



"Together We Learn"

SCHOOL DISTRICT No. 23 (CENTRAL OKANAGAN)
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Memorandum

Date: November 10, 2011
To: Planning and Facilities Committee
Prepared by: Larry Paul, Secretary-Treasurer

Information Item: KLO Site Development Study

1.0 RELEVANT BOARD MOTION/DIRECTION

April 20, 2011 Planning and Facility Committee recommended

THAT: Staff be directed to work with the City of Kelowna to develop a Statutory Right of Way for the redevelopment creek bed.

THAT: Staff research the KLO Middle School site and bring back more information on the potential for development of a riparian area and outdoor classroom.

May 20, 2011 The Board of Education

THAT: Staff be directed to work with the City of Kelowna to develop a Statutory Right of Way (SROW) for the redevelopment creek bed.

2.0 BACKGROUND

Fascieux creek flows west from its headwaters around the Mission Creek Golf Club out towards Okanagan Lake at Meikle Avenue and Watt Park. Currently the 200 meter section of Fascieux Creek that runs through École KLO Middle School property is covered by 1 x 1 meter concrete pads.

City of Kelowna Official Community Plan identifies this section of Fascieux Creek as a Natural Environment Development Permit Area. The City of Kelowna's position regarding Fascieux Creek, is that they require Riparian Management Area (RMA) setbacks, along with the environmental approval process and statutory right of way (SRW) requirements for drainage works.

A Statutory Right of Way could be placed over the area of a creek and sufficient property to provide access for any equipment necessary to maintain the area and protect both upstream and downstream properties. Statutory right of way allows city crews to enter the property within the defined area to maintain and monitor the creek whenever required. There isn't any 'daily maintenance' associated with the creek and there is no public access over these types of statutory right of ways.

At the February 16, 2011 meeting of the Planning and Facilities Committee, Students from KLO middle school presented their wish to see a restoration of the creek and an expansion of the riparian area to include an "outdoor" natural classroom.

At the April 20, 2011 Planning and Facilities Committee meeting, staff recommended that the outdoor classroom not be considered on lands north of the creek to maximize the available options for a future building expansion.

Golder Associates Ltd. was hired by School District No. 23 to provide soil information required to allow for a professional evaluation of the potential for development of an additional riparian area and outdoor classroom as well as suitability for future construction.

3.0 INFORMATION STATEMENT

September 28, 2011 Jacqueline Foley, M.Sc., Geo L, Associate, Senior Hydrogeologist, Golder Associates Ltd; Limited Subsurface Investigation, Fascieux Creek Restoration reported:

- Refuse materials were only observed in the test pits south of Fascieux Creek, suggesting that the former landfill area was limited to the south side of Fascieux Creek, in the area assessed; the western and eastern extent of the buried waste cannot be determined based on available information.
- Although the buried waste material is a potential source of contamination to the soil and groundwater at the site, based on the limited soil sampling program, there were no exceedances of applicable CSR Urban Parkland and Residential Land standards.
- Should development of a riparian area or construction of future structures in the investigated area occur, as a good housekeeping practice, consideration should be given to removing the waste material from the area to be developed.
- Based on interpretation of the observed soil, it is Golder Associates opinion that the Site, north of Fascieux Creek would be suitable for lightly loaded structures of one to two floors in height.

Since the last Planning and Facilities Committee meeting, staff have been able to establish the process required to establish the Statutory Right of Way for a wet lands area. The steps required to fulfill the Board direction are:

1. Have an accredited environmental consultant prepare an Environmental Impact Study, as per the requirements of the Min of Environment (Water Act -Sec 9) and the City of Kelowna Natural Environmental Development Permit.
2. Submit a 'Water Act - Section 9' application to the Ministry of the Environment.
3. Submit a 'Natural Environmental Development Permit' with the City of Kelowna
 - a. Include Environmental Impact Study –and proposed resolutions to any issues addressed in the study.
 - b. Include setback variance request for existing buildings.
 - c. Include Statutory Right of Way variance request to 10m north & 20m south of creek.
4. Develop a City Agreement to address ongoing maintenance issues, land tenure and terms of the Statutory Right of Way. Currently the City of Kelowna has indicated:
 - a. They will not maintain the riparian area (except water works to ensure flow & reduce flood risk).
 - b. They will not contribute to consultant, application, legal, survey or any capital costs.
5. Complete a legal Statutory Right of Way survey once the terms and conditions of all the above applications are known.
6. Prepare a Property Bylaw and submit to the Board of Education for approval. Due to the size and nature of this Statutory Right of Way, it may also require Ministry of Education approval.

The Board of Education may be incurring a significant cost and ongoing maintenance with this initiative. A detailed costing analysis needs to be developed in order for the Board to have a full understanding of the financial impact and staff involvement in the project. The analysis should include but not be limited to the costing of the following items:

- Golder Associates Ltd. - Subsurface Report
- Environmental Impact Study
- Ministry of Environment & City of Kelowna Application Fees
- Legal & Survey costs
- Capital Project Costs
- Estimated annual maintenance costs
- Staffing cost to process applications and implement the changes

4.0 SECRETARY-TREASURER'S COMMENTS

The School District liability and financial burden for this project has grown beyond what staff were first led to believe. A detailed staffing burden and costing of the project needs to be developed and the Board should review this staff time commitment and costing to determine if the School District should direct the necessary financial and staff resources to complete the project.

5.0 NEXT STEP

Staff will develop a detailed costing of the resources needed to proceed with this project.

6.0 APPENDIX

None