

Clause 11 in Report No. 13 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on September 22, 2016.

11

Application for Approval to Expropriate
20854 and 20908 Leslie Street
Upper York Sewage Solutions
Town of East Gwillimbury

Committee of the Whole recommends adoption of the following recommendations contained in the report dated September 2, 2016 from the Commissioner of Finance:

1. Council authorize an application for approval to expropriate the lands set out in Attachment 1, for the construction of the proposed water reclamation centre on the east side of 2nd Concession Road, approximately one kilometre north of Queensville Sideroad, in the Town of East Gwillimbury.
2. The Commissioner of Corporate Services be authorized to execute the Application for Approval to Expropriate Land and the Notice of Application for Approval to Expropriate Land (the "Notice") and to serve and publish the Notice, as required under the *Expropriations Act* (the "Act").
3. The Commissioner of Corporate Services be authorized to forward to the Chief Inquiry Officer any requests for an inquiry that are received and to represent the Region, as necessary, under the *Act*.
4. Council authorize the introduction of the necessary bylaws to give effect to these recommendations.

Report dated September 2, 2016 from the Commissioner of Corporate Services now follows:

1. Recommendations

It is recommended that:

1. Council authorize an application for approval to expropriate the lands set out in Attachment 1, for the construction of the proposed water

Application for Approval to Expropriate
20854 and 20908 Leslie Street
Upper York Sewage Solutions
Town of East Gwillimbury

reclamation centre on the east side of 2nd Concession Road, approximately one kilometre north of Queensville Sideroad, in the Town of East Gwillimbury.

2. The Commissioner of Corporate Services be authorized to execute the Application for Approval to Expropriate Land and the Notice of Application for Approval to Expropriate Land (the "Notice") and to serve and publish the Notice, as required under the *Expropriations Act* (the "Act").
 3. The Commissioner of Corporate Services be authorized to forward to the Chief Inquiry Officer any requests for an inquiry that are received and to represent the Region, as necessary, under the *Act*.
 4. Council authorize the introduction of the necessary bylaws to give effect to these recommendations.
2. Purpose

This report seeks Council approval for an application for approval to expropriate property interests required for the construction of the proposed water reclamation centre on the east side of 2nd Concession Road, approximately one kilometre north of Queensville Sideroad, in the Town of East Gwillimbury. The location of the properties is shown in Attachment 2.

3. Background

The Upper York Sewage Solutions project will provide servicing for planned growth in the Towns of Aurora, East Gwillimbury and Newmarket

The purpose of the Upper York Sewage Solutions project is to develop a local sustainable sewage servicing solution to accommodate planned growth for employment and communities in the Towns of Aurora, East Gwillimbury and Newmarket. All of these municipalities are located in the Lake Simcoe watershed. The Water Reclamation Centre is one of three major components of the Upper York Sewage Solutions project. The other two components are the York Durham Sewage System Modifications and the Total Phosphorus Offsets. The water reclamation centre will provide clean treated irrigation water, promote green design, conserve natural features and provide a trail system linkage.

Application for Approval to Expropriate
20854 and 20908 Leslie Street
Upper York Sewage Solutions
Town of East Gwillimbury

The project is moving through the Individual Environmental Assessment process

The Upper York Sewage Solutions project followed the planning process established under the *Environmental Assessment Act* for Individual Environmental Assessments. The Environmental Assessment (EA) was conducted in two parts – a Terms of Reference, essentially a road map as to how the EA would be undertaken, and the EA itself. Approval of the Terms of Reference was received from the Minister of the Environment on March 11, 2010.

Approval of the Environmental Assessment for the Upper York Sewage Solutions project is anticipated for the fall of 2016

The final EA report for this project was submitted to the Minister for approval on July 25, 2014. Following the submission, Ministry staff began an internal review and public consultation process, in accordance with regulatory guidelines. The Notice of Completion of Ministry Review was published on Thursday, January 21, 2016. The public comment period on the Ministry Review ended Friday, February 26, 2016. All comments received were documented and the next step is for the Minister to render a decision on approval of the EA. Based on discussions with Ministry staff formal approval is anticipated to be in the fall of 2016.

