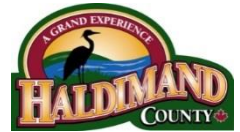

HALDIMAND COUNTY

Report PED-COM-04-2018 Field Management Program – Townsend Lease Extension and Amending Agreement

For Consideration by Council in Committee on March 27, 2018



OBJECTIVE:

To obtain Council approval to extend a Lease Agreement between the Corporation of Haldimand County and the Ontario Infrastructure and Lands Corporation (OILC) for the Townsend Park Lands (Ball Diamonds and Pavilion).

RECOMMENDATIONS:

1. THAT Report PED-COM-04-2018 Field Management Program – Townsend Lease Extension and Amending Agreement be received;
2. AND THAT a five-year extension of, and amendments to, a Lease Agreement with the Ontario Infrastructure and Lands Corporation (OILC) for the property known as the Townsend Land Bank be approved, as per Attachment #3 to Report PED-COM-04-2018;
3. AND THAT a By-law be passed authorizing the Mayor and Clerk to execute the Lease Extension and Amending Agreement.

Prepared by: Katrina Schmitz, Community Partnership Liaison

Reviewed by: Sheila Wilson, CPRP, Manager, Community Development and Partnerships

Respectfully submitted: Craig Manley, MCIP, RPP, General Manager of Planning and Economic Development

Approved: Karen General, CPA, CGA, Deputy Chief Administrative Officer

EXECUTIVE SUMMARY:

Since 1993, Haldimand County (and previously the City of Nanticoke) has leased from the Province of Ontario eight parcels of land in Townsend for use as a community park including two baseball diamonds, a pavilion, a storage building, related amenities and green space (Attachment 1). Approximately four 'effective' acres (for which the Province charges rent) of the overall 12-acre property—known as Forest Park and Elmvale Park—are maintained and operated by the Townsend Lions Club and Parks Committee for community recreation, leisure and socialization. Haldimand County staff maintain the remaining eight acres within the parcel as a passive park (grass cutting). As well as paying rent for the four acres, the County is obligated within the Agreement to pay taxes as additional rent.

The County has been in an overhold position with the Lease Agreement since January 1, 2017. At this time, Council is requested to approve the proposed five-year Lease Extension and Amending Agreement presented by Ontario Infrastructure and Lands Corporation (OILC), including annual rent of \$622 (plus HST) for the four acres and related property taxes for all eight parcels. The only change in the Lease Extension from the Original Agreement is an increase in the per-acre rental rate from \$115.75 per acre (plus HST) to \$155.50 (plus HST).

BACKGROUND:

In 1993, the City of Nanticoke first entered into an agreement with the Province of Ontario to lease the lands of Part Block 53 and 55, Plan D-37-1 in the City of Nanticoke. The 12-acre property is comprised of approximately four (4) active acres that include two ball diamonds, a pavilion and a storage building in the community of Townsend. Known as Forest Park and Elmvalle Park, the four acres including amenities are operated and maintained by the Townsend Lions and Parks Committee on behalf of Haldimand County. The remaining eight acres are maintained as passive green space by Haldimand County Facilities and Parks Operations staff.

In 2014, the County entered into a three-year Lease Agreement with the Ontario Infrastructure and Lands Corporation (OILC) for the said lands as a means to ensure the continued availability of the property for community use at the nominal cost. (Attachment 2) The rent in year one of the Agreement was \$226 (plus applicable taxes) and increased to \$470 (plus applicable taxes) for years two and three. The rent increase was in keeping with the Province's per-acre land rental rates.

For the first time, in 2015, the OILC exercised its right within the Lease Agreement to recover taxes related to the property. For 2014 and 2015 this amounted to approximately \$4,000 each year. In order to address the tax matter, County staff investigated the opportunity for the municipality to designate the property as tax exempt on the basis of its use as a municipal capital facility as defined in the *Municipal Act, 2001*. Report PED-COM-10-2015 was presented to Council with rationale related to this approach; however, following further discussions with the Municipal Property Assessment Corporation (MPAC), it was determined the property was not eligible for tax exemption. In the subsequent time period, during 2017, staff explored the feasibility of appealing the MPAC decision regarding tax exempt status with the County Solicitor and began discussions to explore acquiring the lands from the Province. As neither option has been successful, it was determined it is necessary to bring forward a lease extension request.

ANALYSIS:

In late 2016, the Ontario Infrastructure and Lands Corporation (OILC) provided Haldimand County with a proposed five-year Lease Extension and Amending Agreement (January 1, 2017 – December 31, 2021). The terms of the Extension Agreement (Attachment 3) include annual rent for each of the five years of \$155.50 per acre, or \$622 (plus HST) per year. This represents an increase of \$152 annually (32%) from the current amount. As well, the County (as tenant) is responsible, throughout the Extension Term, for payment of its share of taxes (plus HST) in accordance with Article 6 of the Original Lease, which amounted to \$4,495 for 2017.

The Townsend Park lands are used extensively by the community for recreation, socialization and leisure. In the past few years, improvements to these amenities included the enhancement—through Community Vibrancy funding (\$60,970) and Development Charges (\$49,890)—of the pavilion for year-round use as a small community meeting space as well as new ball diamond backstops and fencing (\$26,900). In 2013, the County made capital investments at the adjacent courts, replacing three tennis courts with two courts for tennis and one for multi-purpose play (e.g. basketball, ball hockey). As such, staff support extending the lease arrangement with the Province.

Since January 1, 2017, this Agreement has been in an overhold position, with the County continuing to pay rent, based on the expired lease rate, and related property taxes (plus HST) to OILC, as well as providing proof of comprehensive general liability insurance. During the past year, the County has also initiated discussions with the Province about the possibility of purchasing the property, particularly given its ongoing use and recent municipal investments. These negotiations have not been resolved and are ongoing.

FINANCIAL/LEGAL IMPLICATIONS:

The 2018 Tax Supported Operating Budget for parks includes sufficient funds to cover the applicable lease costs and taxes related to the agreement.

STAKEHOLDER IMPACTS:

The original Lease Agreement and Lease Extension and Amending Agreement—and this report—have been reviewed by the Support Services Division, which will continue to provide the requisite Certificate of Insurance should the Lease Extension and Amending Agreement be approved by Council. The report has also been reviewed by the Facilities and Parks Operations Division and Finance Division, given related maintenance and budgetary considerations.

Approval of this Lease Extension and Amending Agreement supports the efforts of the Townsend Lions Club and Parks Committee in its maintenance and operations of the property, and is in keeping with the County's strategic priority of enhancing community vibrancy through the investment in high quality, sustainable services which promote the well-being of communities.

REPORT IMPACTS:

Agreement: Yes

By-law: No

Budget Amendment: Yes

Policy: No

ATTACHMENTS:

1. Property Location Map – Townsend Park Lands.
2. Province of Ontario Commercial Land Lease – Townsend Land Lease (January 1, 2014 – December 31, 2016).
3. Province of Ontario Lease Extension and Amending Agreement – Townsend Land Lease (Agreement Extension).