

The Corporation of the City of Kawartha Lakes

Council Report

Report Number RS2018-005

Date: February 13, 2018

Time: 2:00 p.m.

Place: Council Chambers

Ward Community Identifier: All

Subject: Proposed Amendments to Realty Services Policies and Procedures – Proposed Amendments to By-law 2010-118 & Policy 032-CAO-005

Author Name and Title: Robyn Carlson, City Solicitor and Acting Manager of Realty Services

Recommendations:

That Report 2018-005, **Proposed Amendments to Realty Services Policies and Procedures – Proposed Amendments to By-law 2010-118 & Policy 032-CAO-005**, be received;

That By-law 2010-118, “A By-law to Regulate the Acquisition and Disposition of Municipal Real Property in and for the Corporation of the City of Kawartha Lakes”, as amended in accordance with Appendix “A” to Report 2018-005, be approved;

That the policy entitled “Disposal of Real Property Policy”, attached as Appendix “E” to Report 2018-005, be adopted and numbered for inclusion into the City’s Policy Manual, replacing Policy C-204-DEV-001;

That the policy entitled “Land Management”, attached as Appendix “G” to Report 2018-005, be adopted and numbered for inclusion into the City’s Policy Manual, replacing Policy 032-CAO-005;

That By-law 2016-009, “A By-law to Provide Authority for the Execution of Certain Documents and Affix the Corporate Seal on Behalf of the City of Kawartha Lakes”, as amended to date, be further amended to remove the words “of City Property” from the heading to section 5.03;

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

That amending by-laws be advanced to Council for adoption, accordingly; and

That Policy C-195-ED-004, "Lease of City Owned Agricultural Land", attached as Appendix "H" to Report 2018-005, be repealed.

Background:

The existing policy framework for the management of real property owned by the City is outdated and incomplete. Moreover, recent enhancements to increase transparency and revenue in the real estate transaction process have been identified and implemented by Realty Services. The purpose of this Report is to update the existing by-laws and policies respecting the management of real property, being: *Sale of Land By-law 2010-118*; *C-204-DEV-001*, *Land Management Policy 032-CAO-005* and *Signing Authority By-law 2016-009*.

Rationale:

Proposed Amendments to By-law 2010-118

This by-law purported to cover the granting of easements over City property, however, the inclusion of the majority of easements given (to utility companies) was exempted from the requirement to appraise and sell at fair market value.

By removing the granting of easements, the entering into an encroachment agreement, the granting of licenses (non-exclusive use), the granting of consents to utility companies to use municipal rights of way, and the granting of franchises for the occupation of municipal rights of way, all from the definition of “disposition”, this definition is in line with the remainder of the by-law, which does not in any way set out policy or procedure with any of these things, but only regulates the sale of land (and long term leases, greater than 21 years).

With the exception of the definition, there is literally no other guidance for how easements are to be granted, how licenses are to be granted, when and how consents for utilities are to be granted. Accordingly, it appears that the definition included is overbroad for the existing purpose of the by-law, and is thus recommended to be scoped.

Schedule D is revised to clarify that inquiries about purchasing property that has not yet been declared surplus will require a fee of \$125.00 be payable upon request, to pay for Staff time in investigating whether or not the property is surplus and should be sold. However, property already declared surplus is expressly excluded from this fee requirement, so that if a property is listed for sale, inquiries about that property do not require fee payment. This change is to encourage sale.

Schedule D is further amended to clarify that \$15.00/linear foot will be charged for all interior road allowances (that is, not shoreline road allowances). Previously, Realty Services had been not charging for road allowances, recovering expenses associated with the sale only. Expenses will still be recovered, but a linear foot (based on a 66 foot width, to provide guidance for cases where half the width of the road allowance is being transferred to the party

on either side). Similar amendments for shoreline road allowances will be helpful in providing fairness where shoreline road allowances do not follow a 66 foot width.

The presentation by Realty Services to Council on November 21, 2017 set out a methodology for assessing the value of road allowances based on per square footage of adjacent property with which the property is to merge. A copy of that presentation is attached at Appendix B. Using that methodology and applying it to the last four transfers of interior road allowances, the price that would result is set out in Appendix C (second to last column from the left hand side of the page).

When considering these figures in light of the linear footage price for shoreline road allowance, it is now recommended instead that a set cost of \$15.00/linear foot be charged for a 66 foot width. Where two properties are splitting the road allowance between them, this amount is reduced to \$7.50/linear foot. Refer to the last column on the left hand side of the page in Appendix C for the costs that would result using this methodology.

Shoreline road allowances will still be priced at \$20.00/linear foot, but for rivers/creeks only and based on an average 66 foot width, to provide fairness where the width is not 66 feet. For shoreline road allowances adjacent to lakes, the linear foot pricing is increased to \$23.00/linear foot (again, based on an average width of 66 feet).

This increases pricing slightly and in line with fair market value as established by our municipal comparators (see page 5 of Appendix B for internal road allowances and page 7 of Appendix B for shoreline road allowances, which gives an average of \$23.20/linear foot and a mean of \$25.00/linear foot).

