



REPORT TO MAYOR AND COUNCIL

PRESENTED: MAY 10, 2021 - REGULAR MEETING
FROM: COMMUNITY DEVELOPMENT DIVISION
SUBJECT: ENVIRONMENTAL COMPENSATION ON
 MUNICIPAL LANDS

REPORT: 21-57
FILE: 6440-03-001

RECOMMENDATION:

That Council direct staff to proceed with the preparation of a policy framework to provide for locating of works necessary to offset environmental impact of development on municipal lands, under certain circumstances and subject to defined conditions, for Council's consideration of approval.

EXECUTIVE SUMMARY:

There are often environmental protection requirements associated with development that cannot be addressed on private property without impacting the economic viability of a project. In such circumstances, there may be opportunities for proponents to provide the required environmental compensation works on public lands, subject to technical requirements and conditions.

However, provincial legislation prohibits a local government from extending a benefit, advantage, or otherwise providing assistance to a private business.

To ensure the Township does not convey a benefit to a private business or a private property owner, and subject to Council endorsement, it is recommended that staff be directed to proceed with the development of a policy framework that would provide for location of environmental compensation on municipal lands. This is a process that has been established in a number of other municipalities in the region and considered to be acceptable based on discussions with legal counsel.

Subject to Council's approval, a policy framework could be developed that would be applied consistently, based on technical requirements being met, including availability of appropriately located lands. Such a policy is anticipated to assist with generating revenues required to address municipal needs including ongoing operating and maintenance requirements of related environmentally protected areas. If endorsed by Council, the policy would be structured to ensure the municipality does not extend a benefit to private property owners; and further, does not incur ongoing maintenance responsibilities and obligations through execution of a partnering agreement that is anticipated to provide financial compensation for the opportunity.

PURPOSE:

The purpose of this report is to seek Council approval for staff to proceed with the preparation of a policy document to provide for a regulatory framework to accommodate environmental compensation work related to development on municipal lands, based on appropriate consideration.

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BACKGROUND/HISTORY:

There are regulations relating to environmental protection and enhancement at all levels of government with some jurisdictional overlap pertaining to streams, riparian areas, wildlife, and associated habitat areas.

Developers are required to comply with said regulatory requirements. This is typically achieved through establishment of areas on private property by setting aside environmental protection areas otherwise on development lands to situate works designed by a Qualified Environmental Professional (QEP) to compensate for development impacts.

On occasion, a development proponent may not have the land necessary to suitably provide compensation for environmental protection purposes while facilitating an economically viable development project. In such circumstances, there may be opportunities for the development proponents, subject to technical requirements being addressed such as location within the same watershed, to provide the necessary compensation works on public lands.

However, allowing private developers to use public lands to reduce, eliminate, or address environmental compensation works that is otherwise necessary pursuant to applicable regulations to facilitate development is contrary to the provisions of provincial legislation. Specifically, section 25 of the *Community Charter* prohibits local government providing assistance to a business through a grant, benefit, or advantage.

DISCUSSION/ANALYSIS:

With the above as background and based on a review of practices in other jurisdictions as well as general discussion with Township legal counsel, it is believed a policy framework can be created subject to Council endorsement that would provide interested proponents with a mechanism to compensate the Township for allowing placement of works on municipal lands.

Creation of a policy framework that would provide for execution of agreements with proponents wishing to place environmental compensation works on Township lands, subject to Township receipt of satisfactory financial compensation, would be within Council's area of authority. This policy, subject to Council's approval, would be applied consistently to all development proponents subject to certain technical criteria being met such as availability of appropriately located public lands. It would be used to generate revenue, ultimately for public benefit, likely based on a formula using the incremental value added to the development lands as commensurate compensation as part of a contemplated partnering agreement.

If endorsed by Council, such a policy would be used to implement improvements on existing parkland at no cost to the Township, with ongoing maintenance costs addressed as part of the partnering agreement. While structured to ensure: a) no extension of benefit to private business; and b) no inheritance of liability in terms of ongoing maintenance, the policy could be considered in similar light as an amenity framework. It will allow the Township to generate revenues and work with the development community to increase, enhance, and protect environmentally sensitive areas throughout the Township.

Respectfully submitted,

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for
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