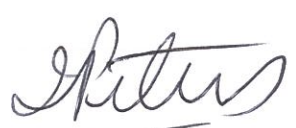


TO: GENERAL COMMITTEE


SUBJECT: EXPROPRIATION OF LAKESHORE MEWS LANE

WARD: 2

PREPARED BY AND KEY CONTACT: K. BALL, LAW CLERK, EXT. 5021

SUBMITTED BY: I. PETERS, DIRECTOR OF LEGAL SERVICES 

GENERAL MANAGER APPROVAL: R. FORWARD, MBA, M.Sc., P. Eng., GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES 

CHIEF ADMINISTRATIVE OFFICER APPROVAL: C. LADD, CHIEF ADMINISTRATIVE OFFICER 

RECOMMENDED MOTION

1. That the Director of Legal Services be authorized to commence expropriation proceedings to acquire a fee simple interest in land for the purpose of a pedestrian walkway on lands legally described as Part of Water Lots 14, 15 and 16, Registered Plan 2, designated as Part 2 on Reference Plan 51R-13927 (the "Lane").
2. That The Corporation of the City of Barrie make an application to City Council, as approving authority, for approval to expropriate the Lane and that the Mayor and the City Clerk be authorized to execute the necessary forms of application.
3. 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 Inquiring Officer and the Chief Inquiring Officer be requested to report to Council with respect to any such request.
4. That the Director of Legal Services have delegated authority to settle the expropriation as outlined in a Confidential Memo to Council presented concurrently with this Staff Report and that the Mayor and City Clerk be authorized to execute all associated and required documents in a form approved by the Director of Legal Services.

PURPOSE & BACKGROUND

Report Overview

5. Title to the Lane is held by Henry Boys who acquired it, among other land in 1868 & 1870. The Lane is subject to nine easements for "access" and to "use as a lane or passageway" by the owners of the buildings municipally known as 115 to 143 Dunlop Street East (the "Owners"). Each of the Owners has the right to use the entire lane as a passageway, as defined in each of their deeds.
6. A site map showing the subject property has been included as Appendix "A" to this Staff Report.
7. Staff have determined that expropriation is the only mechanism available for the City to obtain title to the Lane as no heir to Mr. Boys is known. Therefore, there is no one to negotiate a purchase of the Lane with.

8. Mr. Boys sold his landholdings and retained title to the Lane in order to grant easements to the Owners to obtain access to the rear of the buildings fronting on Dunlop Street East as the rail line was located directly to the south of the Lane and this would have been the Owners' only access to the rear of their properties for loading purposes.
9. In 1996 CN removed the railway tracks and in 1999 the rail line land was sold to Allandale Community Development Corporation. The former rail lands are now owned by the City of Barrie and form part of Simcoe Street and the Lakeshore Mews parking lot.

ANALYSIS

10. Over the last number of years, staff have been approached on numerous occasions to enforce a no parking zone over the Lane in order that it be used as a pedestrian walkway/sidewalk to access the rear shops and businesses. Several of the Owners and/or their tenants, are using the Lane for parking purposes thereby obstructing pedestrian use. The use of the Lane for parking is creating a situation where the Lane is being blocked and therefore the Lane cannot be used for the purpose legally allowed.
11. The current easements do not expressly permit parking as a use of the Lane but because all of the easement owners do not agree, the City is unable to enforce a no parking zone.
12. In accordance with By-Law 87-290, the City has the ability to enforce no parking on private property, provided that all owners authorize the City to do so in writing. Staff have attempted to secure such authorization, but not all owners would agree.
13. The Downtown Commercial Master Plan realizes and envisions Lakeshore Mews area as a Specialty Neighbourhood, offering a quaint character with specialty shops that are unique and authentic featuring a pedestrian zone at an intimate scale. The rear of the existing commercial buildings will now have an opportunity to create terraces and a new frontage facing the waterfront.
14. When this area was reconstructed in 2009, the City of Barrie incorporated the Lane into the reconstruction by placing paving stones over its length, to make it more inviting to the public and encourage pedestrian usage. Engineering staff have confirmed that approximately \$51,000.00 was expended in resurfacing the Lane.
15. As the easement owners will continue to enjoy their right of access over the walkway, it is in the Public's best interest that the City of Barrie acquire title to the Lands and enforce no parking on the Lane as envisioned by the Downtown Commercial Master Plan.

ENVIRONMENTAL MATTERS

16. There are no environmental matters related to the recommendation.

ALTERNATIVES

17. The following alternatives are available for consideration by General Committee:

Alternative #1

General Committee could choose to not commence expropriation proceedings.

This alternative is not recommended as Council has adopted the recommendation and vision for the downtown including Lakeshore Mews, from the Downtown Commercial Master Plan. In order to achieve this, the City's by-law enforcement officers must be able to enforce a no parking zone.

FINANCIAL

18. The expropriation process will be completed by the City's in house legal department, therefore keeping costs to a minimum. Fees and charges associated with the expropriation primarily consist of legal, survey, and advertising and are estimated at \$10,000. These costs will be funded from the operating budget.
19. Staff will perform a valuation of the land at year-end for financial statement reporting purposes.

LINKAGE TO 2010-2014 COUNCIL STRATEGIC PLAN

20. The recommendation(s) included in this Staff Report support the following goals identified in the 2010-2014 City Council Strategic Plan:

- Create a Vibrant and Healthy City Centre

The City, through the approval of the Downtown Commercial Master Plan, has provided a vision and implementation measures to actively promote the downtown and make recommendations for greater attraction in the number of residents and visitors to the downtown. The downtown is to provide a pedestrian environment and pedestrian friendly linkages from the waterfront to the downtown. The City taking ownership of the walkway will not prevent its continued use of an access to the rear of the buildings but will enhance the character of the Lakeshore Mews area, provide public safety of the walkway and promote the downtown experience.

APPENDIX "A"

Site Map

