

## Staff Report 2022-0058

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Meeting Date: February 15, 2022

Subject: Updated Approach to Securing Broadband in Caledon

Submitted By: Erin Britnell, Director, Corporate Strategy and Innovation

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### RECOMMENDATION

That a by-law be enacted to amend the Town's 2022 Fees and Charges By-law 2021-87 as outlined in Schedule A to Staff Report 2022-0058 to include the following new fees:

- An annual fee for Municipal Access Agreements in the amount of \$5,000,
- Securities in the amount of \$25,000, and
- Public Utilities approval in the amount of \$460 plus \$0.50 per metre after 300m

That these changes take effect as of April 4, 2022; and

That funding from Capital Project #2022-126 Connecting Caledon – Broadband be utilized to hire two contract positions as outlined in Staff Report 2022-0058.

### REPORT HIGHLIGHTS

- Through the Building Broadband Faster Act, 2021, the Provincial Government, has changed how broadband projects are funded and implemented within Ontario to meet the Provincial goal of Broadband for all residents by 2025.
- To date, the Town has focused on partnering with Internet Service Providers (ISPs) on builds in Caledon, including applying for additional funding from Provincial or Federal programs. Results of these applications are expected shortly.
- However, to address any remaining gaps, the new Provincial approach does not require direct funding from a municipality, but rather focused on expediting access to municipal right of ways for Provincially funded projects through regulations.
- The Town of Caledon has heard from ISPs that they have not been receiving consistent and timely service for their access requests and permits. To respond to this feedback, the Town undertook a full process review.
- The result of this review suggested that a Municipal Access Agreement (MAA) with ISPs will improve service delivery through the collection of bulk securities, and standardized expectations for working in the Town right of ways.
- Additionally, without a need to directly fund specific projects in 2022, repurposing funding from Capital Project #2022-126 Connecting Caledon – Broadband to fund two positions will allow the Town to focus efforts on expedited service levels for the expected influx of permit applications from Provincial projects. Under current staffing levels, the proposed Provincial service levels could not be met.
- It is expected that after the first two years of funding from the Capital Project, the fees will be able to sustain the positions if they are still required to maintain the service levels.
- This project is a collaboration between Corporate Strategy and Innovation, Engineering, Operations, Customer Service and Communication and Legal staff

to address a key Council priority of ensuring all residents have access to Broadband.

## **DISCUSSION**

### **Review of Utilities Processes Results**

Since the introduction of Service Caledon, ISPs have expressed their frustrations with the level of service they received from the Town. Through conversations with Internet Service Providers, it was identified that the Town processes for municipal consent (PUCC) and road access permits were time consuming and creating several delays on projects. A Lean process review was completed of the utilities experience with the Town in 2021.

#### *The Current Process*

Utilities must get two approvals from the Town to work in the right of way. The first is considered municipal consent and this is done through the public utilities process, where the Town as well as other utilities and the Region who have infrastructure in the area must indicate if they have a conflict (existing infrastructure for example) with the proposed build. The Town then issues consent once all parties have cleared the project, and all documentation is submitted such as Letters of Credit and Insurance to the Town. Once Consent is provided a Right of Way Occupancy Permit is required for the specific dates to ensure that there is no other work occurring at the same time. Once the work is completed, the permit process also ensures that staff are notified and can inspect to ensure the site is restored to its original state.

#### *Opportunities for Improvement*

This review indicated there is a lot of variation in time for utilities to go through the process, in particular the variety in response times from the various utilities involved in the PUCC process. It was also identified that the Town was not required to facilitate this, and in fact utilities would prefer to organize amongst themselves before coming to the Town for final consent (as is done in other municipalities including Mississauga in Peel Region). Other improvement opportunities indicated were the ability to submit bulk applications for road permits and bulk security deposits would reduce the amount of paperwork required by the ISPs while ensuring the Town has what it needs to manage the right of ways.

### **Proposed Changes to the Process**

Based on the process review, the following changes are proposed to help expedite improved broadband service to residents:

#### *Municipal Access Agreements*

MAAs set out standard conditions and responsibilities for ISPs regarding the Town's right of way ensuring all infrastructure can co-exist in the limited space available. They also allow the Town to collect bulk securities in case an ISP is not in compliance of their responsibilities, where currently these are collected for each individual application. The Town is the only municipality in Peel Region without an MAA already in place. The

introduction of Municipal Access Agreements (MAAs) between the Town and ISPs is proposed to begin April 4<sup>th</sup>, 2022 to allow time for the ISPs to comply.

It is proposed that the Town's current Fees By-law #2021-87 be amended to include a \$5000 flat fee to enter into an MAA, and a \$25,000 security deposit. This is in alignment with the fees currently collected across Peel Region municipalities for these services.

#### *Changes to Municipal Consent*

It is also proposed that the responsibility for consent from other utilities is moved to the applicant utility where previously the Town was charged with facilitating these approvals. It was indicated that in this part of the process, Town involvement was adding complications to the process, rather than providing a service. This proposed change is in alignment with the process currently used at the City of Mississauga and something that Utilities indicated they were willing to take on through feedback received during the Lean review.

