



CITY OF KINGSTON
REPORT TO COUNCIL

Report No.: 12-187

TO: Mayor and Members of Council

FROM: Hal Linscott, Director, Legal Service
Denis Leger, Commissioner, Transportation, Properties & Emergency Services

RESOURCE STAFF: Peter Huigenbos, Acting Director, Real Estate & Construction Services

DATE OF MEETING: July 17, 2012

SUBJECT: Belle Park Drive – Approval to Commence Expropriation

EXECUTIVE SUMMARY:

This report recommends that staff be authorized to commence expropriation proceedings for a section of the former CN corridor north and south of Belle Park Drive east of Montreal Street.

The acquisition of lands required to facilitate the capital work for the leachate management and stream channelization upgrades is a priority. A portion of lands required for this project at the top end of the former corridor was acquired in 2011 from a separate owner. Expropriation from a second owner is being recommended to acquire the lands necessary for the critical work. Staff have been trying unsuccessfully for the past year to contact the owner. Negotiations for balance of the corridor may be possible as an outcome of final settlement however, only the portion identified as necessary for the capital works is appropriate for acquisition by expropriation at this time.

RECOMMENDATION:

THAT the Director of Legal Services be authorized to commence expropriation proceedings against the property described as Part of Lot 19, Plan B-3, and Part of Farm Lots 1, 2, 3 and 4, Concession West of the Great Cataraqui River, in the City of Kingston designated as Part 1 of 13R-13584 and Part 1 of 13R-13627 and to complete or settle the expropriation with funds from the capital budget allocated for the Belle Park Solution in conjunction with attempts to acquire the property through negotiated settlements which may additionally include Part 1 of 13R-13626; and

THAT the Corporation of the City of Kingston make an application to City Council, as approving authority, for approval to expropriate the said lands and that the Mayor and Clerk be authorized to execute the necessary forms of application; and

July 17, 2012

- Page 2 -

THAT the “Notice of Application for Approval to Expropriate” be served and published and that any requests for inquiries received, pursuant to the “Notice of Application for Approval to Expropriate” be forwarded to the Chief Inquiry Officer appointed by the Ontario Municipal Board and the Chief Inquiry Officer be requested to report to Council with respect to any such request; and

THAT the Mayor and Clerk be authorized to execute all associated and required documents in a form approved by the Director of Legal Services.

AUTHORIZING SIGNATURES:

<u>ORIGINAL SIGNED BY DIRECTOR OF LEGAL SERVICES</u> Hal Linscott, Director, Legal Services
<u>ORIGINAL SIGNED BY COMMISSIONER</u> Denis Leger, Commissioner, Transportation, Properties & Emergency Services
<u>ORIGINAL SIGNED BY DIRECTOR OF LEGAL SERVICES</u> Gerard Hunt, Chief Administrative Officer

CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

Cynthia Beach, <i>Sustainability & Growth</i>	√
Lanie Hurdle, <i>Community Services</i>	N/R
Jim Keech, <i>President and CEO, Utilities Kingston</i>	N/R

(N/R indicates consultation not required)

July 17, 2012

- Page 3 -

OPTIONS/DISCUSSION:

This report recommends the expropriation of the lands required to accommodate the leachate management and stream channelization work only (Exhibit "A").

Presently a man-made stream channel exists between the subject lands and the former Belle Park Landfill Site. This stream channel collects stormwater from west of Montreal Street and runoff from the Belle Park site and channels it to the Cataraqui River. As part of the continuous improvement of environmental management of the Belle Park property, the Department of Sustainability & Growth requires the subject property in addition to the property previously acquired to complete a reconfiguration of the stream channel. Constructed wetlands will be installed providing a reduction in channelized flow and that allows native wetland plants the opportunity for further polishing of water quality before it flows into the Cataraqui River. This work has been designed and approved by the various authorities having jurisdiction and is awaiting the acquisition of the necessary property.

City staff have been able to negotiate the acquisition of lands from the upper section of the corridor required for this project without expropriation. Unfortunately, staff have been unable to contact the present owner of this section of the land. Staff have sent correspondence including registered mail to the last known address which has been returned. Attempts to contact the owner through local contacts has also been unsuccessful. It is hoped that the process of providing public notice of the City's intention to expropriate may reach the property owner so that staff may pursue a negotiated settlement and abandon the expropriation process. If not, the Expropriation Act provides alternatives which preserve the financial interest of absentee owners until such time that the expropriated party comes forward to claim their interest in compensation. This includes the accumulation of interest on compensation and the option of paying out the compensation to the Public Trustee of Ontario.

EXISTING POLICY/BY LAW:

N/A

NOTICE PROVISIONS:

The Expropriations Act R.S.O. 1990 c. E.26 requires the City to provide notice to the expropriated owner(s) within specific timelines and in the form prescribed by the Act. This includes both direct notice to property owners identified on title and public notice in newspapers having local circulation. Documentation of the City's efforts to contact the property owner will be maintained and will form a record of the City's diligence in meeting the requirements of the Act.

ACCESSIBILITY CONSIDERATIONS:

This report and related information is available in alternative formats upon request.

FINANCIAL CONSIDERATIONS:

Funds for the acquisition of this property are available from the capital budget approved for the Belle Park Solution.

July 17, 2012

- Page 4 -

CONTACTS:

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Kathy Gray, Property Specialist, Real Estate & Construction Services

Ext. 2429

OTHER CITY OF KINGSTON STAFF CONSULTED:

Brodie Richmond, Environmental Projects Manager

Stephen Dickey, Deputy Treasurer

EXHIBITS ATTACHED:

Exhibit "A" – Location of Lands to be Expropriated

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