



**CITY OF HAMILTON**  
**PUBLIC WORKS DEPARTMENT**  
**Corporate Assets and Strategic Planning Division**

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	April 2, 2014
<b>SUBJECT/REPORT NO:</b>	2555 Creekside Drive Park Development - Rotary Club of Dundas Lease for the Purposes of Permitting Construction by the Rotary Club of Dundas (PW14036) - (Ward 13)
<b>WARD(S) AFFECTED:</b>	Ward 13
<b>PREPARED BY:</b>	Cynthia Graham, Landscape Architect (905) 546-2424, Extension 2337
<b>SUBMITTED BY:</b>	Gerry Davis, CMA General Manager Public Works Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the Rotary Club of Dundas proposal to contribute all necessary funds to complete the design and construction of the park at 2555 Creekside Drive (attached as Appendix “A” to Report PW14036) by entering into a lease with the City of Hamilton for the purpose of construction be endorsed;
- (b) That the City of Hamilton enter into a lease for the purpose of permitting the Rotary Club of Dundas, who will be working with the condominium corporations at Creekside Drive and Amica Mature Lifestyles Inc., to construct and develop the Park in accordance with City standards and practices;
- (c) That the associated annual operating costs starting in 2015 for the park at 2555 Creekside Drive, in the amount of \$10,000 (increased from \$6,000 as identified in the 2014 capital budget), and an additional 0.1 FTE, be referred to the 2015 Operating Budget process for consideration;
- (d) That the Mayor and City Clerk be authorized and directed to execute the construction lease in a form satisfactory to the City Solicitor and with content acceptable to the General Manager of Public Works.

**EXECUTIVE SUMMARY**

In 2012, as part of a settlement of an Ontario Municipal Board appeal City Council agreed to purchase a 0.79 acre (0.3ha) parcel of land at 2555 Creekside Drive, for use as a park (the “Park”) for \$1 million. For further information, see confidential report PED12172.

As part of the settlement, the Spencer Creek Village condominium corporations of 1000, 2000, 3000 and 4000 Creekside Drive, together with Amica Mature Lifestyles Inc. (the "Adjacent Property Stakeholders") have agreed to pay all of the costs for construction and development of the Park. Amica Mature Lifestyles Inc. is a seniors' retirement residence located adjacent to the Spencer Creek Village condominiums. Amica Mature Lifestyles Inc.'s residents will likely make use of the neighbourhood Park along with the residents of the Spencer Creek Village condominiums.

Over the course of 2013, City staff has worked with the community to develop the concept for the Park, conduct community consultation, and refine the design. At this time, the fundamentals of the design have been worked out, with specific details such as site furniture still being finalized. The location of the park is shown in Appendix "A" attached to Report PW14036.

Working with the Rotary Club of Dundas, the Adjacent Property Stakeholders wish to proceed with the construction and development of the Park in the spring of 2014. The Adjacent Property Stakeholders, working with the Rotary Club of Dundas, seek to construct and develop the Park with the oversight of the City. In order to permit the construction, the City seeks to have a construction lease agreement in place to ensure that the Park is built in accordance with City standards and practices.

The construction lease will be entered into with the Rotary Club of Dundas and will detail the terms and requirements for the development and construction of the Park. The construction lease has been prepared by Public Works staff in consultation with Risk Management and is in a form satisfactory to the City Solicitor.

The Rotary Club of Dundas has hired Bienenstock Natural Playgrounds, a consultant, for the development and construction of the Park. Bienenstock Natural Playgrounds is responsible for the design and will be submitting drawings to City staff for drawing review and approval. City construction staff will visit the site regularly for construction review. The Rotary Club of Dundas, acting as agent on behalf of the Adjacent Property Stakeholders, will cover the full costs of developing and constructing the Park.

The City will be solely responsible for maintenance of the Park upon the satisfactory completion of the construction and development of the Park.

