



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Economic Development Division**

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	August 10, 2015
<b>SUBJECT/REPORT NO:</b>	Cell Tower Lease / Declaration of Surplus and Sale of Easement and Right of Way between City of Hamilton (Lessor) and Globalive Wireless Management Corp. (Carry On Business as WIND Mobile Inc., Lessee) on part of 14-24 Sherwood Park Road, Stoney Creek (PED15113) (Ward 10)
<b>WARD(S) AFFECTED:</b>	Ward 10
<b>PREPARED BY:</b>	John Hamilton (905) 546- 2424 Ext. 7045
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATIONS**

- (a) That part of the subject lands, designated as Part 1 on Plan 62R-20104, forming part of 14-24 Sherwood Park Road, Stoney Creek, having an area of approximately 7 square metres (75 square feet) as shown on Appendix “A” attached to Report PED15113, being Part of PIN 17350-0081 (LT) be declared surplus to the requirements of the City of Hamilton in accordance with Procedural By-law 14-204;
- (b) That an Offer to Purchase (Easement) by Globalive Wireless Management Corp., scheduled to close on or before October 1, 2015, for the easement land described in Recommendation (a) to Report PED15113, be approved and completed at the price of \$2 (excluding HST);
- (c) That a Lease with Globalive Wireless Management Corp. over the land described as Part 2, Plan 62R-20104 to erect a 35 metre high cell tower camouflaged as a shrouded monopole (flagpole) capable of co-sharing with another carrier, substantially based on terms and conditions outlined in Appendix “B” attached to Report PED15113, and any other terms and conditions deemed appropriate to the General Manager, Planning and Economic Development, be approved;

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- (d) That a Right of Way for Globalive Wireless Management Corp. over the land described as Part B, Plan 62R-20104 to provide vehicular access to the tower compound area be approved;
- (e) That the Lease proceeds be credited to account number 46083-205300 and transferred to Ward 10 Capital Reserve Fund 108034;
- (f) That any costs related to the Lease, including Real Estate and Legal Fees (\$6,836) be funded from Account No. 46083-205300 and credited to Account No. 45408-3560150200; and,
- (g) That the Mayor and Clerk be authorized and directed to execute the necessary documents, in a form satisfactory to the City Solicitor.

**EXECUTIVE SUMMARY**

This Report seeks Council's approval to enter into a new Lease Agreement with Globalive Wireless Management Corp. (carrying on business as WIND Mobile Inc.) at 14-24 Sherwood Park Road, in Stoney Creek for the purpose of erecting and operating a cell tower. Such Lease will require associated easement for hydro power and a right of way for access purposes.

***Alternatives for Consideration – N/A***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The cell tower will provide a new long-term source of revenue, escalating annually, to the community. The net Lease proceeds will be credited to Account No. 46083-205300 and transferred to Ward 10 Capital Reserve Fund 108034.

The sale price of \$2 does not include the HST; if applicable the HST will be credited to Account No. 22828 009000 (HST Payable).

**Staffing:** There are no increases to staff levels associated with the recommendations of this Report.

**Legal:** Legal Services Division will be involved in the development of the Lease Agreement through to its completion.

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## **HISTORICAL BACKGROUND**

The initial Telecommunications Tower and Antenna Protocol approved by Council on August 13, 2009 guides the design and siting of new telecommunications facilities within the City of Hamilton. Included in the protocol are special instructions for cell towers on City-owned property.

In September 2013, WIND Mobile Inc. submitted an application to the City to erect a cell tower at Sherwood Park. Various locations were examined until ultimately the final site, part way between the rear of the arena and the soccer fields was selected. The proposed 35 metre tower will be a flagpole design with a landscaped and fenced compound area that meets all the criteria of the City's telecommunications protocol.

WIND Mobile Inc. will have a right of way to access the site for service vehicles as well as an easement (Part 3) for fibre and hydro.

The recommendations comply with the intent of the Telecommunications Tower and Antenna Protocol. This tower is located away from residential uses and will be camouflaged as a flagpole. Revenue earned will remain within the Ward for use within the neighbourhood.

## **RELEVANT CONSULTATION**

- City Manager's Office, Legal Services Division;
- Public Works, Environmental Services Division; and,
- Ward Councillor

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

WIND Mobile Inc. wishes to erect a new, 35 metre cell tower together with an equipment compound within the area defined as Part 2 on Plan 62R-20104, as shown on Appendix "A" to Report PED15113. The proposed tower will be camouflaged as a flag-pole and is designed for co-sharing, thereby preventing the need for additional cell towers in this vicinity; all antennae will be hidden within the flag-pole. The compound area will be enclosed with a cedar fence and landscaped for aesthetic reasons to help prevent vandalism.

WIND Mobile Inc. is requesting a long-term lease commitment on Part 2, together with an associated right of way over Part 3, Plan 62R-20104 with an easement over Part 1, Plan 62R-20104 to facilitate this communication tower. The compound is located at the rear of the Sherwood Park Arena, west of the soccer fields and away from residential / recreational uses. The flagpole design should disguise the cell tower to mitigate

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concern by area residents. WIND Mobile Inc. will require an easement over the existing paved driveway (Part 1) to extend hydro services and fibre to the compound area. The utility easement will be a short distance from the compound to a nearby hydro pole.

The Lease will allow WIND Mobile Inc. to provide improved coverage in a developing Hamilton area and, more importantly, it will enable them to handle the increased capacity it has experienced since the advent of smartphones.

By adopting the recommendation(s), the City will have secured a long-term revenue source at rates that are considered at the top of the market. Revenues earned will escalate annually at 3% and will remain within the Ward for use locally within the neighbourhood.

Real Estate staff considers the terms and conditions of the agreement to be fair, reasonable and at market value. The Ward Councillor is aware of the pending transaction.

#### **ALTERNATIVES FOR CONSIDERATION**

N/A

#### **ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN**

##### **Strategic Priority #1**

A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

##### **Strategic Objective**

- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

##### **Strategic Priority #2**

Valued & Sustainable Services

*WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.*

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### **Strategic Objective**

2.3 Enhance customer service satisfaction.

### **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" - Location of Proposed Easements Map

Appendix "B" - Major Terms and Conditions

JH/sd