



Corporate Services Committee Action Report
for the December 20th, 2016 meeting held in
the Council Chambers at 7:00 p.m.

PRESENT: Mayor Antonakos, Deputy-Mayor Flynn, Councillor Black, Councillor Doucett, Councillor Redmond, Councillor Fritz, Councillor Trimble, Duncan Rogers, Clerk, Paul Knowles, Chief Administrative Officer, Phil Hogan, Treasurer

- 1) **DECLARATION OF PECUNIARY/CONFLICT OF INTEREST AND GENERAL NATURE THEREOF** – now or anytime during the meeting
- 2) **REGISTRATION OF PUBLIC WISHING TO SPEAK**
- 3) **PLEASE TURN OFF ALL CELL PHONES AND PAGERS**
- 4) **IF THERE IS AN ADDENDUM, IN ACCORDANCE WITH SECTION 15.2.4 (OF STRIKING REPORT) DOES THE COMMITTEE WISH TO APPROVE THIS ADDENDUM?**

TO BE DISCUSSED

COMMUNICATION 127422

Received from David Somppi
Addressed to Paul Knowles, Chief Administrative Officer
Date November 8th, 2016
Topic Roy Brown Park

SUMMARY

Resident is concerned that the Town did not follow the Procurement of Goods and Services Policy when the work in Roy Brown Park was awarded without using a formal tendering process. He wishes acknowledgement of his formal complaint and an investigation of the issue.

COMMENT

On August 16th, 2016 (127282) Council agreed with the staff recommendation and “authorizes staff to engage Stantec and Cavanagh Construction, on a time and material basis, to construct Phase 1 of Roy Brown Park so that the pavilions and signage can proceed”.

This decision was made for several reasons:

- 1) Stantec had already completed considerable work that was available at no cost to the Town, on the project. If another firm was engaged the Town would have to fund the cost of this work;

127422 Continued

- 2) Preparing a tender document, advertising, evaluating and then awarding the tender would have added considerable time and the project could not have been completed this fall. Also, tendering for this project would have increased costs, particularly for engineering.

- 3) The Town is not actually paying cash for this project. Instead Cavanagh will perform work for the Town for a negotiated price that is equivalent to the area occupied by the SWM pond valued at \$192,000/Ha.

A proposed agreement with Cavanagh and a report on costs to date is currently being prepared.

UPDATE – December 13th, 2016

The first estimate, received from the proposed work in Roy Brown Park is shown below:

| Item | Estimated Quantity | Unit | Unit Price | Total Price |
|-------------------------------|--------------------|----------------|------------|---------------------|
| Strip Existing Topsoil | 30,000 | m ² | \$2.41 | \$72,300.00 |
| Screen and Place Topsoil | 25,000 | m ² | \$4.97 | \$124,250.00 |
| Stone Dust Pathway (3m width) | 655 | M | \$38.69 | \$25,341.95 |
| Chain Link for Dog Park | 210 | M | \$75.00 | \$15,750.00 |
| Silt Fence | 600 | M | \$13.53 | \$8,118.00 |
| Clearing | 1 | LS | \$5,000.00 | \$5,000.00 |
| Total | | | | \$250,759.95 |

This estimate was prepared on the typical tender approach of paying for the work by unit costs. In addition to these costs, engineering work would be required for design and to measure the actual quantities. When establishing their fixed unit price, contractors have to estimate the time required for the work and include an allowance for contingencies and profit. This typical approach was unaffordable and deemed a poor way to approach this particular project. Also, the typical approach would have required time to prepare tender documents, and gather tender prices from contractors. This would have delayed the project so that it could not have been completed this fall.

Instead, staff recommended proceeding with the work by engaging the contractor on a time and material bases. For this project staff negotiated the following prices with Cavanagh. Staff have gathered prices for equipment from other contractors to prepare a budget for an upcoming project. The prices negotiated with Cavanagh compare favourably with other quoted prices.

127422 Continued

ROY BROWN PARK COST COMPARISON

| Item | Cavanagh | Greely | Drummond | Crains | Battlefield |
|-----------------------------|----------|-----------|----------|----------|-------------|
| Foreman | \$85.00 | | | | |
| Excavator | \$130.00 | \$160.00 | \$148.00 | \$130.00 | |
| Off Road | \$125.00 | | \$126.00 | \$160.00 | |
| D6 Dozer | \$130.00 | \$140.00 | \$130.00 | \$130.00 | |
| Screening Plant and Stacker | \$180.00 | \$195.00 | \$181.25 | | |
| Loader | \$100.00 | \$130.00 | \$126.00 | \$100.00 | |
| Skid Steer | \$85.00 | | | \$85.00 | \$88.21 |
| Loader/Backhoe | \$75.00 | \$95.00 | | \$75.00 | |
| Labourers | \$42.50 | | | | |
| Diesel Plate | \$15.00 | | | | \$23.37 |
| Stone Dust | \$9.15/T | \$20.25/t | | | |
| Silt Fence | \$1.40/m | | | | \$1.45/m |
| Triaxle | \$85.00 | \$93.00 | | \$85.00 | |
| Float (each way) | N/c | \$195.00 | | \$125.00 | \$185.00 |

The work in 2016 in Roy Brown Park has now been completed and the total cost based on the negotiated prices is \$123,615.25 which is significantly less than the original estimate of \$250,760.