A technical process determined the subject lands as the preferred site for the water reclamation centre

A preliminary list of 98 potential sites was initially generated based on meeting the technical criteria of size (a minimum 100 acre parcel is required), elevation and location. After applying site suitability and avoidance criteria related to sensitive land use features such as the Greenbelt and Oak Ridges Moraine the list was pared down to 21 potential sites that satisfied all site suitability requirements. To ensure that all possible sites were considered, an “Expression of Interest” was placed in local papers to determine if single parcels of land could be combined into larger suitable sites. This process provided three additional potential sites that were evaluated. A screening of the list resulted in four sites being short listed for final consideration which included the subject willing property host site.

After full consideration of technical criteria, public consultation, the natural built and economic environments and the net effect analysis, the properties located at 20854 and 20908 Leslie Street were established as the recommended site for the water reclamation centre.

Application for Approval to Expropriate
20854 and 20908 Leslie Street
Upper York Sewage Solutions
Town of East Gwillimbury

The Region is able to obtain property rights prior to EA approval

The proponent is permitted under the *Environmental Assessment Act* to acquire rights in land for a proposed project before final approval is received at the proponent's risk. This risk is borne by the Region if the project does not receive approval or if the Minister's approval requires changes to the project that alter land requirements.

Negotiations continue in order to acquire this necessary property with a view to construction commencing in 2018

This project requires portions of land from 20854 and 20908 Leslie Street to accommodate construction of a proposed water reclamation centre. Possession of the land is required by the spring of 2017. The two processes of a negotiated transaction and expropriation can occur concurrently. Securing the property through the expropriation process will provide certainty that construction can proceed should the project be advanced.

This is the first step in the Council approval process for property expropriation as indicated in the graphic below.



4. Analysis and Options

Staff negotiates with the property owners before, during and after the expropriation process

Negotiations with the property owners began in May 2015. Two property appraisals prepared by independent fee appraisers were commissioned and provide the basis for the Region's purchase offer. The property owners have countered with an appraisal that is significantly higher than the Region's, which resulted in the commissioning of a technical appraisal review. The technical appraisal review does not support the owner's counter offer. A copy of the technical review was provided to the owners.

Application for Approval to Expropriate
20854 and 20908 Leslie Street
Upper York Sewage Solutions
Town of East Gwillimbury

Staff continues to negotiate an amicable purchase with the property owners and will abandon the expropriation process and seek Council's approval to purchase in the event of an amicable agreement.

Initiating the expropriation process will secure access to the lands to accommodate timely delivery of infrastructure

The preferred approach to obtaining land is to negotiate a transaction with the property owner, however, various events, such as the parties not agreeing on the terms of the agreement, or issues with clearing title to the property, can impede the ability to complete the transaction or complete the transaction in a timely manner. In this regard, expropriation is deemed a necessary approach to ensure timely possession of lands.

Owners have the right to request a Hearing of Necessity upon receipt of a Notice of Application for Approval to Expropriate

Expropriation is a statutory process which defines the rights of the property owner and the obligations of the expropriating authority.

The first step in the expropriation process is to obtain Council approval and serve owners with notice of intent to expropriate. Upon receipt of the Notice of Application for Approval to Expropriate, each owner has the right within 30 days of receipt to request an inquiry (Hearing of Necessity) as to whether the taking of the lands by the Region is fair, sound and reasonable.

If an owner requests an inquiry and the Hearing of Necessity proceeds, then subsequent to the inquiry, an inquiry officer will provide a report with an opinion as to whether the taking is fair, sound and reasonable, including an explanation for the officer's findings.

Future reports will be presented to Council as the expropriation process proceeds

In the event of a Hearing of Necessity, staff will report to Council about the findings and reasoning of the inquiry officer, along with further recommendations regarding whether or not expropriation of the land should proceed. If there is no Hearing of Necessity, the future report to Council will address only the expropriation.

