STAFF REPORT
ACTION REQUIRED

Acquisition of Cemetery Lands - Rear of 5822 and 5830 Bathurst Street

Date: March 9, 2011

To: Government Management Committee

From: Chief Corporate Officer

Wards: 10 – York Centre

Reference Number: P:\2011\Internal Services\Re\Gm11011re (AFS #13298)

SUMMARY

This report seeks authority to acquire a fee simple interest in a portion of the cemetery property located at the rear of 5822 Bathurst Street from Beth Tzedec Congregation and authority to acquire a permanent easement from Forest Lawn Investment Inc. over a portion of its property located at the rear of 5830 Bathurst Street for the installation, maintenance and operation of a multi-use pathway.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. Authority be granted for the City to acquire a portion of the cemetery lands at the rear of 5822 Bathurst Street, shown cross-hatched on the attached Appendix "B" (the "Cemetery Lands") from Beth Tzedec Congregation for nominal consideration plus registration and legal fees and on such terms and conditions acceptable by the City Solicitor and the Chief Corporate Officer and in a form satisfactory to the City Solicitor.

2. Authority be granted for the City to acquire a non-exclusive easement from Forest Lawn Investments Inc. over a portion of lands located at the rear of 5830 Bathurst Street, shown hatched on the attached Appendix "B" (the "Easement Lands") for nominal consideration plus legal and registration costs, substantially on the terms and conditions outlined in Appendix "A", and on such other terms and conditions acceptable by the City Solicitor and the Chief Corporate Officer and in a form satisfactory to the City Solicitor.
3. Each of the Chief Corporate Officer and the Director of Real Estate Services be authorized severally to execute, on behalf of the City, the Agreement of Purchase and Sale and the Easement.

4. The City Solicitor be authorized to complete the transactions 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 officials be authorized and directed to take the necessary action to give effect thereto including enacting the By-Law necessary to complete the acquisition of the Cemetery Lands.

Financial Impact

The costs to acquire the fee simple and easement interests are nominal. However, the City must compensate Forest Lawn Investment Inc. for its legal costs. These costs are estimated to be approximately $5,000.00 plus H.S.T. Additional closing cost in the estimated amount of $200.00 will also be incurred. Funds are available in the 2011 Approved Capital Budget for Transportation Services account CTP851-06, Finch Corridor West.

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

DECISION HISTORY

City Council, at its meeting on September 30 and October 1, 2009, adopted the recommendations contained in City Council Clause CC40.10 which, among other matters, approved certain projects and their cost under the Recreational Infrastructure Canada ("RInC") program in Ontario and the Ontario Recreation Program (Ontario REC).

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.CC40.10

ISSUE BACKGROUND

The RInC-Ontario REC program is a Federal and Provincial infrastructure program launched in May 2009 to invest funds into recreational facilities across Canada over a two-year period. In June 2009 Transportation Services was awarded funding through the RInC-Ontario REC program to develop seven multi-use trails within hydro and rail corridors in the city. A total of three multi-use trails are proposed to be developed within the Finch Hydro Corridor (the "Corridor").

The construction of a multi-trail pathway from the Corridor to connect to Torresdale Avenue in the Bathurst Street and Finch Avenue West area is a key connection in the RInC-Ontario REC program funding requirement approved by Council. The connection
requires access across the Cemetery Lands owned by Beth Tzedec Congregation ("Beth Tzedec") and the Easement Lands owned by Park Lawn Investments Inc. ("Forest Lawn").

COMMENTS

In 2008, Beth Tzedec sold approximately 3.6 acres of its cemetery lands to Forest Lawn. As an undertaking of this transaction, Beth Tzedec agreed to convey the Cemetery Lands to the City for nominal consideration. Under the Cemeteries Act (Revised) R.S.O. 1990 C4, in order for the City to purchase a cemetery or part thereof that is within the City, City Council must pass a by-law authorizing the acquisition of such cemetery or part thereof.

Forest Lawn owns the lands north of the Cemetery Lands which it uses as a private roadway. In order to get from Torresdale Avenue to and from the Cemetery Lands, access is required over these lands. Forest Lawn has agreed to grant the City a permanent non-exclusive easement over its lands for pedestrian and cyclist ingress and egress purposes. In exchange for the granting of the easement, the City is to compensate Forest Lawn for its legal costs, which is not to exceed $5,000, excluding H.S.T.

Staff considers the acquisition of the Cemetery Lands and the terms of the easement to be fair and reasonable and therefore, recommends the approval of these transactions.

CONTACT

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SIGNATURE

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Bruce Bowes, P.Eng.
Chief Corporate Officer

ATTACHMENTS

1. Appendix "A" - Terms and Conditions of the Easement
2. Appendix "B" – Site Maps