

FOREST HILL
village

Members of Council

Tuesday, December 5, 2017

Re: December 5th Council Meeting – Item PW24.3

Dear Councilor's

We learned yesterday by way of the attached article, that Council will this week consider Item PW 24.3, a proposal by Councilor Paula Fletcher suggesting that 50% of the cost of underground utility locates be henceforth allocated to BIAs, including some locates conducted outside a BIA's boundary. The article also speaks to the many reasons Council should not adopt Councilor Fletcher's proposal.

Given the information before the Forest Hill Village **BIA**, it seems inappropriate for Council to adopt any proposal that levies, in full or in part, the cost of locates to a **BIA**. This communication has been addressed to Councilors' Mihevc and Matlow to ask that they speak on our behalf.

Kind Regards,



Peter McClelland,
Chair, Forest Hill Village BIA



ON1Call Developments Update December 5

ON1Call Update - recent developments. December 5.17

For those BIAs being swamped with costly demands for locates, here's the latest from City Council.

The matter was brought before Council two weeks ago but was shelved due to an overloaded agenda. It is being returned this week (December 5, 6, 7) when Council meets again.

In the meantime, what is unfolding behind the scenes is a proposal by Councillor Paula Fletcher to have the matter of locates be assumed by the City which previously provided this service. However the new arrangement Fletcher proposes is to split the cost of this exercise 50/50 with the BIAs.

Let's review some relevant facts and background on this matter.

To begin, it should be understood the term 'locates' refers to the 'marking' of a location on the surface of Toronto's streets. This 'marking' denotes that an underground installation is 'located' beneath the surface marked. This marking is termed a 'locate'.

- There are companies that provide such 'marking of locates' for a fee.
- This marking of locates is required before any excavator is given permission by the City to dig (for obvious reasons). This procedure has been in play for many years and the City has been providing/paying for the locate marks.
- However, the province passed a Bill intended to address some previous inconsistencies and problems. (Bill 8). Once passed, an agency was formed to implement the new requirements of this Bill and this provincial agency was named ON1Call.
- The process now requires an excavator to contact ON1Call and seek information on where it's safe to dig.
- The bureaucrats at ON1Call met with John Kiru of TABIA and Mike Major of



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the city's Office of Economic Development and somehow convinced these two individuals to bring the BIAs into the picture.

- Kiru and Major called a meeting (which included the ON1Call personnel) where several BIA staffers attended. These BIA staffers attended to hear what was to be addressed - not to express any comments, agreements, rejections or concerns - simply to listen.
- Kiru and Major proceeded to instruct the staffers that this was a requirement under provincial statute and the BIAs had to comply. (This was not correct, but no one challenged their message; remember, they were addressing staff).
- Kiru and Major also made some vague promise to re-visit this matter in the future.
- This 'new' responsibility resulted in the ON1Call agency dumping all requests for locates by excavators unto the BIAs which were now expected to 'hire' experts to go around and mark their respective roads and sidewalks. At BIA cost.
- Every such marking meant the BIA had to pay for this 'locate' service. Another unwelcome burden that resulted is that, when an application to dig is made, the request is directed to the nearest BIA whether the excavation is within their boundaries *or not*.
- In other words, if the proposed excavation is within 2 - 3 blocks *outside its boundaries*, a BIA is *still expected to respond because it's the closest* This results in almost half the locate demands made to a BIA being outside its boundaries!
- This injustice is further exacerbated when one considers that *Toronto is the only municipality* in Ontario which has off-loaded this costly millstone unto its BIAs. This injustice saddles 29 of Toronto's 44 wards. The other 15 wards are exempted because they do not contain any BIA. Instead, any locates required within these 15 (non-BIA) wards are addressed by the city (as it should be for all.)

This affliction has caused some BIAs to complain to their Councillors. A staff report was requested by Council and that's where we now find our issue - the staff report has precipitated discussion and a proposed resolution to split the aforementioned costs 50/50 with the BIAs. (This may appear as a benefit to the BIAs - it's not. It lightens, but leaves most of, the burden in place).

Currently, BIA Buzz is distributing this message to all City Councillors asking that this obligation be completely removed from BIA responsibility. Totally removed. Returned to City responsibility - since it's a public realm matter.

Our position is that all underground assets belong to the City (or the utility

companies which installed them); not the BIAs. The legal definition of asset cannot be stretched to argue these are 'BIA assets'. The correct legal interpretation is that they could be described as BIA chattels - but cannot be considered "assets." Once such installations are permanently in place, they become city property. Regardless of who paid for the installation, they are now city assets.

Bill 8 does not apply here. Nor was it intended to include BIAs.

City Council should do the right thing; accept jurisdiction and correct this injustice.

We hope this happens at this week's Council meeting. In the meantime, all BIAs are urged to speak to their respective Councillors and ask them to vote accordingly. This is budget time and AGM time and the Councillors are bound to be in contact.

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