***Alternatives for Consideration - See Page 5***

**FINANCIAL - STAFFING - LEGAL IMPLICATIONS**

**Financial:** As the Rotary Club of Dundas will coordinate all necessary funding from the community stakeholders, to complete the design and construction of the park, there are no financial implications for capital, and no impact on the tax levy. The park will not be constructed until the Rotary Club of Dundas is able to fully fund the project. The City of Hamilton purchased the property in December 2012, as authorized in PED12172. Operating impacts in the amount of \$6,000 are identified on 2014 capital budget submission for 2555 Creekside Drive, however, after review of the design, a more accurate value is \$10,000 and if a fountain is included in the construction, the annual

operational impacts will increase to \$25,000. Public Works staff have identified to Corporate Finance that operating impacts will increase from \$6,000 to \$10,000 for 2015, when the City will assume maintenance responsibility.

**Staffing:** City of Hamilton, Construction services will be providing a staff person to attend regular site meetings during construction for site review. Once the Park is constructed and developed to the satisfaction of the City, Parks and Cemeteries staff will be maintaining the completed Park. These operating impacts are captured in the 2014 capital budget submission, however, based on the conceptual design, this will increase to 0.1 FTE as noted in the finance section above.

Landscape Architectural Services staff are involved with the design review, public consultation, and review of legal agreement. These costs are included in the capital costs to be contributed by the Rotary Club of Dundas.

**Legal:** The construction lease and any necessary associated documents are being prepared by, and will be in a form satisfactory to, the City Solicitor. The content will be acceptable to the General Manager of Public Works.

## **HISTORICAL BACKGROUND**

The City purchased the 2555 Creekside Drive property and declared it as park land pursuant to City Council's resolution of October 10, 2012. The Adjacent Property Stakeholders (i.e. the four Spencer Creek Village condominium corporations located at 1000, 2000, 3000 and 4000 Creekside Drive and Amica Mature Lifestyles Inc.) have agreed to pay for the construction and development of the Park property. The Adjacent Property Stakeholders are working with the Rotary Club of Dundas to construct and develop the Park.

The purchase of the park lands was completed in December 2012. During the months after, City staff worked with the Adjacent Property Stakeholders and the Rotary Club of Dundas' consultant, Bienenstock Natural Playgrounds (hired by the Rotary Club of Dundas to refine the design).

In August 2013, a full meeting of stakeholders was held to further refine the concept for presentation to the public. In September 2013, a public meeting, open to all residents of Dundas, advertised in the Dundas Star, was held to present the concept to the local residents. Additionally, during the months of September and October, Bienenstock Natural Playgrounds' staff, working on behalf of the Rotary Club of Dundas and Adjacent Property Stakeholders, hosted public open houses in each of the four Spencer Creek Village condominium buildings, as well as the Amica Mature Lifestyles Inc., Dundas location.

City staff has prepared a construction lease agreement to facilitate the terms and conditions of the settlement. This agreement will lay out the terms by which the Rotary Club of Dundas (with the Adjacent Property Stakeholders working through the Rotary Club) would undertake the park construction, including design development and approval by the City, process for construction, and future maintenance terms. The

agreement has been drafted by Legal Services staff as a lease of the Park lands, for the duration of the development and construction work. The lease allows the Rotary Club of Dundas to have full and proper access to the site, and relieves the City of “constructor” status from the Ontario *Construction Lien Act*, R.S.O. 1990, c. C.30. The lease would expire upon the completion of the construction work, satisfactory to the City staff. The City would then take over the maintenance and control of the Park. All warranties would be transferred to the City. Currently, the design is being refined and is being worked towards a final detailed design. City staff is reviewing the drawings as they are developed. The lease agreement requires that all designs, drawings and specifications are satisfactory to the City and meet the City’s established requirements for public Parks.

This agreement aligns with the Public Works Business Plan “Innovate Now!” top priority # 1 “Mutually beneficial charters with external customers”.

### **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Since the park is owned by the City but is being developed by the community, the Rotary Club of Dundas will ensure compliance with any applicable City policies and labour trade obligations.

