

Request for Decision

Title	Bylaw 1401/18 – Road Closure of Plan 762 0104 (Second and Third Reading)
Proposed Motion	<ol style="list-style-type: none"> 1. That Council give second reading to Bylaw 1401/18. 2. That Council give third reading to Bylaw 1401/18.
Administrative Recommendation	Administration recommends that Council grant second and third reading to Bylaw 1401/18. The undeveloped road allowance (Road Plan 762 0104) serves no long-term benefit to the County and can be considered surplus land.
Previous Council Direction	<p><u>April 24, 2018</u></p> <p>Motion 129/18: That Council refer Item D.8 to Administration and bring back a report to the May 22, 2018 regular Council Meeting.</p> <p><u>May 22, 2018</u></p> <p>Motion 156/18: That Council move to a closed session at 11:08 a.m. to discuss Item D.5, in accordance with section 16 of the <i>Freedom of Information and Protection of Privacy Act</i>.</p> <p>Motion 158/18: That Council give first reading to Bylaw 1401/18, Road Closure of Plan 762 0104.</p>
Report	<p><u>Background Information</u></p> <ul style="list-style-type: none"> • On December 19, 2018, the Minister of Transportation signed Bylaw 1401/18, which indicates their support for the proposed road closure. • In accordance with section 22(3) of the <i>Municipal Government Act</i> (MGA), a road closure bylaw has no effect unless it is approved by the Minister of Transportation before the bylaw receives second reading. • On July 9, 2018, Council held a Public Hearing to provide an opportunity for members of the public to present their comments to Council regarding proposed Bylaw 1401/18. At the meeting, there was one (1) submission against the proposed road closure. The reason provided was that the undeveloped road allowance provided access to their farm and that if the road was closed, they would expect that an access be provided to them.

- Administration has confirmed that both parcels directly north and south of the subject road allowance have existing field accesses.

The letter of objection and the minutes of the Public Hearing were provided as part of the submission package to Alberta Transportation for their consideration.

- On April 24, 2018, Council requested additional background information on this item.
 - Between 2015 and 2016, there were two Council Requests regarding a private gate that had been installed across the westerly access (at Range Road 203) to the County's undeveloped road allowance identified as Road Plan 762 0104 within the NE 15-57-20 W4M.
 - In March 2016, the County obtained a legal opinion regarding the gate across the County's road allowance. The County's solicitor advised that the gate should be removed because it prevented public access to a public road allowance. At that time, the County was also advised that an alternative solution could be to close the public road allowance and transfer the land to the resident needing access to his property.
 - In January 2017, Transportation Services sent the landowner located at NE 15-57-20 W4M a letter advising that he had 30 days to remove the gate from the road allowance.
 - In February 2017, the solicitor for the landowner requested that the County reconsider the removal of the gate and instead enter a License of Occupation for the road allowance.
 - In February 2017, Transportation Services advised the landowner's solicitor that the County would not support the License of Occupation and granted additional time for the gate to be removed. The County also suggested that the gate could be relocated to the landowner's property line on the eastern boundary of the undeveloped road allowance, immediately adjacent to his property.
 - In March 2017, the landowner requested additional time to relocate the gate in the spring.
 - In May 2017, the landowner met with Planning & Development to discuss closing the road and obtaining the land.
 - In July 2017, the County obtained a legal opinion asking if the County could close a road and directly sell it to a specific individual. The County's solicitor advised the County that this could be done in a two-step process: the first step would be to close the road (as per section 22 of the *Municipal Government Act* (MGA)) which requires that a road closure bylaw be advertised and that anyone who claims to be prejudicially affected by the closure be given an opportunity to be heard by Council. Once the road has been closed and a Certificate of Title is issued to the County, there is no requirement under the MGA for the County to advertise a sale at fair market value.



- In August 2017, the County and the landowner met with Alberta Transportation (AT) to discuss the proposed road closure. AT recommended that a bylaw would be preferred over a resolution, as this would allow the County to demonstrate to the Minister that it heard and considered all the positions of affected parties (i.e. Public Hearing).
- On August 31, 2017, the landowner of NE-15-57-20-W4M (NE15), applied to the County to close Road Plan 7620104 and requested that it be consolidated into his property.
- Prior to this road plan being registered, the NE15 was a land locked parcel. According to the landowner, to develop the parcel he was required to purchase the land to provide for the current public road allowance and dedicate it to the municipality (Thorhild County).
- The landowner obtained permission from Thorhild County in 1976 to place a gate across this roadway at Range Road 203 and stated that since then he has maintained this undeveloped public road allowance at his cost.
 - As a result of Order in Council 910/77, these lands were placed under the jurisdiction of Sturgeon County on September 6, 1977.
- On November 16, 2017, the County and Applicant entered into an agreement. The agreement generally outlines:
 - That the land would be transferred to the applicant for market value if the road closure is successful.
 - It clarifies that the road would be transferred on an “as is, where is” basis, and it allows the applicant the ability to test the lands to determine if it is suitable for its intended use.
 - It clarifies who would be responsible for what costs of the road closure, such as but not limited to legal, surveying and land titles registration.
 - It advises that the County is entering into the agreement in its capacity as an owner of land and not in its capacity as a regulatory, statutory or approving body pursuant to any law of the Province of Alberta.