As part of the updated process, the Town would provide templates for utilities to gather their own consents from the rest of the utilities operating in Caledon. These consent documents would then get submitted to the Town along with their request for Municipal Consent. The Town would review these documents, along with the standard Letters of Credit, and Insurance requirements prior to providing Municipal Consent. The process will also allow utilities to work with Service Caledon to facilitate the permitting process (like the Right of Way Access Permit) to ensure a one-window type of service for the utilities.

The Town currently does not collect any fees for Municipal Consent; however it is proposed that the Fees By-law be amended to include a \$460 application fee plus \$0.50 per metre over 300m for Public Utilities approvals be introduced. This is common practice across municipalities and will help the Town to meet expedited turnaround times.

#### *Updated Right of Way Occupancy Application*

Staff require a separate Right of Way Occupancy Approval for each segment of road to allow for tracking of what section is being worked on when, ensuring necessary traffic management is in place, and the conditions are returned to pre-construction state or better afterwards. While separate permits are required, staff will be improving the application process by allowing for multiple permit requests to be submitted at once and the fees totaled and submitted as one to reduce the time required from the Utilities to complete these applications.

#### **Changes in Provincial Approach**

While the Town was undertaking the Lean Review, the Province also introduced new legislation and a new approach to tackling Broadband in Ontario, committed that everyone would have access to high speed in the Province by 2025. Fortunately, the Town's recommended approach is in line with the Provincial focus.

The Province, like the Federal government, had been focused on a funding program, where ISPs and municipalities would apply for funding to support the expansion of service. The Town had actively participated in these programs. However, in Fall 2021, the Province began to change their approach through the introduction of their own procurement process and a series of guidelines (potentially to become regulations) to expedite permitting process for right of ways, and infrastructure such as hydro poles.

### “Reverse Auction” Process

In September 2021, the Province launched a process to prequalify Internet Service Providers (ISPs) and on November 30, 2021, posted a Request for Proposals document. The prequalified ISPs will be able to submit their plans, followed by the opportunity to bid on predetermined areas as part of a “reverse auction” process through Infrastructure Ontario to propose project costs and required provincial funding to complete. The Province is expecting that projects will be awarded, and implementation will begin in Spring 2022. No municipal funding is required for this process.

### New Guidelines

As part of the *Building Broadband Faster Act, 2021*, guidelines were also provided to municipalities on November 30, 2021. These guidelines outline the Province’s intent for how this act will be implemented, including the municipal role in provincially funded projects and changes to hydro pole access arrangements.

The impacts to municipalities, including the Town of Caledon are:

- For any project where funding, in full or in part, has been provided through the Ministry of Infrastructure for the purposes of broadband access, the Minister can issue notices to municipalities requiring access to be granted to municipal right of ways.
- If an infrastructure owner, including a municipality, does not comply or creates unavoidable mistakes or delays, the Minister can issue a pay-for-delay and pay-for-redesign claims against the infrastructure owners. A delay is considered more than 10 business days for installations up to 30km and 15 business days for those more than 30km.
  - o It should be noted that the current expected turnaround for municipal consent at the Town is 30 days, and can be longer due to revisions, and for road access permits is between 5-10 business days.
- Sharing of infrastructure data related to the area of Provincially funded projects be shared by the municipality with the Province.

### Municipal Role

As a result of this Act and proposed guidelines, Infrastructure Ontario will act as the Broadband Coordinator, and the Province will take on the role of funder to support ISPs in servicing residents. The Town of Caledon’s role will move to one that focuses on expediting permit requests and ensuring data quality for infrastructure in the right of way.

This will have resource implications to Town staff to ensure a 10-day turnaround for permits and approvals is met and meet the data sharing requirements of the province. A plan for managing these implications is included later in this report.

**Addressing the Influx of Permits from Provincial Projects**

Two additional resources will be required to support the influx of permits expected from the influx of ISP projects in Caledon to meet the Provincial commitment of Broadband for all by 2025. The first is to focus on the Municipal Consent process and managing the administrative intake of consent and permit requests through Service Caledon. The second would be to hire an additional Operations Coordinator to complete inspections and manage the Right of Way Occupancy Permit end of the process. Without both roles, the Town will not be able to meet the Provincial standards of 10 days turnaround for projects under 300km and 15 days for those over 300km.

**FINANCIAL IMPLICATIONS**

It is estimated that \$300,000 of funding would be required to fund two contract positions over a two-year period (2022 to 2023) with the expectation that user fees collected would assist with offsetting the costs of these positions. Staff recommend funding these positions by reallocating \$300,000 of the \$321,622 of Broadband Levy funding in Capital Project #2022-126 Connecting Caledon – Broadband. Staff will report to Council if less funding is required based on the actual costs of the contract positions and fees collected.

If these positions are still required after 2023, a request will be made through the budget process.

**COUNCIL WORK PLAN**

**Connected Community**

**ATTACHMENTS**

Schedule A: Proposed Amendment to the 2022 Fees and Charges By-law