Installation of the fence around the dog park is included in the 2017 budget and will proceed in the spring of 2017.

In the future, the subdivision and SWM pond will be constructed by the Developer. A portion of the Town's property will drain into this SWM pond and so the Town, as a benefitting property owner, will need to contribute to the cost of the SWM pond.

To fund this work, Cavanagh owes the Town compensation for the property that will be occupied by the SWM pond based on \$192,000/Ha.

To summarize:

| | |
|-----------------------------------|-----------------------|
| Credit to Cavanagh for 2016 work | \$123,615.25 |
| Town's share of SWM Pond | \$ 63,600.00 |
| Compensation to Town for property | <u>(\$192,000.00)</u> |
| Net Cost | (\$ 4,784.75) |

As directed on August 16, 2016, staff have prepared an agreement (previously distributed) with Cavanagh Construction.

UPDATE – December 20th, 2016

By-law 01-2013, the Town's Procurement By-law includes:

- 5.1 "Exceptions to this by-law will be permitted but must be approved by Council."

127422 Continued

Solicitor has reviewed the documentation provided and concluded that in the case at hand an exception to the By-law was recommended by staff and considered and approved by Council and accordingly there was no contravention of the Procurement of Goods and Services Policy or By-law 01-2013.

STAFF RECOMMENDATION

THAT Council hereby authorizes execution of an Agreement with Cavanagh Construction that sets out the work that will be performed in Roy Brown Park in exchange for using property for a SWM Pond.

COMMITTEE DECISION

THAT Council hereby authorizes execution of an Agreement with Cavanagh Construction that sets out the work that will be performed in Roy Brown Park in exchange for using property for a SWM Pond.

COMMUNICATION 128014

| | |
|---------------|--|
| Received from | Paul Knowles, Chief Administrative Officer |
| Addressed to | Policy Review Committee |
| Date | December 1 st , 2016 |
| Topic | Jackson Ridge – Cost Sharing |

SUMMARY

Developer has completed certain works (servicing) in Jackson Ridge Subdivision that will benefit other nearby owners. As outlined in the Subdivision Agreement, the fair share of the cost of these works is to be recovered from the benefiting owners when they decide to develop and connect to these services.

In this case, the Developer is offering to provide a 25% discount on these amounts to any owner that pays their fair share within 3 years.

COMMENT

When developers design infrastructure for their project, (SWM Ponds, sewer, intersections) when appropriate the Town requires that the design include provisions that would allow future development or re-development of nearby properties. The Town then ensures the Developers are compensated when the benefitting owners develop and connect to the services. The owners are never required to contribute if they do not proceed with development and benefit from the infrastructure work. The proposed charges have been reviewed with the impacted owners.

One owner, Lynda Burger at 228 Sarah Street, feels that her property will never benefit from the infrastructure, in particular, the SWM Pond, which has been designed to include her property. She is opposed to the Town adopting a by-law requiring a contribution from her or a future owner if the property is ever connected and to having this by-law registered on title.

128014 Continued

UPDATE – December 13th, 2016

Resident is concerned that the final plan of the subdivision only provided 10m of frontage for her property on a new street instead of the approximately 90m that was shown on a 1997 preliminary plan. Also, she asks Council not to include her property in a by-law that would recover the cost for sanitary sewer and SWM pond if her property ever connected because her property is already serviced with sanitary sewer and will not connect to the SWM pond.

COMMENT

In 1997, a preliminary plan for the area showed the creation of a road along her western edge of her property. This would have required upgrading Little Sarah Street to a full public street.

Ownership of the property changed and the subdivision plan that was approved through a public process altered the road pattern. The final plan for the subdivision includes 10m frontage on a new street for this property – sufficient for constructing a multi-family development if the owner ever decided to redevelop.

If a multi-family development was constructed on the property, there is a high probability that a connection to the newly constructed sanitary sewer and SWM pond would be sensible. If this occurs, it is reasonable that the owner should contribute a fair share of the costs of the services. However, if there is no redevelopment or, if the redevelopment is designed such that a connection to the new sanitary sewer or the SWM pond is not required, then no costs will be recovered.