After the expropriation, the Region is required under Section 25 of the *Act* to serve an offer of compensation within three months of registration of the expropriation plan. The offer will be based on an updated appraisal of market

Application for Approval to Expropriate
20854 and 20908 Leslie Street
Upper York Sewage Solutions
Town of East Gwillimbury

value and other damages, and possession cannot be secured until the offer of compensation has been served.

The amount of the offer will be reported to Council once the appraisal reports have been completed, before the offers are served upon the owners and possession of the lands is secured.

The Region performed both a Phase One Environment Site Assessment and a Phase Two Environment Site Assessment (ESA)

The Phase One ESA indicated the presence of pesticides and herbicides and solid waste disposal, common to farm related activities. Based on information obtained in completing the Phase One ESA, a Phase Two ESA was commissioned. The Phase Two ESA has been reviewed by staff in consultation with Legal Services and staff is waiting for recommendations to be provided by the consultant. Staff will report to Council on the findings and related cost estimates, as applicable, including recommendations responding to the identified circumstances.

Link to key Council-approved plans

The proposed acquisition for the Upper York Sewage Solutions project supports the objectives of Vision 2051, the Regional Official Plan, the 2015 to 2019 Strategic Plan, the Water and Wastewater Master Plan, and the 10-year Capital Wastewater Program.

One of the goal areas of Vision 2051 is Living Sustainably, which the project addresses through the application of best-in-class technology and practices for wastewater treatment. As well, the project supports one of the objectives of the Regional Official Plan which is to provide long term water and wastewater services. Lastly, an objective identified in the Strategic Plan is to Manage Environmentally Sustainable Growth.

5. Financial Implications

The funding required to complete this property acquisition is included in the approved 2016 Capital Budget for Environmental Services.

Application for Approval to Expropriate
20854 and 20908 Leslie Street
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Town of East Gwillimbury

6. Local Municipal Impact

The water reclamation centre, as part of the Upper York Sewage Solutions, is a key piece of infrastructure required to accommodate forecasted growth in the Towns of Aurora, East Gwillimbury, and Newmarket. In addition to providing clean treated irrigation water, the water reclamation centre will promote green design, conserve natural features and provide a trail system linkage. The acquisition of the subject property supports the construction of the water reclamation centre.

7. Conclusion

The purpose of the Upper York Sewage Solutions project is to develop a local sustainable sewage servicing solution to accommodate planned growth in the Towns of Aurora, East Gwillimbury and Newmarket.

This report seeks Council approval to expropriate property interests required for the construction of the proposed water reclamation centre on the east side of 2nd Concession Road, approximately one kilometre north of Queensville Sideroad, in the Town of East Gwillimbury. It is necessary to initiate the expropriation process to facilitate the project schedule. To date, preliminary negotiations have not resulted in an agreement, Staff continues to negotiate for the acquisition of the required property and expropriation proceedings will be discontinued in the event that negotiations are successful.

For more information on this report, please contact Michael Shatil, Director, Property Services Branch at ext. 71684.

The Senior Management Group has reviewed this report.

