

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON JULY 23, 2013
FROM:	MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	LOCAL IMPROVEMENT CHARGES SHERWOOD FOREST PUBLIC SCHOOL

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, this report **BE RECEIVED** for information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

Corporate Services Committee Report – February 5, 2013 – Local Improvement Charges – Potential Uses.

BACKGROUND

Municipal Council at its session on February 12, 2013 resolved as follows:

“... the Civic Administration BE DIRECTED to report back to the Corporate Services Committee with Terms of Reference for a potential pilot project utilizing local improvement charges for the acquisition of lands occupied by Sherwood Forest Public School ...”

Local Improvement Process

In a previous report to the Corporate Services Committee dated February 5, 2013, various concerns were expressed with respect to using local improvements as a method to finance the acquisition of a surplus school site. The conclusion of the report states: *“... there would appear to be significant problems that would preclude giving consideration to using the current local improvement regulation to finance the acquisition of a surplus school site either by private property owners or by the City. It is apparent that the current wording as well as the previous wording of regulation 586/06 were not drafted with the concept of acquiring surplus school properties for the benefit of a particular area in mind. In the long term, the cost and any other liabilities related to the property would become the responsibility of whoever owns the property, and it would not be possible to recover ongoing costs as a local improvement regardless of property ownership. If the Council wishes to use the local improvement process or a special services by-law to purchase a particular school site, it is recommended that Council obtain further legal advice and an opinion specifically for that transaction”.*

Notwithstanding the February 5, 2013 report, if the City were to proceed to attempt to use this method of financing the acquisition of a school site, it is recommended that the process be commenced by way of a petition by the local residents who will be paying the local improvement charges rather than on initiation of the local improvement by the City. Based on this approach Civic Administration have prepared framework which includes a list of steps that we would need to be completed in order to proceed with the imposition of local improvement charge to finance the acquisition of a school site. These steps are attached as Schedule A.

As noted in the previous report, there are several problems with the use of the Local Improvement Process to fund the acquisition of a school property. Local improvements may only be assessed on lots that directly abut the work (in this case the school site) or those lots that do not abut the work but will immediately benefit from it. There are only a few lots that abut the school site. It will be problematic to identify all the lots that immediately benefit from the work. In addition, local improvement charges may only be set using an equal special charge per metre of lot frontage.

Charges may not be apportioned by assessment value or any other method. The difficulty in identifying the entire area of benefit and potential complexity in determining the charges to be imposed on individual lots has a significant potential for involving the City in litigation.

At this time, it is uncertain exactly what the “work” is that would be required. Would the work involve the acquisition and long term maintenance of a building? Would the work include demolition of the building? It is impossible to determine absolute long term or short term costs of any work until such questions are definitively answered. Further, as noted in the February 5, 2013 report, the term “work” is defined in the regulation as a capital work and includes the power to acquire an existing work. Traditionally, the local improvement process has been used for works such as water and sewer systems, sidewalks, curb and gutters, noise attenuation walls and street lights. The application of the regulation to the acquisition of a school site has not been tested in the courts.

Municipal Need for the Property

The Realty Division has sent out a preliminary request to other civic service areas for the City’s needs analysis on this property. Neighbourhood, Children and Fire Services Area, Parks and Recreation Service Area and Parks Planning have all provided input with regard to the City’s need for this building and green space in relation to the area.

The general comments do not support a demonstrated need for this property. Although there is a shortage of gym space, the gym space at the Sherwood Forest Public School is an older style and undersized for current typical gym purposes. While it could be used as multi-purpose space, it was determined that there is no lack of multi-purpose space in the area, given the proximity to Medway Community Centre and a number of other nearby facility, school and library spaces. There are additional limitations at Sherwood Forest School from a public recreation point of view: parking is limited; the facility is situated deep in the heart of a neighbourhood making it more challenging to access; and it is some distance away from public transit stops.

As far as this site providing potential space for a Senior Satellite (similar to that in Argyle at the East London Library), this site again would not be a high priority on the consideration list. We would be seeking a more accessible location and prefer to work with existing partners in neighbourhoods to offer the sort of programming desired – so the Sherwood Forest School site is an unlikely location for a future Senior Satellite.

Similarly, there are no future plans to develop standalone “seniors only” community centres as we have heard through several community engagement exercises about recreation centres, that older adults prefer to attend multi-generational facilities. The Senior’s Community Association currently operates a Senior’s Neighbourhood Advisory Council (SNAC) out of Medway Community Centre.

An analysis of the green space was conducted and taken as a whole, the Orchard Park-Sherwood Forest community (bounded by Gainsborough, Wonderland, Sarnia Roads and the Medway Valley/Ramsey Road/Brescia Lane) meets the established standards for parkland.