### **RELEVANT CONSULTATION**

#### Public Consultation:

August 6, 2013: Stakeholders meeting at 64 Hatt Street, Dundas

September 12, 2013: Public meeting held at Dundas Municipal Offices at 60 Main Street, Dundas.

September & October, 2013: Consultant hosted open houses at each of the four condominium buildings along Creekside Drive, as well as Amica Mature Lifestyles Inc. Dundas location building.

#### Internal City Consultation:

Corporate Services: Corporate Finance staff to identify increase to operating impacts.

City Manager’s Office: Legal Services to assist with the preparation of the legal agreement with the Rotary Club of Dundas.

Community and Emergency Services: Recreation Staff to provide requirements for park development programme.

Public Works: Parks and Cemeteries staff to review conceptual plans and maintenance implications of the proposed design.

Council: Ward 13 Councillor.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The property at 2555 Creekside Drive is within the Central Business District Planning Unit 2206, which at the time of property purchase, showed a neighbourhood parkland deficiency of 2.19 hectares (5.4 acres). As well, this area of Dundas was the only area that did not have a neighbourhood park within the walkability radius as set out in the Official Plan Policy B.3.5.3.11 as 800 metres. It was on this basis that the property was acquired for neighbourhood parkland.

Neighbourhood parks serve a population of approximately 5,000 people within that 800 metre walkability radius. To that end, efforts have been made to seek input from the general public as to the design and function of this park, as it will serve not only the Adjacent Property Stakeholders, but also the neighbours within that 800 metre radius. The design has been refined to ensure a multi-generational space that includes play areas for children, accessible pathways and site furniture, quiet refuge areas, open grassed areas and gathering spaces.

Although the initial agreement was with the four Spencer Creek Village condominium corporations and Amica Mature Lifestyles Inc., the Rotary Club of Dundas became involved as a community partner for the project. The Rotary Club of Dundas has been assisting fundraising and procuring in-kind donations, and has applied for Trillium Funding. Additionally, the Rotary Club of Dundas is an incorporated entity that has the ability to enter into a legal agreement with the City. The involvement of the Rotary Club of Dundas adds more general public input to the Park development process, as the members represent the wider public in Dundas.

## **ALTERNATIVES FOR CONSIDERATION**

An alternative to the approval of this agreement would be for Council to instruct City staff to not enter into an agreement with Adjacent Property Stakeholders to construct the Park, rather that the City would construct the Park according to City standard practices with the Adjacent Property Stakeholders solely providing the funding for the development and construction. If this alternative is chosen, the Adjacent Property Stakeholders pay all of the costs for the development and construction, however they are not required to construct or develop the Park. For clarity, they are solely responsible for the costs and not the construction work for the Park.

The Rotary Club has the ability to mobilize in-kind donations of labour and materials, therefore it is likely that the actual cost of construction will be less than if the City tendered the project through City procurement procedures.

Staff does not recommend the option of having the City construct the park.

An alternative to the recommendation that the operating budget increase from \$6,000 to \$10,000 and 0.1 FTE for the 2015 Operating Budget would be for Council to not refer the increase to the 2015 Operating Budget, but to make a decision on the approval of the increase at the present time.

## **ALIGNMENT TO THE 2012 - 2015 STRATEGIC PLAN**

### **Strategic Priority #1**

A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

#### **Strategic Objective**

- 1.2 Continue to prioritize capital infrastructure projects to support managed growth and optimize community benefit.
- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.

### **Strategic Priority #2**

Valued & Sustainable Services

*WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.*

#### **Strategic Objective**

- 2.2 Improve the City's approach to engaging and informing citizens and stakeholders.

### **Strategic Priority #3**

Leadership & Governance

*WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.*

#### **Strategic Objective**

- 3.1 Engage in a range of inter-governmental relations (IGR) work that will advance partnerships and projects that benefit the City of Hamilton.

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A"- Location map for park at 2555 Creekside Drive