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DONALD COUSENS PARKWAY - MARKHAM BYPASS REVISED MEMORANDUM OF UNDERSTANDING PRINCIPLES

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, August 22, 2007, from the Commissioner of Finance:

1. RECOMMENDATIONS

It is recommended that:

1. Regional staff be authorized to negotiate the terms of a revised Memorandum of Understanding, based on the following principles, for the construction of the Donald Cousens Parkway Extension formerly Markham Bypass to Ninth Line, between the Region, the Town of Markham and the Box Grove Developer Group.
 1. The Box Grove Developer Group will construct the Donald Cousens Parkway to a design and specification subject to the satisfaction of the Commissioner of Transportation and Works.
 2. The Commissioner of Transportation and Works may at his/her sole discretion design and construct the balance of the Donald Cousens Parkway therefore relieving the Box Grove Developer Group from their design and construction obligation.
 3. The Box Grove Developer Group will provide securities acceptable to the Commissioner of Finance and Treasurer to secure the complete construction of the Donald Cousens Parkway.
 4. The Box Grove Developer Group will pay all development charges on registration of their Plans of Subdivision.
 5. The construction securities will be returned to the developers upon completion of the Donald Cousens Parkway from Highway 407 to 9th Line subject to the satisfaction of the Commissioner of Transportation and Works.
 6. The developers will be compensated for the road construction pursuant to a standard Regional Development Charge application for Development Charge credits following completion of the entire roadway.
 7. The Box Grove Developer Group will be eligible to recover a portion of the non-growth component based on the construction timing of the project in the Region's 10 year capital plan.
2. The Regional Chair and Clerk be authorized to execute the agreement.

2. PURPOSE

The purpose of this report is to obtain Council's authorization to permit Regional staff to negotiate the principles of a revised Memorandum of Understanding with the Town of Markham and the Box Grove Developer Group, and to authorize the Regional Chair and Clerk to execute the agreement.

3. BACKGROUND

On June 13, 2002 the Region, the Town of Markham and the Box Grove Developer Group executed a Memorandum of Understanding for the construction of the Markham Bypass, now known as the Donald Cousens Parkway, around the Box Grove Community.

In June 2007, Regional staff reported to Committee and Council on the status of the Donald Cousens Parkway project. The report noted that the completed Individual Environmental Assessment recommends that the Parkway be constructed as a four-lane Regional arterial road as opposed to the two-lane local road envisioned in the 2002 Memorandum of Understanding. The Individual Environmental Assessment recommendations affected the 2002 Memorandum of Understanding in the following ways:

- the Town of Markham is no longer in a position to expropriate the required lands,
- delayed the construction of the Donald Cousens Parkway, and
- delayed the buildout of the Box Grove Community.

4. ANALYSIS AND OPTIONS

The following section outlines the recommended revisions to the approved principles of the 2002 Memorandum of Understanding with the Town of Markham and the Box Grove Developer Group for the construction of the Donald Cousens Parkway.

4.1 Recognizing The Project's Uniqueness

In recognition that this is a unique situation whereby:

1. The Individual Environmental Assessment for the Donald Cousens Parkway was completed and filed in December of 2005.
2. The City of Toronto Council opposes the alignment for the proposed link in the Individual Environmental Assessment, and prefers an alternate alignment for a portion of the roadway.
3. An agreement with the City of Toronto for the final alignment is not imminent.
4. The Ministry of the Environment has been requested to approve the common section of the alignment from Highway 407 to 9th line.
5. The section of the roadworks through the Box Grove area is common to both York Region and City of Toronto's preferred alignment.

6. There are non-participating landowners in this area who are unwilling to dedicate their lands and who do not want to construct their portion of the Parkway.

Accordingly, Regional staff recommends that the Region, the Town of Markham and the Box Grove Developer Group revise the principles of the 2002 Memorandum of Understanding to allow for the participating landowners to proceed with development of their future phases subject to the revised principles contained in this report. Both the Town of Markham and the Box Grove Developer Group have agreed to revise the 2002 Memorandum of Understanding.

4.2 Highlights of the 2002 Memorandum of Understanding

Two of the conditions of draft approval for the developers within the Box Grove Community are that the land for the Donald Cousens Parkway be dedicated to the Regional Municipality of York and that the developers construct the roadway as required. In return, participating landowners receive servicing allocation by the Town of Markham for phase 1 of their developments. These developers are now in a position to proceed with developing the balance of their phases.

In an attempt to expedite the completion of the Parkway, the Town of Markham approached the non-participating landowners to secure the lands. In case the Town is not successful, Regional staff will prepare a separate report to seek authorization to expropriate the lands required to complete the Donald Cousens Parkway between Highway 407 and 9th Line.

5. FINANCIAL IMPLICATIONS

On June 13, 2002, Regional Council approved the principles of the Memorandum of Understanding for the construction of the Donald Cousens Parkway to Morningside Avenue. The construction of the Parkway to Morningside will be constructed in separate phases due to ongoing discussions with the City of Toronto, Ministry of Environment and the non-participating landowners.

Regional staff has received a request to revise the 2002 Memorandum of Understanding and has indicated that this arrangement would be acceptable based on the following additional conditions:

1. The Box Grove Developer Group will construct the Donald Cousens Parkway to a design and specification subject to the satisfaction of the Commissioner of Transportation and Works.
2. The Commissioner of Transportation and Works may at his/her sole discretion design and construct the balance of the Donald Cousens Parkway therefore relieving the Box Grove Developer Group from their design and construction obligation.

3. The Box Grove Developer Group will provide securities acceptable to the Commissioner of Finance and Treasurer to secure the complete construction of the Donald Cousens Parkway.
4. The Box Grove Developer Group will pay all development charges on registration of their Plans of Subdivision.
5. The construction securities will be returned to the developers upon completion of the Donald Cousens Parkway from Highway 407 to 9th Line subject to the satisfaction of the Commissioner of Transportation and Works.
6. The developers will be compensated for the road construction pursuant to a standard Regional Development Charge application for Development Charge credits following completion of the entire roadway.
7. The Box Grove Developer Group will be eligible to recover a portion of the non-growth component based on the construction timing of the project in the Region's 10 year capital plan.

Any principles of the 2002 Memorandum of Understanding that are not changed pursuant to this report remain in full force and effect.

6. LOCAL MUNICIPAL IMPACT

The completion of the Donald Cousens Parkway will facilitate the buildout of the plans of subdivision within the Box Grove Community in the Town of Markham. The Town of Markham will be responsible to allocate additional servicing capacity to the participating landowners.

7. CONCLUSION

The Region, the Town of Markham and the Box Grove Developer Group entered into a Memorandum of Understanding in 2002. In accordance with the approved principles, the Memorandum of Understanding was executed. Since then, factors related to the Individual Environmental Assessment for the roadworks, discussions with the City of Toronto and non-participating landowners have delayed the construction of Donald Cousens Parkway. Subsequently, the Box Grove Developer Group requested that the Region and the Town of Markham revise the 2002 Memorandum of Understanding to accommodate the buildout of their developments.

This report seeks authorization to negotiate the terms of a revised Memorandum of Understanding in accordance with the proposed principles in this report and to authorize the Regional Chair and Clerk to execute the agreement.

The Senior Management Group has reviewed this report.