External Communication

- Notifications of the road closures were sent to all third-party interests and parcels adjacent to the proposed closure.
- Public Hearing notifications were sent out for all adjacent landowners of the proposed road closure. The public hearing was also advertised in the local newspaper.

Relevant Policy/Legislation/Practices:

- Section 22 of the *Municipal Government Act*.

Implication of Administrative Recommendation	<u>Strategic Alignment:</u> Planned Growth and Prosperity Goal 2.3 is “Sturgeon County balances the demand for new infrastructure while managing investment in current assets”. This road is currently an asset of the County and may need to be rebuilt and maintained in the future if it is not closed. <u>Organizational:</u> Administration will coordinate the land sale to the applicant. <u>Financial:</u> The Road Closure Transfer Agreement outlines how the purchase of the road allowance will be completed. This agreement specifies an amount per acre as the purchase price of the subject land. The dollar per acre value was provided by the County Assessment Department.
Alternatives Considered	That Council does not give second reading to Bylaw 1401/18.
Implications of Alternatives	<u>Strategic Alignment:</u> Goal 2.3 is “Sturgeon County balances the demand for new infrastructure while managing investment in current assets”. If this road is deemed to be needed, it may need to be built and maintained by the County. <u>Organizational:</u> The County would have to continue to deal with the ongoing neighbour dispute over the undeveloped road allowance. <u>Financial:</u> The County would have future operational obligations which would have a financial impact.
Follow up Action	1. Administration will coordinate the transfer of the road allowance.
Attachment(s)	1. Bylaw 1401/18 2. Surveyed Road Plan 762 0104 3. Location Map
Report Reviewed by:	 Collin Steffes, General Manager, Integrated Growth  Reegan McCullough, County Commissioner – CAO

Strategic Alignment Checklist

Vision: *Sturgeon County: a diverse, active community that pioneers opportunities and promotes initiative while embracing rural lifestyles.*

Mission: *Provide quality, cost effective services and infrastructure to meet the diverse needs of the Sturgeon County community, while improving competitiveness and sustainability.*

Focus Areas	Not consistent	N/A	Consistent
Planned Growth and Prosperity			
<i>We encourage varied and integrated enterprises that enhance our strong economic base, while balancing the needs of the community and natural environment. (Strategic Plan and MDP pg. 36)</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <i>Supports a strong thriving business environment to strengthen our economic foundation</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <i>Plans for responsible growth through the MDP and regional growth plan.</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <i>Manages growth for current and future developments through: <ul style="list-style-type: none"> <i>transparent bylaws, policies and processes to enable responsible land development</i> <i>targeting growth around existing and identified future growth areas</i> </i> 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Maintain and Enhance Strong Communities			
<i>We are committed to a safe and viable community, where our residents are provided with access to opportunities and quality of life. (Strategic Plan and pg. 27 MDP)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <i>Provides access to programs and services that have a positive impact on residents' quality of life</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <i>Provides access to safe and reliable infrastructure assets</i> 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <i>Supports the safety of people and property</i> 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Strong Local and Regional Governance			
<i>We promote consistent and accountable leadership through collaborative and transparent processes (Strategic Plan and pg. 27 MDP)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <i>Provides effective leadership and management consistent with Strategic Plan, MDP, master plans, bylaws, policies, community engagement</i> 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <i>Considers fiscal stability and sustainability</i> 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <i>Fosters collaborative intergovernmental partnerships</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Community Identity & Spirit			
<i>We will build upon our strengths, where together we will create an inclusive, caring community (Strategic Plan and MDP pg. 27)</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <i>Promotes and/or enhances residents' identification with Sturgeon County</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <i>Support and/or collaborate with voluntary organizations in the region</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Environmental Stewardship			
<i>We foster a healthy environment and minimize our impact on ecosystems. (Strategic Plan and MDP pg. 27)</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <i>Plans and partnerships that minimize environmental impact on natural areas</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <i>Provides awareness of environmental issues impacting the County</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>