
Date: September 12, 2011
To: City Council
From: City Solicitor
Wards: Ward 22 – St. Paul's
Reference Number: Application Nos. 07-251456 STE 22 OZ & 07-251461 STE 00 RH and South District Application 06 174323 STE 22 TM

SUMMARY

This report recommends that Council amend its direction authorizing the entry into a third party agreement with Northern Secondary School Foundation relating to a $130,000 grant for improvements to the Northern Secondary School playing field (the “Field”) stemming from a Section 37 benefit from the development approval at 150 Roehampton Avenue. The recommendations in this report recognize the grantee as the Toronto District School Board (TDSB) rather than the Northern Secondary School Foundation, and modifies the terms and conditions of the grant.

Council has previously authorized the entry into a third party agreement with the TDSB relating to a $500,000 grant stemming from a Section 37 benefit from a development approval at 299 Roehampton Avenue. This report also recommends that Council authorize the entry into one third party agreement to deal with both grants.

This matter is related to Item EX9.8 that will also be considered by Council at the September 21 and 22, 2011 meeting.
RECOMMENDATIONS

The City Solicitor recommends that:

1. Council amend direction (3) of motion J(20), as adopted by Council on September 25, 26, 27 and 28, 2006, to provide for entry into a third party grant agreement (the “Agreement”) with the Toronto District School Board rather than the Northern Secondary School Foundation and that the terms and conditions set out in Appendix A to the September 22, 2006 report be replaced by the terms and conditions set out in Attachment 1 to this report.

2. The Agreement also provide for the use of $500,000 secured through Section 37 of the Planning Act in connection with the development at 299 Roehampton Avenue to be used towards construction of improvements to the Northern Secondary School playing field in accordance with the terms and conditions set out in Attachment 1 to this report.

3. Council authorize and direct the appropriate City officials to take all necessary action to give effect to the foregoing, and that the Chief Planner and Executive Director of City Planning be authorized to execute the Agreement on behalf of the City.

Financial Impact

The recommendations will have no financial impact beyond what has already been approved in the current year’s budget.

DECISION HISTORY

On September 25, 26, 27, and 28, 2006, City Council adopted motion J(20), thereby authorizing the City to enter into a third party agreement with the Northern Secondary School Foundation, whereby the City would covenant to grant said foundation $130,000 that was paid to the City as part of a Section 37 benefit for a development at 150 Roehampton Avenue. The grant is to be used towards the ‘Field of Dreams’ project, in accordance with certain terms and conditions.


On June 14 and 15, 2011, City Council adopted Item No. TE7.5, approving a zoning by-law amendment to permit an increase in height and density at 299 Roehampton Avenue, over and above that otherwise permitted. In exchange for this increased height and density, the owner of the said lands agreed to provide community benefits pursuant to section 37 of the Planning Act, including the payment of $500,000 towards the construction of improvements to the Field.

ISSUE BACKGROUND

The City is currently holding $130,000 in section 37 monies, collected as part of the rezoning of 150 Roehampton Avenue. The $130,000 is intended to be granted to the TDSB to fund improvements of the Field. The September 2006 direction respecting the grant incorrectly identifies the recipient as the Northern Secondary School Foundation. It also contains certain terms and conditions of the grant that differ slightly from what is now proposed for the purpose of Field improvements.

On July 19, 2011 the City entered into an agreement with the owner of 299 Roehampton Avenue to secure various community benefits under Section 37 of the Planning Act including the payment of $500,000 towards the construction of improvements to the Field. This payment was received on July 25, 2011.

COMMENTS

Council has already determined that the combined sum of $630,000, as collected through the rezoning of both 150 and 299 Roehampton Avenue, is to be directed towards improvements to the Field.

With respect to the $500,000, Council has previously directed that the use of these funds for the purpose of play field improvements is contingent upon securing reasonable public access to the Field for recreational purposes outside of school hours. In order to formalize the conditions upon which the said funds will be granted the Agreement will require that the funds be used exclusively for improvements to the Field and will address the extent and types of improvements, and the timeline for completion. It will also set out requirements for public access to the Field. This is appropriate given that section 37 contributions are intended to provide community benefits. More detailed terms are set out in Attachment 1.
With respect to the $130,000, this Report recommends that Council amend its previous direction to correctly identify the recipient of the funds as the TDSB and to grant authority to enter into the Public Use Agreement with the TDSB for use of the $130,000 grant. Furthermore, it is appropriate to replace the terms and conditions as set out in the 2006 report with the terms and conditions attached hereto as Attachment 1 so that all terms and conditions are consistent for the purpose of the total grant of $630,000 to the TDSB.

CONTACT

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SIGNATURE

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Anna Kinastowski, City Solicitor

ATTACHMENTS

Attachment 1 – Terms and Conditions of TDSB grant
Attachment 1
Terms and Conditions of TDSB grant

1. The funds will be used by the TDSB exclusively for the Field improvements including the replacement of the natural turf with artificial turf, but excluding removal or replacement of the existing fence.

2. The Field improvements must commence within five (5) years of the City’s receiving the $500,000.00 contribution in accordance with the Section 37 Agreement related to the development at 299 Roehampton Avenue, failing which all of the funds will be used for parkland acquisition and improvements within Ward 22.

3. The TDSB will provide public access to the Field every morning from daybreak to the start of school activities; all day on Saturdays, Sundays, and Public Holidays; from 6:00 p.m. to 9:00 p.m. on Friday evenings and from 6:00 p.m. to 9:00 p.m. on any weekday evening (Monday to Thursday) that the TDSB has not permitted the Field.

4. The TDSB may issue permits for use of the Field during non-school hours to a maximum of three (3) weekday evenings per week from 6:00 p.m. to 9:00 p.m. using the TDSB’s standard permitting procedures, and may also permit the Field on a maximum of six (6) weekend days per calendar year for occasional sports tournaments.

5. During the summer break and out-of-term periods of the year, the Field will remain open all day and until the earlier of dusk or 9:00 p.m. for general public use.

6. Public access hours will be clearly identified through signage.

7. Public access will include parking opportunities.

8. The TDSB will be responsible for maintenance of the Field.

9. The TDSB will provide financial reports to the City during the term of construction of the improvements.

10. The TDSB will assume liability for the Field, indemnify the City with respect to the provision of public access to the Field, and ensure that the Field is properly insured for general liability.