

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF SEPTEMBER 20, 2016

Item 27, Report No. 31, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on September 20, 2016.

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**ENBRIDGE GAS DISTRIBUTION FRANCHISE AGREEMENT
CITY-WIDE**

The Committee of the Whole recommends approval of the recommendation contained in the following report of the City Solicitor and the Director of Transportation Services, Parks and Forestry Operations, dated September 7, 2016:

Recommendation

The City Solicitor and the Director of Transportation Services, Parks and Forestry Operations, recommend:

1. That Council approve the Resolution attached to this report endorsing a draft by-law and gas distribution franchise agreement between the City and Enbridge Gas Distribution Inc. ("Enbridge") with respect to the distribution, storage and transmission of gas in the City (the "Gas Distribution Agreement"), which will be put before the Ontario Energy Board ("OEB") for approval;
2. That the Mayor and City Clerk be authorized to sign such documents or applications as are necessary to facilitate Enbridge's application to the OEB, in a form satisfactory to the Deputy City Manager of Public Works and the City Solicitor; and
3. That, once OEB approval is received, the by-law be placed on a Council Agenda for enactment.

Contribution to Sustainability

There is no sustainability impact on the City.

Economic Impact

The fees that will be charged by the City to Enbridge to enter onto City property for its gas distribution activities will offset the City's cost of administering such activities, resulting in a cost-neutral position.

Communications Plan

No communications plan is necessary for the execution of the Gas Distribution Agreement.

Purpose

To seek Council's approval to facilitate the renewal of a long-term gas distribution franchise agreement which sets out the terms under which Enbridge may distribute, store and transmit gas in the City.

Background - Analysis and Options

The City has an existing natural gas franchise agreement with Enbridge (formerly "The Consumers' Gas Company Ltd.") which is set to expire on January 13, 2017. Enbridge has contacted the City to commence the renewal process for such agreement. The renewal process requires that Council pass a resolution approving the form of a draft by-law and the Gas Distribution Agreement, after which Enbridge will initiate an application to the OEB to request an order granting approval for the renewal of the gas franchise.

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The Gas Distribution Agreement is based on a standardized agreement approved for use in Ontario by the OEB in April, 2001. The *Municipal Franchises Act*, R.S.O. 1990, c. M.55 (the "Act") provides that a by-law giving a right to supply gas and use the municipality's highways is to be assented to by the municipal electors. Under the Act, however, the OEB can, after holding a public hearing, determine that electoral consent can be dispensed with, and may declare that such assent is not required.

Enbridge has provided the City with a draft resolution authorizing the submission of an application to the OEB pursuant to Section 9 of the Act. Staff have reviewed the Gas Distribution Agreement and are satisfied that its terms, including its operational requirements, are acceptable and consistent with similar contracts between Enbridge and other municipalities. Enbridge will be charged user fees and service charges to perform its operations pursuant to the City's By-law to provide for fees and charges under the *Municipal Act* (By-Law Number 171-2013). The Gas Distribution Agreement sets out the following terms:

- The City consents to the distribution, storage and transmission of gas by Enbridge in Vaughan;
- The City grants Enbridge the right to enter upon all roads and walkways under the City's jurisdiction to lay, construct, maintain, replace, remove, operate and repair its gas system;
- Enbridge agrees to indemnify the City for all damages or injuries arising out of the operation, construction and maintenance of its gas system in Vaughan, excepting damage or injury caused by a wrongful act or negligence of the City;
- The term of the agreement is 20 years from the date of final passing of the authorizing by-law; and
- Within two years of the agreement's expiration, either party may give notice to the other that it seeks to enter into negotiations for a renewed agreement.

Relationship to Term of Council Service Excellence Strategy Map (2014-2018)

The recommendation contained in this report is consistent with the priorities set forth in the Vaughan Vision 2020 Strategic Plan, specifically:

Organizational Excellence

- Ensure a high-performing organization
- Manage growth and economic well-being.

Regional Implications

There are no regional implications associated with this report.

Conclusion

It is recommended that Council pass the Resolution attached to this report endorsing a draft by-law and the Gas Distribution Agreement and facilitate Enbridge's application to the OEB. Once OEB approval is received, the by-law will be placed on a Council Agenda for enactment.

Attachments

1. Resolution
2. By-law
3. Gas Distribution Agreement (titled "Model Franchise Agreement")

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(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)