LRT Right-of-Way Cost and Risk Sharing

Recommendation:

That the June 7, 2017, Sustainable Development report CR_4267, be received for information.

Report Summary

This report outlines the background and framework for sharing the costs for LRT right of way between the City and benefiting local landowners in developing areas.

Previous Council/Committee Action

At the November 23, 2016, Urban Planning Committee meeting, the following motion was passed:

> That Administration continue to require dedication of LRT right of way at the time of subdivision as authorized by the *Municipal Government Act*, and pursue a mechanism for cost and risk sharing, as outlined in Option 3 of the November 23, 2016, Sustainable Development report CR_3974, and provide a report to Committee.

Report

The *Municipal Government Act* enables land dedication and construction costs for arterial roadways to be cost-shared by benefiting developers and the City through the Arterial Roads for Development Bylaw. The *Act*, however, does not currently enable a similar levy or Bylaw to be established to distribute the costs of LRT land dedication among benefiting landowners. Recognizing this difference, the City requested that the Province of Alberta enable municipalities to assess an off-site levy for land required for LRT and thereby distribute the land costs among benefiting developers. To date, the Province has not agreed to amend the *Municipal Government Act* for this purpose.

The City's current practice is to acquire LRT right of way via dedication (at no cost to the City) as a condition of subdivision in developing areas, or via purchase and expropriation in developed areas. The burden then to provide LRT right of way in developing areas is carried solely by those developers who own the land needed for LRT right-of-way.

The position of Urban Development Institute is that landowners be compensated by the City for the dedication of LRT right of ways. Recently, one developer challenged the City at the Subdivision and Development Appeal Board and through the Alberta Court of Appeal over the acquisition of LRT right of way via the subdivision process.

The November 23, 2016, Sustainable Development report CR_3974 LRT Right-of-Way Land Acquisition outlined three options to address the acquisition of LRT right of way. Administration recommended the first option whereby the City would continue its practice of acquiring LRT right of way via dedication as a condition of subdivision in developing areas, and via purchase in developed areas. Acknowledging that the City incurs the cost of constructing and operating the LRT and in the absence of an enabling levy, Administration also recommended that it pursue a voluntary arrangement whereby landowners benefiting from the City's investment in LRT infrastructure, share the costs of providing the right of way. Urban Development Institute advocated for the third option, which would have the City and developers share the costs of land for LRT right of way.

Administration met with developers with land holdings adjacent to LRT right-of-way in January 2017 to discuss a possible cost and risk sharing agreement for the acquisition of LRT right-of-way in developing areas, and possible legal mechanisms for the acquisition of LRT right-of-way at the time of subdivision.

Developers identified the following risks borne by developers abutting/adjacent to LRT:

- uncertainty that the LRT corridor and station locations may be revised
- Uncertainty in the marketability and suitability of a transit oriented zoning, subdivision and built forms when LRT is unfunded and without initial frequent transit service.

Discussions with developers identified the following possible approach to cost sharing with the City:

- cost sharing between the City and landowners in developing areas reflects the benefits to the City at large and the benefits to local area developers
- affected developers would sell land required for LRT to the City at 50 percent of fair market value; and outside their own contribution recover the remaining land costs on a proportional basis from other benefiting owners included in a defined catchment area as they subdivide or develop their land
- as mutually agreed, the City's share could be in cash or in land exchange
- cost sharing among benefiting owners would be arranged through a private owners' agreement. While such an agreement is voluntary and some (minor) owners may not participate, the expectation is that the majority of owners in the catchment area would participate. The owners directly impacted by the LRT land requirements would take the lead in establishing the owner's agreement
- the owner's agreement would be similar to the Arterial Roads for Development program, administered by the City on a fee basis

- the principles, management, and administration of a voluntary cost sharing arrangement would be set out in a non-binding Memorandum of Understanding between the City and Urban Development Institute
- An amendment to *The Way We Grow* Municipal Development Plan would be required to add policy to direct the Subdivision Authority to acquire LRT right of way in developing areas at the time of subdivision via purchase.

The above approach acknowledges the shared risks and benefits of right of way provision between the City at large and local area developers. It does not address the concept of value capture, recognizing that while local area landowners benefit by being proximate to the LRT, there is not a full understanding of costs nor benefits.

At the time of writing, Administration had initiated discussions with the Province of Alberta to enable an off-site levy for LRT right of way through the City Charter framework. Administration will provide an update at the time Committee considers this report.

Policy

The Way We Move, Edmonton's Transportation Master Plan:

> Strategic Objective 5.1 The City will pursue expansion of the LRT to all sectors of the city with a goal to increase transit ridership and transit mode split, and spur the development of compact, urban communities.

Risk Assessment

Risk Element	Risk Description	Likeli-hood	Impact	Risk Score	Current Mitigations	Potential Future Mitigations
Legal	Potential subdivision appeals or litigation with dedication requirement	5	2	10	LRT network plans identifying need for LRT corridor.	Development of concept plans for all LRT lines.
Public Liability	Corridors of undeveloped public lands could result in instances of City liability	1	2	2	Routine maintenance	Develop shared use paths in advance of LRT to provide active space and increased public surveillance

Budget/Financial Implications

Subdivision of lands adjacent to proposed LRT alignments would likely occur before capital funding is identified for LRT extension. As such, a funding source would need to be identified in order to carry out the cost-sharing arrangement suggested by developers. As each subdivision is registered, the City would purchase right-of-way within a reasonable time-frame such as one to two years.

Detailed planning has not been completed for all LRT extensions and greenfield land costs have not been quantified. Strategic level cost estimates of future LRT right of way lands requirements in developing areas are:

- Capital Line extension south to Heritage Valley - $4 Million
- Capital Line extension northeast to Gorman - $6.5 Million
- Metro Line extension northwest to Henday - $5 Million

Legal Implications

Pursuant to Sections 661 and 662 of the *Municipal Government Act*, a subdivision authority may require the dedication of land required for roads and public utilities as a condition of subdivision approval, provided the land to be provided does not exceed 30 percent of the land area. If applicants seeking subdivision are opposed to the use of this authority, they have a right to appeal to the Subdivision and Development Appeal Board and ultimately the Alberta Court of Appeal. Because land required by dedication for roads and public utilities must fall within 30 percent of the area of the parcel pursuant to the *Municipal Government Act*, it may not always be possible to require full dedication of LRT right-of-way without compensation.

Metrics, Targets and Outcomes

Metrics	Targets	Outcomes
• Greenfield future LRT in the range of 8-10 km within current city boundary. • Arterial Roadway Assessment land rates at $741,000 per hectare in the southwest; $555,000 per hectare in northeast.	No Target	• Infrastructure is in place to support residential densification and non-residential development • Transit network is well-integrated.

Others Reviewing this Report

- T. Burge, Chief Financial Officer and Deputy City Manager, Financial and Corporate Services
- A. Laughlin, Deputy City Manager, Integrated Infrastructure Services