



TO: GENERAL COMMITTEE

SUBJECT: PAST AND FUTURE USE OF CLOSED PORTION OF FORMER MCDONALD STREET BETWEEN MULCASTER STREET AND POYNTZ STREET

WARD: 2

PREPARED BY AND KEY CONTACT: A MILLS, MANAGER OF LEGAL SERVICES EXT. 5051

SUBMITTED BY: I. PETERS, DIRECTOR OF LEGAL SERVICES

CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That The Corporation of the City of Barrie (the "City") accept payment of \$907,000.00 in satisfaction of outstanding obligations contained within a terminated lease agreement between Her Majesty the Queen in right of Ontario (the "Province") and the City for the property shown on Appendix "A" to Staff Report LGL001-19 being all of PIN # 588180074 (the "Subject Property").
2. That the City Clerk be authorized to execute a release of obligations relating to the terminated lease agreement related document with the Province in a form satisfactory to the Director of Legal Services.
3. That the payment of \$907,000.00 by the Province be transferred to the Parking Capital Reserve and used to fund the future capital project to replace the existing surface on the Subject Property.
4. That the 2019 Capital Plan be amended by adding the project McDonald Municipal Parking Lot Reconstruction and approving new funding for this project totalling \$907,000 to be funded from the Parking Capital Reserve as follows:
 - a) \$77,000 – design phase – 2019; and
 - b) \$830,000 – construction phase – 2020.

PURPOSE & BACKGROUND

5. The purpose of this Staff Report is to seek Council authorization to accept payment from the Province, provide a full and final release and earmark the payment for surface replacement with respect to the past and future use of the closed portion of the former McDonald Street right of way between Mulcaster Street and Poyntz Street.
6. In 1974, the City passed by-law number 74-93 which resulted in the closure of the portion of McDonald Street referred to in this report as the Subject Property. This action was taken at the request of the Province in order to provide additional parking to the site of the new Court House.
7. Subsequent to the road closing, the City entered into a 20 year lease agreement with the Province on a rent free basis to permit their use of the Subject Property. The term of the lease expired on August 31, 1994 at which time the lease became a month to month tenancy.

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8. On July 10, 1995, City Council adopted motion 95-G-299 regarding USE OF MCDONALD STREET UNOPENED – BETWEEN MULCASTER AND POYNTZ STREET as follows:
 1. “That a portion of McDonald Street unopened between Mulcaster and Poyntz Streets be metered for public parking and adjacent owners be requested to enter into an agreement with the City for right-of-way access over McDonald Street unopened. That the Province of Ontario enter into an additional agreement for the encroachment of a portion of the Barrie jail on McDonald Street Unopened.
 2. That parking meters be installed on McDonald Street between Mulcaster and Poyntz Street, the parking rate be 40 cents per hour and that the Parking By-law 80-138 be so amended.”
 9. The City entered into negotiations with the Province for continuation of the lease under certain terms and conditions which included the Province paying for the use of the Subject Property. Those negotiations were unsuccessful in that the Province was not prepared to pay any amount for the use of the Subject Property. As a result the lease continued as a rent free month to month tenancy until the Province elected to terminate it.
 10. On June 27, 2016, the City was notified by the Province of its intention to end the month to month lease agreement effective August 1, 2016. The Province has continued to make use of the Subject Property.
 11. Staff have been attempting to negotiate a new agreement with the Province since the arrival of the termination notice.
 12. On February 26, 2019, the Province advised the City that is was not prepared to proceed any further with a new agreement but instead preferred to pay the City \$907,000.00 in exchange for the City releasing it from any outstanding obligations contained in the lease agreement it terminated. The amount of the proposed payment is based on the City’s estimate of cost to rebuild and replace the existing paved surface on the Subject Property.

ANALYSIS

13. The outstanding obligations in the terminated lease with the Province relate to keeping the Subject Property and improvements to it in a good state of repair and the removal of all improvements at termination of the lease such that the City could restore its former use as a street.
14. The offer of payment is only available if the City is able to accept and provide a signed release before March 31, 2019.
15. Staff will continue discussions with the Province for the ongoing use of the Subject Property and report back to General Committee for approval of any proposed agreement.

ENVIRONMENTAL MATTERS

16. There are no environmental matters directly related to the recommendations in this report. As with all construction projects there will be noise and dust impacts, which will be mitigated through construction practices.

ALTERNATIVES

17. The following alternative is available for consideration by General Committee:

Alternative #1

General Committee could alter the proposed recommendation by choosing not to accept the Province's proposed payment and direct staff to continue negotiating an agreement with the Province for the ongoing use of the Subject Property.

Although this alternative is available, it is not recommend as the Province has indicated they are not willing to sign an agreement for the ongoing use of the Subject Property at this time. The funds to make payment in exchange for an executed release are only available until March 31, 2019.

FINANCIAL

18. The payment being offered by the Province is based on the City's estimate of cost to reconstruct and repave the Subject Property. This estimate has been provided in the absence of a design being completed.
19. It is recommended that the payment of \$907,000.00 by the Province be transferred to the Parking Capital Reserve and used to fund the recommended capital project to reconstruct the municipal parking lot, including full pavement reconstruction, limited sidewalk, local storm sewer and lighting improvements, and provisional replacement of fire services/hydrants pending investigation of condition.

LINKAGE TO 2018-2022 STRATEGIC PLAN

20. The 2018-2022 Council Strategic Plan has not been finalized as of the writing of this Report.

APPENDIX "A"

Location of Subject Property