UPDATE 1 – December 20th, 2016

To address concerns identified on December 13th, 2016:

- According to the grade contours, Burger’s property is between 145.00 and 143.50 elevation. A storm sewer connection is available at 141.85 and a sanitary sewer is available at 142.20 as shown on the attached;
- Appraised values and servicing criteria are always established based on highest and best use of the property. Even though the owner is under no obligation to use the property for its ‘highest and best’ use, the option is available to the owner; and
- The Burger property is .58 Ha. If the existing home was removed for some reason, the entire property could be redeveloped as multi-family. For example the development potential for other properties are:

| | | |
|--------------------|---------|-----------------------|
| 39 Beckwith Street | 0.33 Ha | 30 units + commercial |
| Part 6 Carambeck | 0.40 Ha | 28 units (2 storey) |
| 240 Coleman | 0.70 Ha | 46 units |

Solicitor advises that it would be acceptable to include a clause in the by-law that deals with removal of the by-law in conjunction with re-development of the property.

128014 Continued

UPDATE 2 – December 20th, 2016

Burger's solicitor has provided a letter that refers to an OMB hearing in Ottawa where they used an Official Plan Amendment to implement an infrastructure cost sharing. He suggests the Town obtain legal advice. Further, he requests that By-law 26-94 be removed from Burger's title as it was registered in error.

COMMENT

The Town's solicitor has reviewed this information and advises there is no suggestion in the Ottawa City staff report or in the Ontario Municipal Board's decision that the adoption of an Official Plan Amendment requiring property owners to participate in a cost sharing is mandatory or the only means of providing for recovery of contributions to the capital cost of constructing services from benefitting property owners. In fact, other than stating the purpose of the Official Plan Amendment, the Decision does not offer any comments on the merits of this approach to recovering the capital costs of constructing services from benefitting owners;

Also, in this example, in the City of Ottawa's Official Plan amendment, contribution to non-development charge funded capital costs is required as a condition of development approval, whereas the fees and charges by-laws that would be adopted by the Town of Carleton Place provides that contributions are required when benefitting owners **connect** to services, which is a more traditional trigger for the recovery of capital costs from benefitting owners.

The solicitor's review did reveal an error in the proposed By-law as it should refer to Section 391 instead of section 326 of the Municipal Act.

In summary, different legislative options are available to collect the cost of infrastructure from owners that benefit. For this example, staff recommend that Section 391 of the Municipal Act is the best option.

Also, staff is already aware of the 1994 by-law that was registered in error. Solicitor will correct this error.

STAFF RECOMMENDATION

THAT a By-law to impose the following charges to recover the capital cost of infrastructures be forwarded to Council. Owners would only be asked to pay for the services to which they connect.

128014 Continued

CHARGES PRIOR TO DECEMBER 20TH, 2019

| Owner | Street | Sanitary Sewer | SWM Pond | Enbridge (Off-Site) | Total Fair Share |
|----------------------------|---------------------|--------------------|---------------------|---------------------|---------------------|
| Thorbjornsson Holdings Ltd | \$254,696.25 | \$14,921.25 | \$42,251.25 | \$3,975.00 | \$315,843.75 |
| Veley | \$64,256.25 | \$10,177.50 | \$80,838.75 | \$5,850.00 | \$161,122.50 |
| Charania/Blakeley | | \$2,070.00 | \$22,995.00 | | \$25,065.00 |
| Mulligan | | \$1,983.75 | \$21,292.50 | | \$23,276.25 |
| Burger | \$4,312.50 | \$7,503.75 | \$59,362.50 | | \$71,178.75 |
| Devcore | | | | \$23,550.00 | \$23,550.00 |
| TOTAL | \$323,265.00 | \$36,656.25 | \$226,740.00 | \$33,375.00 | \$620,036.25 |

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| Burger | \$5,750 | \$10,005 | \$79,150 | | \$94,905 |
| Devcore | | | | \$31,400 | \$31,400 |
| TOTAL | \$431,020 | \$48,875 | \$302,320 | \$44,500 | \$826,715 |

NOTE: All charges will be adjusted based on CPI

By-law will include a clause that deals with removal of the by-law in conjunction with redevelopment of the property.

COMMITTEE DECISION

Members of Council are to forward any questions to the CAO so they can be answered at the Planning and Protection Committee meeting on January 10th, 2017. Bring forward.



Corporate Services Committee Agenda
for the December 20th, 2016 meeting held in
the Council Chambers at 7:00 p.m.

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STAFF RECOMMENDATION

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COMMITTEE DECISION

COMMUNICATION 128014

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| Received from | Paul Knowles, Chief Administrative Officer |
| Addressed to | Policy Review Committee |
| Date | December 1 st , 2016 |
| Topic | Jackson Ridge – Cost Sharing |

SUMMARY

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128014 Continued

STAFF RECOMMENDATION

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CHARGES PRIOR TO DECEMBER 20TH, 2019

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COMMITTEE DECISION

