
County of Wetaskiwin No. 10

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MOUNTAIN SHORES LAND VENTURES LTD. QUESTIONS AND ANSWERS September 25, 2015

The following information is intended to provide and clarify details regarding several matters concerning the Dorchester Recreation Resort Development by Mountain Shores Land Ventures Ltd. (MSLV). These matters will be discussed including the Escrow Agreement, status of the RR-11 South, Park Model Recreational Units and through these discussions, a Progress Report will be provided.

Escrow Security for the Local Improvements:

First of all what is an Escrow?

“An Escrow is a bond, deed or other document kept in the custody of a third party, taking effect on when a specified condition has been fulfilled.”

In this case, there are actual funds kept by a third party escrow agent to ensure payment for work done and outstanding local improvements. These funds are only released by the escrow agent upon work verified by the engineer working on behalf of the Developer, Mountain Shores Land Ventures Ltd, and the engineer on behalf of the County.

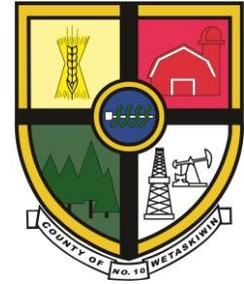
Due to the broad nature of the proposed development of the Dorchester Recreation Resort development and as well RR-11 South by Mountain Shores Land Ventures Ltd. (developer Patrick Lough) and his general contractor, it was recommended through legal advice to establish an Escrow.

At the beginning of the project Mountain Shores Land Ventures Ltd. provided funds in the amount of 6.5 million dollars for the Escrow.

The developer and developer’s general contractor, Tyran Transport Ltd, commenced work under the Escrow during July, 2014. Work performed previously by KMK Contracting and Mountain Shores Land Ventures Ltd., were also covered under the Escrow. From that time forward, work was undertaken and payments were made through the Escrow agreement until Mountain Shores Land Ventures Ltd and Tyran Transport ended their working relationship in the early part of 2015.

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Why are the Escrow Funds not being released to pay for work that has been done?

When MSLV and Tryan Transport Ltd. ended their working relationship, the legal representatives for Tyran Transport Ltd., provided a written statement that all funds in the Escrow be froze until such time as a claim by their clients with MSLV was resolved. More recently, the parties have been working in the court system to allow the release of a portion of the Escrow funds identified as an amount not claimed by Tyran Transport Ltd. Currently, there is 1.7 million that has been directed through the courts to be released to a new Escrow Agreement. To-date, the new Escrow agreement between MSLV and the County has not been completed and is in the hands of both legal counsels.

As of this date, how much remains in the Escrow?

There currently remains 4.2 million with 2.5 million of this amount still under dispute by MSLV and Tyran. On September 24, 2015 Tyran conditionally released the remaining 2.5 million escrow. The County is working with Tyran to fulfill the conditions and create new agreements which are required.

The County had also asked that calculations be done to show up-to-date costs and any additional work over last year's estimates and as a result, another 1.6 million has been identified by the engineers for MSLV to cover additional costs over the original estimates in the first Escrow. This amount is necessary and must be provided by MSLV to cover all remaining work for the project including RR-11 South preparation and pavement.

It is critical that the new Escrow contain all the funds needed so that there is enough money to complete the work necessary for the subdivision and RR-11 South. Commencing an Escrow with only 1.7 million available would potentially leave the project partially complete if no further funds are secured by the developer it would put County ratepayers at risk if the County is required to complete the project. Having a fully funded Escrow will provide assurance to any contractor that the funds are there for the work that they have or will do in the future.

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What is the timing for completion of RR-11 South and what are the interim steps to keep the road passable?

The contractor is relying on payment from the new Escrow Agreement before completing any further work. The Escrow Agreement will ensure that there is payment for the road contractor and other contractors who have completed or are going to complete the project. If the Escrow funding and Agreement is in place by the first of October and pending weather conditions, the road contractor will bring approximately one mile of the road south of Highway 13 to a pre-paved standard by the end of the 2015 construction season.

What are the plans for the completion of the Internal Roads within the Subdivision?

These roads will be completed within the Developers construction schedule but subject to the execution of the new escrow agreement(s). The funds for the completion were also within the previous Escrow Agreement and will be contained within the new Escrow Agreement.

Why doesn't the County simply complete the work?

Costs of this nature are project driven by the developer and are the responsibility of the developer. The costs of undertaking this project by the County would result in a major burden on all County taxpayers. This has not been allocated in the County budget that is necessary to look after all of the County's roads. It should be noted that a major tendering process would be necessary if the County were to complete the outstanding work.