For landlocked lot additions, the current price set in By-law 2010-118 is \$1,500.00 per acre for farm properties, or \$1.00 per square foot otherwise, plus full cost recovery.

The comparables indicate that the common practice is to obtain an appraisal:

Landlocked Properties	
Location	Compensation Policy
Sudbury	Appraisal
Durham	Appraisal
Cavan Monaghan	Appraisal
Windsor	Market Value
Mississauga	Manager discretion
Ottawa	Fair Market Value
Amherstburg	Fair Market Value
Renfrew	Appraisal

Landlocked Properties	
Milton	Fair Market Value
Peterborough	Appraisal, unless prescribed class
Minden Hills	Appraisal

No amendment to the price for land locked lot additions is recommended at this time.

The default manner of sale for developable properties as currently set out in By-law 2010-118 is by direct sale at appraised value. By amending section 7.02 to provide for listing with a registered broker on the multiple listing system (formerly called “MLS” and now found at “realtor.ca”) and by still requiring an appraisal by a certified appraiser, the City can achieve the higher of the appraised value and what can be achieved on the open market at any given time.

Section 10.01 is likewise amended, as Schedule D was, to provide clarity as to when the application fee will be charged. Note that By-law 2015-131, as amended, sets out a \$125.00 fee (as shown in the Consolidated Fees By-law and indexed annually) for inquiries relating to ownership and/or maintenance of roadways.

To bring section 10.01 (which addresses costs to be reimbursed to the City on the sale of developable property) in line with Schedule D (which addresses the costs to be reimbursed to the City on the sale of road allowances and land locked property) and with current practice, a recovery for Staff time (\$1,500.00) is included.

Under the heading “administration”, section 12.02 provides a transition provision, so that persons who have already applied under the existing system will be processed under the system that existed at the time of their application (for fairness reasons). This impacts 2 applications: 1 shoreline road allowance abutting a lake and 1 interior road allowance. By transitioning in these transfers, the City does not recover \$1,200.00 for the shoreline road allowance sale, and \$8,636.81 for the interior road allowance sale.

Notice provisions for the sale of developable property have been enhanced (section 3.05), with on-site posting for a three week period added as a requirement. Realty Services has for some time now been circulating newspaper notice for a three week period. Amendments to the by-law now make this practice a requirement; currently, only 1 circulation is required. Notice must now be provided within 12 months of the declaration of surplus for sale purposes, to ensure that notice is timely.

Amendments to section 3.05 require notice to occur in advance of the declaration of surplus, to ensure Council can consider the input of the public prior to the listing for sale.

Section 7.04 is removed, so that once Council has declared a property surplus and to be sold (in accordance with the By-law, which requires return equal to or greater than appraised value/market value plus all costs for developable property, and set prices for undevelopable property), the eventual sale does not need to return to Council for disposition. This will speed up the time from declaration to sale and provide the prospective purchaser with greater finality at the time of the offer and acceptance.

Proposed Amendments to Policy C-204-DEV-001

Amendments to Policy C-204-DEV-001, as shown in Appendix D, are required to align the amendments to By-law 2010-118 with that policy, which concerns disposal of real property. Additional amendments are made to correct the policy (for example, to correct the name of the position responsible; formerly “Land Management Co-ordinator”, now “Realty Services Manager”)

Proposed Amendments to Policy 032-CAO-005

Many of the proposed amendments to Policy 032-CAO-005 have to do simply with bringing this policy up to date. Since this policy was drafted, the Municipal Act on which it was based was repealed and replaced with the Municipal Act, 2001. Many of the departments have changed names. Council no longer sits as a Committee.

Positions have subsequently been added to the Realty Services Division, accordingly, work formerly assigned to the Manager is now assigned to the Clerks of that Division, in alignment with current practice.

The Policy was amended to specifically indicate what licenses fall outside of the Realty Services’ and Land Management Committee program; specifically, Patio Licenses issued by Engineering and Corporate Assets and Road Occupancy Permits and Driveway Entrance Permits issued by Public Works.

The Policy was substantively amended to provide less circulation out to Land Management Committee post Committee decision and provides for the Realty Services Manager to determine direction in the absence of consensus, to provide less of an unnecessary procedural burden on Committee members.

The framework for the use of the Property Reserve was broadened from acquisition of land only to include also demolition of surplus structures, to address a historically underfunded area and better serve the interests of the City in managing its real estate portfolio.

The Policy was most significantly broadened by adding the asset management function of the Portfolio Management Team. This Policy now establishes the membership and tasks assigned to the team. The team membership is set out as follows: ““Portfolio Management Team” means a staff committee co-chaired and project managed by the Office of Strategy Management (which also acts as recording secretary), co-chaired by the Realty Services Manager, and comprised of the Asset Manager and Manager of Building and Property.”