September 2, 2016

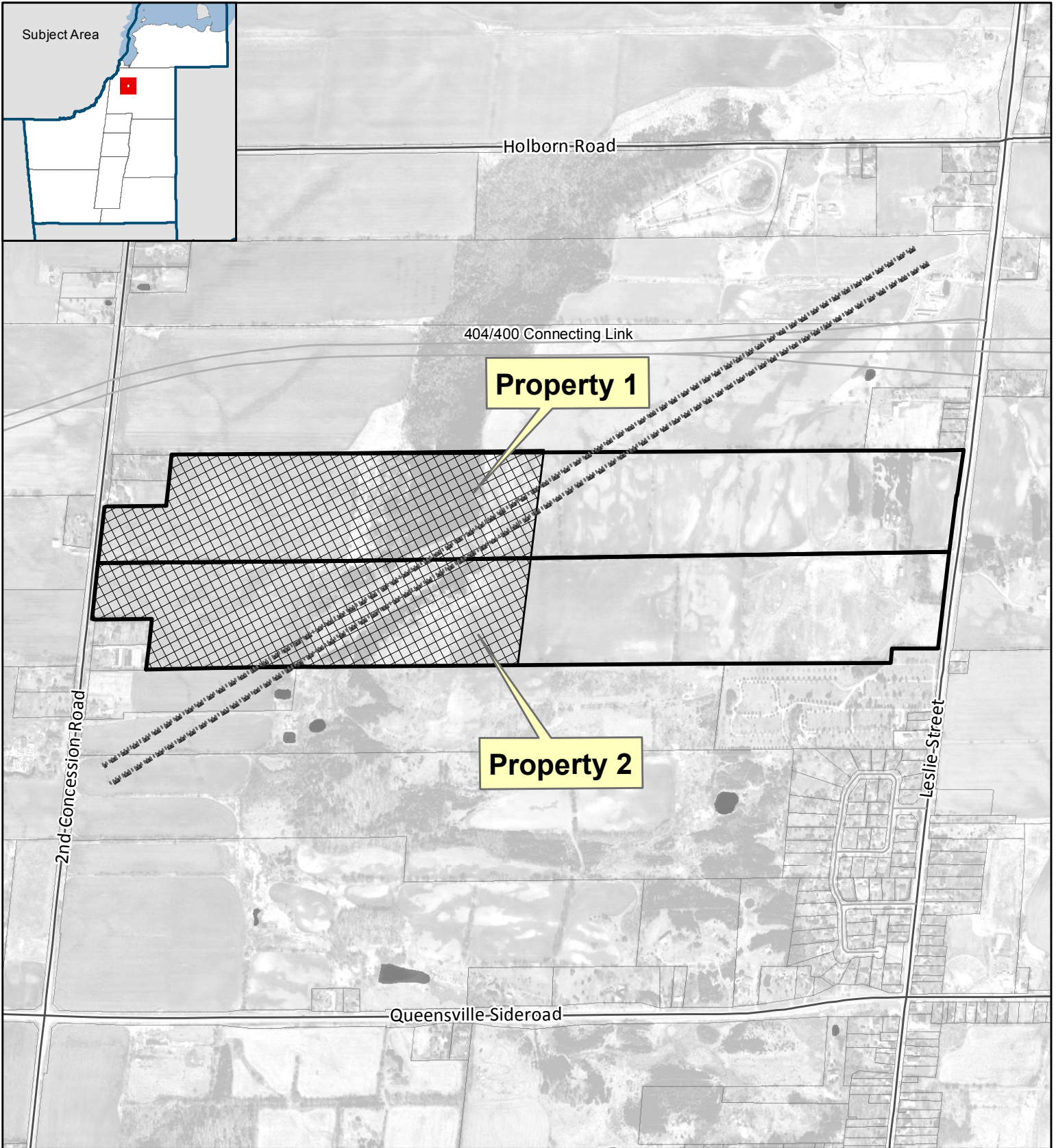
Attachments (2)

eDOCS #6953477

Accessible formats or communication supports are available upon request

Property Schedule
Application for Approval to Expropriate
20854 and 20908 Leslie Street
Upper York Sewage Solutions
Town of East Gwillimbury

No.	Owner	Municipal Address	Legal Description	Interest Required
1.	East Gwillimbury Holdings (2007) Inc.	20908 Leslie Street East Gwillimbury	Parts 1 to 8 inclusive, Plan 65R35610	Fee Simple
2.	East Gwillimbury Holdings (2008) Inc.	20854 Leslie Street East Gwillimbury	Parts 9 to 16 inclusive, Plan 65R35610	Fee Simple



Property 1

Property 2



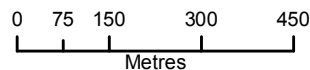
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Location Plan

Application for Approval to Expropriate
20854 and 20908 Leslie Street
Upper York Sewage Solutions
Town of East Gwillimbury
September 15, 2016



Legend

- Subject Properties
- Interest Required
- Parcel
- Road
- Hydro Corridor