



**Meeting Date:** May 18, 2022

**Submitted by:** Rob Cascaden, P. Eng – Director – Public Works and Engineering

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**Report No:** PWE 21-2022

**Subject:** EH!tel Networks Inc. Municipal Access Agreement

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**Recommendation:**

THAT Report PWE-17-2022, re: EH!tel Networks Inc. Municipal Access Agreement be received;

AND THAT a by-law be approved for the purpose of approving the Municipal Access Agreement between the Municipality of Middlesex Centre and EH!tel Networks Inc.;

AND FURTHER THAT the Mayor and Clerk be authorized to execute the Municipal Access Agreement on behalf of the municipality.

**Purpose:**

To obtain Council approval for the Municipal Access Agreement between the Municipality of Middlesex Centre and EH!tel Networks Inc.

**Background:**

EH!tel currently operates telecommunication and internet services. To support any expansion and to ensure a clear understanding of roles and responsibilities staff proactively engaged with EH!tel to establish a Municipal Access Agreement.

**Analysis:**

Public road allowances are an important resource providing both a right-of-way for public passage and utility corridors for telecommunications, gas and hydro companies as well as for municipal services such as sewer, water, street light and traffic signal infrastructure. Authorized utilities operating under Federal or Provincial legislation have an inherent right-of-access to public road allowances even though they are under the Municipality's jurisdiction. The Municipality, as the owner and maintainer of public road allowances, has the legal obligation to manage access to this important shared resource.

The Municipality manages its road allowances through the following means;

1. The [Municipal Right of way bylaw](#) which establishes basic rules and operational criteria for public road allowances owned by the Municipality;
2. Operating agreements with utilities such as Municipal Access Agreement with telecoms and Franchise agreements with gas companies;
3. Approving and coordinating utility plant construction through the [Utilities Construction Request & Authorisation Form](#);
4. Regulating construction on road allowances through [Road Occupancy Permits](#),
5. Encroachments, through the [Encroachment Agreements bylaw](#); and
6. Infrastructure and utility standard locations through the [Municipal Design Standards](#)

Telecommunication carriers (telecoms) such as EH!tel Networks Inc. (EH!tel) operate under the federal Telecommunications Act, 1993, C.38 and are regulated by the federal Canadian Radio and Telecommunications Commission (CRTC). Section 43 of the *Telecommunications Act* grants telecoms the right to “*enter on and break up any highway or other public place for the purpose of constructing, maintaining or operating its transmission lines*”. Although there is no legislative requirement to do so, the CRTC recommends that all telecoms and municipalities enter into a Municipal Access Agreement (MAA) which sets out terms covering rights and obligations of both parties where telecoms operate within municipalities. Such agreements are now common in Ontario and across Canada.

The proposed MAA defines terms and conditions and sets out responsibilities for both the Municipality and EH!tel. A key feature of the agreement for the Municipality is the relocation cost formula.

The pro-rated formula being proposed is unique to MAA’s used in Ontario but is in keeping with the spirit of CRTC decisions regarding such clauses. Specifically, the formula requires the Municipality to pay 100% of EH!tel’s relocation costs for the first 3 years of newly installed plant, then declines until year 17 beyond which EH!tel is responsible for the full relocation costs. The clause puts an onus on the Municipality to ensure approved plant locations do not have to be relocated “prematurely” (i.e. within the first 17 year time span), but protects the Municipality from having to pay to relocate EH!tel’s legacy plant.

The MAA agreement with EH!tel will also address areas regarding restoration, submission of as built drawings, the holding of securities, and the requirement for municipal permits to allow work within the Municipal right of way.

### **Financial Implications:**

EH!tel will be required to submit permits and drawings in accordance with Municipal requirements including all permit fees as may be amended by Council from time to time.

EH!tel will also be required to pay the Municipality a per km fee for new infrastructure to cover causal fees for the life time of the agreement (20 years). These fees are to cover the administrative effort required of Public Works and Engineering to review and monitor work undertaken in the Municipal Right of way on EH!tel's behalf.

**Strategic Plan:**

This matter aligns with following strategic priorities:

- Responsive Municipal Government

Staff through proactively engaging with EH!tel Networks Inc., have secured a Municipal Access Agreement providing clear and concise roles and responsibilities for each party as well as ensuring cost recovery for the Municipality regarding efforts required to review and monitor EH!tel construction activities.

**Attachments:**

A1 – EH!tel Networks Inc. Municipal Access Agreement