

## **CONVEYANCE OF REAR PORTION OF 1251 TAPSCOTT ROAD TO CANADIAN PACIFIC RAILWAY**

<b>Date:</b>	March 11, 2009
<b>To:</b>	Scarborough Community Council
<b>From:</b>	Chief Corporate Officer
<b>Wards:</b>	42 – Scarborough Rouge River
<b>Reference Number:</b>	P:\2009\Internal Services\F&re\Sc09029F&re – (AFS 9434)

### **SUMMARY**

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To replace Canadian Pacific Rail Company's ("CP Rail") spur line rail servicing 1051 Tapscott Road that was lost when a portion of 1051 Tapscott Road was expropriated by the City to extend McNicoll Avenue. The City also expropriated a portion of the rear of 1251 Tapscott Road (PART 2, Expropriation Plan AT1551966, "the Property") and it is now recommended that the transfer of this Property to CP Rail be authorized for the substitute site of the said spur line track.

The expropriated Property was acquired and is being transferred to CP Rail at nominal consideration to minimize damages which may be claimed against the City by the owner and/or tenant of 1051 Tapscott Road arising out of the City's expropriation of a portion of their land to extend McNicoll Avenue and the resultant loss of the original rail spur line.

### **RECOMMENDATIONS**

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**The Chief Corporate Officer recommends that:**

1. The City convey for nominal consideration Part 2 on Expropriation Plan AT1551966 to CP Rail and that each of the Chief Corporate Officer and the

- Director of Real Estate Services be authorized severally to sign any documents on behalf of the City to give effect thereto;
2. The Director of Real Estate Services be authorized to sign the letter of understanding between the City and CP Rail listing the terms upon which this Property is being transferred by the City to CP Rail. The terms are listed in Appendix "A" attached to this Report.
  3. City Council, as approving authority under the *Expropriations Act*, authorize the transfer of the Property to CP Rail without giving the owner from whom the land was taken the first chance to repurchase the Property on the terms of the best offer received by the City.
  4. City Solicitor be authorized to complete this transaction on behalf of the City including making payment of any necessary expenses, and amending the closing date and other dates to such earlier or later date(s) and on such terms and conditions as she may from time to time consider reasonable.
  5. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

### **Financial Impact**

There are no financial implications to the City's budget as a result of this recommendation because this Property being transferred to CP Rail was not acquired at the City's expense. The Morningside Heights Landowners Group ("MHLG") agreed, as a term of the February 22, 2002 Core Servicing Agreement for the Morningside Neighbourhood, to pay for the City's costs to expropriate lands required in connection with the extension of McNicoll Avenue, Easterly of Tapscott Road, which include the cost of the Property now intended to be transferred to CP Rail.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

### **DECISION HISTORY**

By its adoption of Clause No. 25 of Report No. 5 of the Government Management Committee at its meeting held on June 19, 20 and 22, 2007, Council approved the Expropriation of Part 2 on Reference Plan 66R-22872 now shown as Part 2 on Expropriation Plan AT1551966, in connection with the extension of McNicoll Avenue.

Council at its meeting on December 11, 12 & 13, 2007 adopted a confidential report recommending that the Transportation Services' 2007 Approved Capital Budget be amended by the addition of the project, "McNicoll Avenue Extension Expropriation Costs" with the funding being previously received from the developer pursuant to the said Core Servicing Agreement.

By approval of Delegated Authority No. 2008-183 dated December 10, 2008, the property was declared surplus with the intended manner of sale being the conveyance to CP Rail.

## **ISSUE BACKGROUND**

CP Rail's spur line track previously serviced 1051 Tapscott Road and its tenant Runnymede Developments. However, when McNicoll Avenue's Extension is completed with land expropriated from 1051 Tapscott Road, CP Rail's spur rail line track on this expropriated land can no longer be used to park rail cars to wait for loading and unloading because they would be blocking the path of our new road.

Therefore the subject property, at the rear of the adjacent 1251 Tapscott Road property, was expropriated for conveyance to CP Rail as the replacement site for the spur line, a new site which would not occupy the extension of McNicoll Avenue while maintaining spur line rail service to 1051 Tapscott Road. The Transfer to CP Rail of this rear portion of 1251 Tapscott Road, as the substitute location for its spur rail line, is intended to mitigate the damages payable to Runnymede Developments as a result of the City's expropriation of the land used by its original spur line.

## **COMMENTS**

The expropriated Property (illustrated on Appendix "B" attached to this Report) will be conveyed to CP Rail on the terms set out in Appendix "A" attached to this Report, which terms shall be included in a letter of understanding between the CP Rail and the City.

CP Rail will be installing its spur rail line and berm on the Property being transferred to it by the City and this will facilitate the continuance of CP Rail's spur line rail service to 1051 Tapscott Road. It is considered prudent to mitigate the damages payable on the loss of the original spur rail line as a result of our expropriation, that the City convey this Property to CP Rail at nominal consideration for construction of the substitute spur rail line and berm.

Staff consider the Offer to Sell to the City to be fair and reasonable and therefore recommend the approval of this transaction.

## **CONTACT**

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## **SIGNATURE**

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Bruce Bowes, P. Eng.  
Chief Corporate Officer

## **ATTACHMENTS**

Appendix "A" – Terms and Conditions  
Appendix "B" – Site Sketch