A Development Agreement has previously been entered into between the County and MSLV with binding obligations borne out of the conditions of the subdivision approval and steps with legally binding timeframes must first be taken both in the Development Agreement and existing Escrow Agreement prior to any takeover of the funds and project.

Why was a Stop Order issued to turn off the Water and why on a Friday afternoon?

At approximately 2:50 p.m., Friday, September 18, 2015, a County employee, had returned from an inspection at the Dorchester Recreation Resort development and reported to County

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Administration that during his inspection that afternoon he had observed that sewage effluent had overflowed the vault compartment of the lift station (photographs were taken).

It was also reported that water connections from the temporary water plant to several recreation units had also been noticed that afternoon and this may account for the increased flow to the lift station vault. It was recognised that the County had not received any proof of water line testing or chlorination from the developer. This raised public safety concerns on both the quality of water that people may be receiving from the developer's temporary water plant and sewer discharge from the lift station vault onto lands that eventually drain into the Battle River.

It was decided that a written Stop Order would be issued to Mountain Shores Land Ventures Ltd. as soon as possible. The order was completed that afternoon and emailed to Patrick Lough, CEO and Director of Mountain Shores Land Ventures Ltd. by 4:45 p.m., Friday, September 18, 2015 and its receipt confirmed by Patrick Lough at approximately 6:00 p.m. that evening. It must be emphasised that an Order concerning a matter of public safety must be issued as soon as possible and not left until the next working day (that would have been the following Monday).

At approximately 10:00 a.m., Saturday, September 19, 2015 the County's Director of Planning and Patrick Lough of MSLV were able to reach each other by telephone and Patrick Lough confirmed that he would be turning off the water to the respective units and arranging for a process to test and chlorinate the water lines and temporary water plant. He indicated that he understood why it was necessary to do so. Patrick stated that they had allowed the connections approximately two weeks ago anyway but subject to a letter delivered to the lot owners stating that the water was not potable. Further, he would resolve the issue by keeping everyone informed and placing a notice to everyone in the subdivision to ensure they were aware that the water had to be turned off, would turn off all curb stops and begin arrangements to have Spearhead Contracting and BI Pure Water to do the testing and chlorination and County officials to be present. He estimated this would be done by the following Monday, Tuesday or Wednesday. The sewer lift station vault would also be pumped out. (At the time of writing this document the County has not been asked to be present during any water testing nor has it received any paperwork in regards to the water system.)

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Later that Saturday morning, Patrick Lough called the Director of Planning to confirm he was continuing with the process he had described and confirmed the wording of a notice he was going to deliver to the lot owners. The County will continue to be in communication with Patrick Lough regarding the matter.

Until such time the issue has been resolved, no water can be provided to the lot owners either through the temporary water plant or directly from the well without proper permits from both the County and Alberta Environment.

Is the Lift Station Operable?

Yes, the lift station is operable, however, it is required that the lift station vault be emptied and cleaned for inspection and to ensure it does not overflow until such time the entire south side regional wastewater line is operational.

Land Use Districting and Zoning:

The lands set aside for Recreation Vehicles is districted/zoned as Recreational (R) and this zoning was approved in June, 2012 to accommodate the use of the lots by recreation vehicles. A portion of the development area remains as Urban Residential for future cabin and residential development. Only Recreation Vehicles including Park Model Trailers and Recreational Units are allowed as a land use within the Recreational district. Mobile Homes, Modular Homes and Traditional Single Family Homes of conventional construction are allowed within the Urban Residential district. The Urban Residential district will contain services including gas that is suitable for these homes while the Recreational district does not contain gas service or suitable utility service installations (water and wastewater) for year round use.

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Park Models vs Mobile Homes

The County continues to work with MSLV to provide a solution for those lot owners who have purchased the 14 X 44 Mobile Homes (these units are not Park Models and therefore not recreational units). Administration has provided Council with a summary of options and Council has directed Administration to work with MSLV to find a solution. At this point, Administration has met with Robert Riddett (on behalf of MSLV) to outline some of the options which includes relocation of the units or rezoning of a block of lots within the currently zoned Recreation development. In the interim, the County is issuing temporary permits for storage of these units.

Development permits are still being issued for all Recreation Vehicles and Park Models (50 sq m or less) as a discretionary use in the Recreation district.

Contact Information

We hope that this information has provided some in-sight on the matters respecting the Dorchester Ranch Recreation Development. Should you have any questions, please contact Rod Hawken, Assistant County Administrator at 780-361-6235.