With respect to the task of the team, the policy now states: “To assist the Land Management Committee, the Portfolio Management Committee will establish a 5 – 10 year plan on a portfolio basis, for each community within the City of Kawartha Lakes. The Portfolio Committee will have regard to Council-approved plans, including but not limited to, asset management, parkland, transit, and affordable housing plans when determining long term planning for each community.”

When considering whether or not to renew a particular lease where the City is the landlord, the Land Management Committee will refer to the 5-10 year plan for the relevant community, to determine the course of action.

The Policy now provides that the Clerks’ houses all existing leases, informing Realty Services of an expiry where the City is the landlord 6 months prior to expiration, to allow for renewal/ termination in a timely manner.

The Policy now provides that Portfolio Management Team is tasked with considering needs to acquire new City-occupied tenancies or land acquisitions two years prior to need, which provides sufficient time for planning, providing more options and better results (including cost reduction).¹

The Policy now provides that Accounts Receivables administers the invoicing of all leases, licenses and encroachment agreements processed by the Land Management Committee, to clarify existing practice.

Proposed Amendments to By-law 2016-009

Section 5.03 of Signing Authority By-law provides that, in all cases of the corporation entering into a lease agreement, the lease agreement shall have legal review and approval. In cases of a lease agreement with revenue/expense of \$10,000.00 or under per year and a term of 5 years or less, the City Solicitor can sign. In all other cases, Council approval is required.

However, the section is incorrectly narrowed by its title, which refers to leases of City property. The balance of the by-law does not refer to leases of private property. Accordingly, the title should be amended to reflect the intent of the provision (to apply to all leases).

¹ For clarification: Portfolio Management Team will not consider park and open space needs acquired pursuant to Planning Act application for subdivision of land.

Proposed Repeal of C-195-ED-004

In 2013, Council approved a policy to provide for the advertising and leasing of agricultural City-owned lands. Staff was directed to finalize a listing of properties suitable for agricultural lease and implement a protocol in the summer/ fall of 2013, for 2014 license agreements. Net proceeds from these leases was to be placed in the Economic Development Reserve for use in projects relating to Council's then-strategic priority (Strategic Plan subsequently being replaced in 2016 with a new Strategic Plan) of developing a knowledge-based economy with a focus on water and agricultural sectors.

The Realty Services Division, in consultation with the Public Works Department and the Environmental Services Division, has reviewed all large agricultural City-owned properties and have identified 5 properties that should remain in City ownership due to an ongoing City interest in the property and thus would be suitable for a 5 year tenancy at fair market value (established by the Agriculture Development Officer).

The procedure set out in this policy is rather cumbersome and slightly disjointed; the policy relies on the Purchasing Policy for the acceptance of public tenders, however, the Purchasing Policy only requires a formal tender process if the item being purchased is \$100,000 or greater.

Secondly, the policies for land management, as set out in Policy 032-CAO-005, provide a comprehensive procedure for the lease of City lands. There is no reason why agricultural leases should have different administrative procedures from those of any other lease.

Along this same vein, the execution of leases and licenses is set out in the comprehensive Signing Authority By-law 2016-009. Pursuant to By-law 2016-009, all leases with net annual revenue of \$10,000 or less do not need to proceed to Council. There is no reason to treat agricultural leases differently.

Other Alternatives Considered:

None

Financial Impacts:

Unquantifiable

With the repeal of C-195-ED-004, revenue that would have gone into the Economic Development Reserve for developing a knowledge-based economy with a focus on water and agricultural sectors, would now be placed in the Corporate Property Reserve for the purpose of land acquisition and capital repair to existing property, and including building demolition.

Relationship of Recommendations to the 2016-2019 Strategic Plan:

The proposals set out in this report align with the strategic enabler of “Efficient Infrastructure & Asset Management”.

Consultations:

Strategy Management Office
Manager of Building and Property
Director of Community Services

Attachments:

Appendix A: Consolidated By-law 2010-118, inclusive of proposed amendments in tracked change format



Appendix A -
Proposed Amendment

Appendix B: Presentation of Realty Services to Council November 21, 2017, “Realty Services Division: New Land Sales Procedures as of 2017”



Appendix B -
Presentation of Realty

Appendix C: Chart Comparing Alternative Methods for Pricing Internal Road Allowances



Appendix C - Interior
Road Allowance Price

Appendix D: Consolidated Disposal of Real Property Policy C-204-DEV-001, as amended, inclusive of proposed amendments in tracked change format



Appendix D -
Proposed Amendment

Appendix E: Consolidated Disposal of Real Property Policy C-204-DEV-001, as amended, inclusive of proposed amendments in clean format



Appendix E -
Proposed Amendment

Appendix F: Consolidated Policy 032-CAO-005, inclusive of proposed amendments in tracked change format



Appendix F -
Proposed Amendment

Appendix G: Consolidated Policy 032-CAO-005, inclusive of proposed amendments in clean format



Appendix G -
Proposed Amendment

Appendix H: Policy No. C-195-ED-004 – Lease of City Owned Agricultural Land



Appendix H - Policy
No. C 195 ED 004 Leas

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