- i) Distance to green space: current standard = within 800m.
Based on this criterion, the community is served to this standard even with the loss of the Sherwood Forest Campus, though residents on the far north of the community would be just at the outside margins of this standard.
- ii) Hectares of Active green space: current standard = 7.47 hectares
Excluding naturalized areas and school campuses, the community is served by 7.13 hectares of active green space. In addition, the area has access to many hectares of naturalized areas serving hiking, biking interests, which many other communities do not have access to.

Although short of the strict standard by approximately 1 acre (.34 hectares), the community is very well served relative to many other London neighbourhoods/communities; e.g. Limberlost, Old South etc. It should be noted there would be an associated operational cost to maintain any new green space in the area.

Although the loss of Sherwood Forest School campus would deprive local residents of access to a proximate play structure, this may also merit consideration for investments in other park infrastructures such as a pathway in Furanna Park or installation of play structures at existing parks. These improvements could be considered without the purchase of additional lands.

Community Interest

The community group in the area is interested in working with entities in the community who may wish to acquire the lands from the City if the land was acquired by the City, however, these plans are in preliminary discussions only. If a government body is not interested in the purchase of the property from the school board, the property would be available on the open market and interested parties would have the opportunity to submit an offer to purchase.

Acquisition of Property Process

School Board Disposition Process

Under the Education Act – Ontario Regulation 444/98 governs the Disposition of Surplus Property of the School Boards.

If a District School Board proposes to sell, lease or otherwise dispose of real property, the Board must first adopt a resolution that the property is not required for the purpose of the board.

The District School Board then must offer the property at fair market value to the following bodies on the same day:

1. The French-language public district school board in the jurisdiction;
2. The English-language separate district school board or Roman Catholic school authority in the jurisdiction;
3. The French-language separate district school board in the jurisdiction;
4. The Board of Protestant separate school in the jurisdiction;
5. The English language college;
6. The French language college as specified;
7. The University as specified;
8. The Crown in right of Ontario;
9. The Municipality ;
10. The Upper Tier Municipality;
11. The Local Services Board ;
12. The Crown in right of Canada.

The District School Board cannot accept or reject any offers before the expiration of 90 days from which the proposal was issued.

After the 90 days, the Board can accept the offer at fair market value by the body that has the highest priority among the bodies that made offers. If there are multiple offers, then the Board may attempt to negotiate the fair market value with the highest priority or within a 30 day period elect to have fair market value determined through binding arbitration.

If the District School Board does not receive an offer from a priority body to which the proposal was issued before the expiration of 90 days the Board can dispose of the property at fair market value to any other body or to any person.

City of London Acquisition Policy

The City of London Real Property Acquisition Policy governs the framework for the purchase of real estate for municipal purposes. The Policy applies where real property rights are acquired by the City of London and includes any right, interest or benefit in land including, but not limited to fee simple acquisitions, leases, licenses, options, air rights, density transfers, permanent easements, rights-of-way, linear corridors, and other limited interests such as joint-use agreements, temporary working easements, permissions to enter and construct, and any other legal binding agreement related to the acquisition of real property rights.

The Policy calls for a Service Needs Assessment prior to initiating any type of acquisition subject to very few exceptions. The Needs Assessment includes such things as:

- Justification and rationale for acquisition
- Definition of municipal need
- Evaluation of the Cost of Ownership
- Risk and Benefits
- Acquisition Options
- Other factors including Policy considerations

Funding is a key consideration under the Policy. A source of funds is required to be identified. The

associated life cycle costs and operating costs need definition in addition to the capital cost.

Taking advantage of the Municipalities preferred status as a government agency is allowed for under the Policy.

The Acquisition process is prescriptive under the Policy. Items required under the Policy include Due Diligence Activities such as Appraisals, Environmental Review, Compliance Activities, and Legal review.

Responsibilities under the Policy are also defined for various Service areas in the context of a potential Acquisition.

As a matter of practice other civic service areas, including Finance, are included in the process and solicited for feedback in order to further define the municipal need and/or provide any objections to the potential acquisition.

Unless otherwise provided for by By-law, City Council approval is required for the acquisition of real property rights in accordance with the provisions of this Policy and any and all applicable By-laws and Legislation. In accordance with the approval authority, executing authority is then delegated to the appropriate City officials.

Budget

During the 2013 budget deliberations, Council resolved that a placeholder for the 2014 budget be established in the amount of \$250,000 for the Sherwood Forest Public School repurposing for a senior's centre; as the community is working diligently towards repurposing the site through a number of projects.

CONCLUSION

It is difficult for Civic Administration based on current standards and criteria, to argue for significant investment in this community ahead of investments over other, less well served communities.

The list of steps for a local improvement, as attached, indicate what would be required to proceed with the acquisition of property using the local Improvement process. As has been indicated in this report and the previous report on this subject, there are significant concerns relating to defining the area of benefit and determining the amount of individual charges that would appear to have the potential for involving the City in litigation. Also the exact definition of the work proposed needs to be determined. Administration would not recommend undertaking the local improvement process in acquiring a school property.

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Attach.

- c. Jennifer Smout
- J. Logan