Administration has been working with PNB to revise and update the water supply and franchise agreements with the expectation that PNB would be filing a rate application with the AUC in the near future.

At the June 6, 2023, Council meeting, Council passed a motion authorizing a new updated Water Supply Agreement, which includes a \$40 per connection capital recovery charge; this charge had been intended to be collected since the County constructed a \$735,000 water line from South Cooking Lake to Northern Bear in 2012. Prior to the construction of this

water line, water was hauled by commercial haulers to the local reservoir that services Northern Bear.

Administration is recommending the County enter into an exclusive Franchise Agreement with PNB (included as Enclosure 2) to formalize the County's requirements and the terms and conditions of the privately provided water and wastewater utility services for the Northern Bear development.

Requirements under Section 45 of the *Municipal Government Act (MGA)* allow for granting rights of franchise agreements, subject to advertising and approval by the AUC.

The following activities have been completed with respect to communications/advertising:

- On June 8, administration sent letters, including background information and information on how to submit comment, to all landowners that would be affected by the proposed franchise agreement (Sample letter attached as Enclosure 3).
- Administration has advertised the intent to enter into a franchise agreement, as well information on where to get more information and how to submit comment, in the Sherwood Park News on June 16, 2023; the advertisement will run on June 23, 2023, as well (Enclosure 4).
- Background information, as well as the current draft versions of the franchise agreement and the franchise bylaw, has been accessible through Strathcona County Utilities department webpage since June 15. Information on how to submit comment to the County is included.

Administration will develop and send responses for all comments received by the deadline of June 30, 2023. It is administration's intention to include comments from stakeholders and the responses as part of the submission to the AUC, unless the stakeholder requested otherwise in their submission.

The franchise agreement will need to be approved by the AUC prior to second and third reading of the bylaw.

### **Council and Committee History**

June 6, 2023	Council approval: THAT Administration be authorized to enter into the Water Supply Agreement with Properties of Northern Bear Inc. on the terms set out in enclosure 4 of the June 6, 2023 Infrastructure and Planning Services report; and THAT enclosure 4 remain private pursuant to Sections 25 and 27 of the Freedom of Information and Protection of Privacy Act; THAT Administration apply to the Alberta Utilities Commission for approval, subject to the Water Supply Agreement being executed.
February 10, 2015	Report to Council on Bylaw 7-2015: Northern Bear Water Franchise Agreement
August 30, 2011	Third reading of Borrowing Bylaw 39-2011 was approved by Council (debt for construction of waterline to Northern Bear)
July 12, 2011	Council approved Motion 502/2011 – approving capital project to construct waterline to Northern Bear.
Various	Numerous reports and decisions all the way back to original ASP from 1991.

**Other Impacts****Policy:** n/a**Legislative/Legal:**

Section 45 of the *MGA* (Granting rights to provide utility service) enables a Council to grant a right, by agreement, to a person to provide utility service (which may enable use of the municipality's property), in all or part of a municipality for up to 20 years provided it has been advertised and approved by the AUC.

Section 46 of the *MGA* (Prohibiting other non-municipal utilities) allows for a Council to enact a bylaw making an agreement under Section 45 exclusive by prohibiting any other person from providing the same or similar utility service in all or part of the municipality.

**Financial/Budget:** N/A – the \$40 capital recovery charge per PNB connection is a charge included in the Water Supply Agreement and will start January 1, 2024 or upon AUC approval of the franchise agreement, whichever comes first.

**Interdepartmental:** Legislative and Legal Services; Planning and Development Services

**Master Plan/Framework:** N/A

**Communication Plan** – As detailed in report – Letter, Newspaper Notification, webpage

**Enclosure**

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| 1 | Bylaw 18-2023 – Northern Bear Water and Wastewater Services Franchise Bylaw |
| 2 | Northern Bear Water and Wastewater Franchise Agreement                      |
| 3 | Sample resident letter  |
| 4 | Public Notice newspaper ad  |