

# FORMAL REPORT

<b>To:</b>	Mayor Strathdee and Members of Council
<b>Prepared by:</b>	Brent Kittmer, CAO/Clerk
<b>Date of Meeting:</b>	12 December 2017
<b>Subject:</b>	<b>CAO 46-2017 Enterprise Drive Land Sale (Shepherd Gourmet Dairy (Ontario) Inc.)</b>

## PURPOSE

The purpose of this report is for Council to consider a draft land sale agreement. The lands to be sold include all remaining serviced parcels on Enterprise Drive with Shepherd Gourmet Dairy (Ontario) Inc. ("Shepherd Gourmet") being the purchaser. Also included is a mutual drain agreement to transfer an existing storm water drain pipe that serves the Nutreco Canada Inc. property.

## RECOMMENDATION

THAT report CAO 46-2017 regarding the sale of land on Enterprise Drive be received; and

THAT By law 111-2017 authorizing the Mayor and the CAO / Clerk to sign an agreement of purchase and sale for lands on Enterprise Drive with Shepherd Gourmet Dairy (Ontario) Inc., and a mutual drain agreement with Shepherd Gourmet Dairy (Ontario) Inc. and Nutreco Canada Inc. be approved.

## BACKGROUND

The Town owns serviced industrial land on Enterprise Drive. These lands have been open for sale for a number of years, and presently the only business that has purchased lands is Shepherd Gourmet.

Shepherd Gourmet has seen a significant growth in their business in the past few years. The business is forecasting that they will need to expand their production facility, and is looking to secure their future in St. Marys. As a part of their business planning they approached the Town to request an opportunity to negotiate a land sale option agreement. The lands affected were the two remaining parcels on Enterprise Drive (Part 3 and Part 4).

Council agreed to the option agreement and on July 26, 2016 passed the following resolution:

**2017-07-26-54** THAT Council delegates authority to the CAO / Clerk to negotiate and finalize an option of land sale agreement with Shepard Gourmet Dairy; and

THAT the Mayor and the CAO / Clerk be authorized to sign the land sale option agreement with Shepard Gourmet Dairy for the purchase of parcels located on Enterprise Drive.

The Option Agreement provides Shepherd Gourmet up to September 30, 2020 to have first right of refusal to purchase the lands. As a condition of the Option Agreement the Town was required to complete a Phase II environmental assessment of the site. This work was completed throughout the summer of 2017, and the lands were given a clean bill of health.

## REPORT

On November 13, 2017 Shepherd Gourmet contacted the CAO / Clerk to advise that they were exercising their option to purchase the lands on Enterprise Drive. With that notice, the land sale process

now takes effect. In general, the following steps are contemplated in the Option Agreement with Shepherd Gourmet:

- A second deposit of \$10,000 to be submitted by Shepherd Gourmet. This will bring total deposits to \$20,000 which will be deducted from the sale price.
- The deal needs to close within 40 days, or no later than December 23, 2017.
- SGD now has 20 days to examine title, or up to December 3, 2017.
- Town to prepare documents to effect the transfer.

A draft agreement of purchase and sale has been negotiated for this land sale based on the Town's standard sales agreement. The draft agreement is attached, and the following are the key points:

- The full price of the lands are to be paid once the transfer agreement is signed. The cost of land has been set at \$52,000 per acre or an aggregate cost of \$203,909.68 for both parcels.
- The Town shall provide the land free of encumbrances, except as noted in the agreement in respect to the transfer of an existing drain on the property that serves Nutreco.
- The Town is allowing the lands that are purchased to be used for a use that is ancillary to the existing SGD production.
- Shepherd Gourmet cannot, within 10 years of the transfer, sell any vacant lands that they may own without notifying and receiving approval from the Town.

A complicating factor in this land deal is the presence of a municipal storm drain which runs through a small portion of the land that the Town will sell to Shepherd Gourmet. This storm drain collects surface run-off from Nutreco Canada Inc. (Shur-Gain) and deposits it into the storm system located on Enterprise Drive that then outlets to the local Town owned storm pond.

Staff and representatives from Shepherd Gourmet and Nutreco and have come to a common understanding that this drain can be dealt with under a mutual drain agreement between the three parties. The drain agreement sets out that the drain will now be owned by Shepherd Gourmet up to their property line, and that they agree to keep it in good repair so that Nutreco may still benefit from it. This agreement has been attached to this report for Council's information. Once signed, the agreement will be registered on title so that it runs with the land.

## **SUMMARY**

It is staff's recommendation that Council enact the necessary by-laws to give authorization to the Mayor and the CAO/Clerk to sign both the land sale and mutual drain agreements.

## **FINANCIAL IMPLICATIONS**

The aggregate value of the land being sold is \$203,909.68. During the sale process the Town has incurred \$15,000 for the Phase II environmental assessment. Legal fees will also be incurred for the sales process.

## **STRATEGIC PLAN**

☒ This initiative is supported by the following priorities, outcomes, and tactics in the Plan.

- Pillar #5 Economic Development: Industrial Strategy
  - Outcome: Seeking new opportunities to attract small, medium, and large industry is in the Town's best interests as part of its growth strategy. Increased focused on industry retention as part of the overall strategy.
  - Tactic(s): Build a retention plan, identify elements needed to ensure business stay and grow in the community.

## **OTHERS CONSULTED**

Mr. Stew Cardiff, Shepherd Gourmet Dairy  
Mr. Kevin Weppler, Nutreco

## **ATTACHMENTS**

1. Draft Agreement of Purchase and Sale with Shepherd Gourmet Dairy (Canada) Inc.
2. Draft Mutual Drain Agreement with Shepherd Gourmet Dairy (Canada) Inc. and Nutreco Canada Inc.

## **REVIEWED BY**

### **Recommended by the CAO**



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Brent Kittmer  
CAO / Clerk