



**STAFF REPORT  
ACTION REQUIRED  
Confidential Attachment**

**Response to Applicant's Request for Funds,  
Proposed Remediation of the former Treatment Plant  
Lands adjacent to Mystic Pointe Developments:  
Manitoba Street, Grand Avenue and Legion Road**

<b>Date:</b>	July 5, 2010
<b>To:</b>	City Council
<b>From:</b>	City Solicitor
<b>Wards:</b>	Ward No. 6 – Etobicoke Lakeshore
<b>Reason for Confidential Information:</b>	This report is about potential litigation that affects the City or one of its agencies, boards, and commissions and contains advice that is subject to solicitor-client privilege.
<b>Reference:</b>	Mystic Pointe: Proposed Remediation of Adjacent Treatment Plant Lands

## **SUMMARY**

---

This report addresses potential litigation relating to a 2003 Development Agreement. That agreement included an obligation for the applicant to remediate the City's adjacent lands, consisting of the site of a former Metropolitan Toronto treatment plant and a portion of Grand Avenue Park (referred to as the "Treatment Plant Lands").

## **RECOMMENDATIONS**

---

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations in Attachment 1; and
2. City Council authorize the public release of the confidential recommendations and Schedule "A" at the discretion of the City Solicitor if they are adopted.

## **FINANCIAL IMPACT**

---

The recommendations of this report have financial impact beyond what has already been approved in the current year's Capital Budget. The 2011-2019 Capital Plan for Parks, Forestry and Recreation includes \$1.700 million for Grand/Manitoba Site Remediation in 2011. This funding is to be taken from Parkland reserves and represents money that the City has already received. The approval of this report will bring forward by one year the Grand/Manitoba Site Remediation project, which was planned for 2011. The 2011-2019 Capital Plan for Parks, Forestry and Recreation also includes \$0.188 million in 2017 and \$1.000 million in 2018 for Mystic Point – New Park Development project.

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

## **DECISION HISTORY**

The former McGuinness Distillery site is approximately 6.05 hectares (14.95 acres) and has been under phased development since at least 1996. The subject matter of this report, being environmental remediation of the Treatment Plant Lands, arises under a 2003 Development Agreement. That Agreement was authorized as a result of a Final Report of the Director, Community Planning, West District dated January 9, 2002, addressing a proposed Official Plan amendment and zoning by-law.

A report on this matter was considered by the Government Management Committee on March 11, 2010 and was forwarded to Council without recommendation. City Council at its meeting on March 31, 2010 referred item GM 29.5 back to the Government Management Committee for further consideration. On June 17, 2010 Government Management Committee was provided with an update as to the status of ongoing discussions with the applicant and, in item GM 32.3, referred this item to Council without recommendation, requesting the City Solicitor to submit a further report to Council at its meeting on July 6, 2010.

## **ISSUE BACKGROUND**

The 2003 Development Agreement provided that the development applicant ("Sunrise") would satisfy its parkland dedication requirements in a number of ways. One approach entitled Sunrise to perform certain works to address environmental contaminants in the Treatment Plant Lands.

The funds that Sunrise would spend on this proposed remediation were capped at \$314,000.00 in the 2003 Development Agreement. However, the Agreement provided that Sunrise could request the City to commit City funds if further amounts were required. Sunrise would use these additional funds to continue the work to address contaminants in the City lands. If the City declined to commit additional funds, Sunrise would have satisfied this element of the 2003 Development Agreement by demonstrating

expenditures up to the \$314,000.00 cap. Any shortfall in demonstrated expenditures would be made up from other sources, such as cash-in-lieu of parkland.

Sunrise wrote to the City in October, 2007, indicating its position with respect to funds spent to date and requesting additional funds. Since that time Sunrise and City representatives have engaged in analysis of the funds spent to date, the results achieved for those funds, the budget for future work, should Sunrise continue its remediation efforts, and review of alternative proposals suggested by Sunrise to address environmental remediation of the City lands. While these discussions were underway, the Province amended Brownfield Regulation 153/04 under the *Environmental Protection Act*. These amendments are being phased in and affect the way in which the remediation will be addressed.

## **COMMENTS**

In the confidential attachment appended to this Report, staff offer input with respect to addressing this disputed element of the 2003 Development Agreement, together with the next steps that might occur in relation to remediation of the Treatment Plant Lands.

## **CONTACT**

Gordon Whicher, Solicitor, Planning and Administrative Tribunal Law,  
Telephone (416) 392-1228, Fax (416) 397-5624, [gwhiche@toronto.ca](mailto:gwhiche@toronto.ca)

Joe Casali, Director, Real Estate Services Telephone (416) 392-7202,  
Fax (416) 392-1880, [jcasali@toronto.ca](mailto:jcasali@toronto.ca)

David Douglas, Supervisor, Land Acquisitions, Parks, Forestry and Recreation  
Telephone (416) 392-8705, Fax 392-3355, [ddouglas@toronto.ca](mailto:ddouglas@toronto.ca)

## **SIGNATURE**

---

Anna Kinastowski, City Solicitor

## **ATTACHMENTS**

1. Confidential Information