



COUNTY OF PRINCE EDWARD

PAYMENTS IN LIEU OF PARKLAND DEDICATION

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 Planning for growth

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1. INTRODUCTION

1. INTRODUCTION

1.1 Study Purpose

Watson & Associates Economists Ltd. (Watson) was retained by the County to prepare a Development Charges Background Study and Bylaw to recover the anticipated growth-related costs of services. As part of the Request for Proposal to undertake that study it was requested that the County's policy for payments in lieu of parkland dedication be reviewed. Payments in lieu of parkland dedication are provided for under the authority of the *Planning Act*, whereby a municipality is able to accept cash payments in lieu of the conveyance of land for parks and other public recreational purposes. Our analysis reviews the County's current practice in the context of the provisions of the *Planning Act* and municipal practice in the surrounding area. In discussions with County staff the primary concern is with regards to the application of the payments in lieu of parkland dedication policy to consent applications. This report provides the background and findings of that review.

1.2 Background

Consulting the County's Official Plan, there are specific provisions for securing parkland dedication from developments. Part III of the Official Plan ("General Development Strategies") sets out the following:

"4.7 Recreational Facilities

4.7.6 To ensure that adequate lands are available to meet the open space and recreational needs of the residents of the County, Council shall require the conveyance of up to a five percent park land dedication in the case of new residential development and up to a two percent parkland dedication in the cases of new commercial or industrial development. In addition, Council may accept "cash-in-lieu" of parkland payment when deemed appropriate.

4.7.7 All lands dedicated for parkland purposes must be in a satisfactory physical condition and be located in a manner, which provides for their use by the general public. Where a proposed development abuts a body of water, Council shall endeavour to require that the lands dedicated for parkland be located adjacent to the body of water. Lands susceptible to flooding or other environmental hazards need not be accepted as part of the parkland dedication."

Moreover, Part V of the Official Plan (“Land Division”) with provisions relating specifically to plans of subdivision and condominium provides that:

“1.2.11 The County will take part or all of the five percent parkland dedication permitted under the Planning Act to provide parkland or facilities. When a plan of subdivision or condominium is proposed for property bordering a water body, the County may require that the five percent parkland dedication be comprised of land bordering the water body. Wherever possible, parkland and open spaces from a subdivision or condominium should be linked to one another to form corridors, especially along shorelines. In the alternative, the County may accept cash-in-lieu of the five percent land dedication.”

Based on this review and discussions with County staff it would appear that the practice of imposing parkland dedication provisions (both in the conveyance of land and payments in lieu) has occurred consistent with the provision of the *Planning Act*. However, the parkland dedication policies do not extend to consent applications. Similarly, section 1.3 of the Official Plan (under Part V) does not appear to impose the same requirements on consents as is provided for with respect to subdivisions.

1.3 Statutory Authority

Municipalities have the statutory authority to receive land for parkland purposes or, in lieu of receiving land, may receive a cash payment. The authority for this is provided by the *Planning Act* (sections 51.1 and 42). In cases where municipalities are dealing with large developments such as subdivision agreements, they may request that land be dedicated to the municipality. When land is being requested the Act sets the amount of land conveyed at 2% for commercial and industrial developments and 5% for residential and other non-residential developments (or one hectare for each 300 dwelling units, if provided for within the municipal official plan). For smaller developments, the normal practice is to receive a contribution of money which is then set aside in a special account (i.e. reserve fund) only to be used for parks or other public recreation purposes.

In regard to the authority for the County to charge a Parkland Dedication Fee, s.42(6) and s.51.1(3) of the Planning Act provides the following authority:

- Section 42(6) states that “the council of a local municipality may require the payment of money to the value of the land otherwise required to be conveyed under this section in lieu of the conveyance”
- Section 51.1(3), which is in the part of the *Planning Act* pertaining to subdivisions, states “...the municipality may, in lieu of accepting the conveyance, require the payment of money by the owner of the land.”

Both of these sections of the Act provides that the municipality may receive this contribution based on 2% of the value of land for commercial/industrial purposes and 5% of the value of land for residential and other non-residential purposes. The valuation, however, is different under both sections of the Act. Section 51 (subdivision of land) requires that the determination of land value be undertaken on the day before the approval of the draft plan of subdivision. Under section 42, the land is to be valued on the day before building permit issuance.

2. PAYMENTS IN LIEU OF PARKLAND DEDICATION

2. PAYMENTS IN LIEU OF PARKLAND DEDICATION

As identified in section 1.2 of this report, the primary issue with respect to payments in lieu of parkland dedication for the County is its lack of use for consent approvals. The County's practice appears to be operating within the jurisdiction of the *Planning Act* for subdivision approvals and based on discussions with staff that process is functioning appropriately. Therefore the remainder of the report will address the issue of developing a policy for payment in lieu of parkland as it relates to consent approvals.

2.1 Municipal Practice in the Surrounding Area

To assist in the development of a payment in lieu policy for consent applications a municipal survey of practice in surrounding jurisdictions was undertaken. Table 2-1 provides a summary of a survey of 12 municipalities in the surrounding area. From this information all municipalities except one (Peterborough) apply their payment in lieu policies to consent approvals. Also, the Township of Uxbridge applies their policy of 5% of land value at the discretion of the Director of Development Services. For the remaining ten municipalities there appears to be two general policy methods, they are summarized as follows:

1. The application of the statutory levels (i.e. 5% residential and other, and 2% commercial/industrial) based on the appraised value of the land at the time of building permit issuance. Seven municipalities use this approach, including Clarington, Belleville, Cobourg, Kawartha Lakes, Port Hope, Oshawa and Whitby. The approach utilized by the Town of Whitby is slightly different than the others in that the lot value is determined based on an amount per square meter of lot value differentiated between rural and urban area before the 5% rate is applied.
2. The imposition of a flat fee per application/lot. Three municipalities utilize this approach with Brighton charging \$500 per application; Quinte West charging between \$600-\$800 per lot based on the location of the consent; and Brock which charges a \$1,500 per application for lots of 2 acres for less (and 5% of appraised value for lots greater than 2 acres).

Table 2-1
County of Prince Edward
Municipal Survey of Payment in Lieu of Parkland Dedication Policies for Consent Applications

Municipality	Cash in Lieu of Parkland Dedication Policy for Consent Approvals	
	Yes/No	\$
Brock	Y	For lots under 2 acres -\$1,500; Lots over 2 acres - 5% of a real estate opinion of value
Whitby	Y	Residential Urban - (\$135 per m2) x 5%; Max of \$5,000
		Residential Rural - (\$25 per m2) x 5%; Max of \$5,000
		Commerical/Industrial - 2% of Land Appraisal Value
Clarington	Y	Residential - 5% of Land Appraisal Value
		Commerical - 2% of Land Appraisal Value
Belleville	Y	5% of Land Appraisal Value
Brighton	Y	\$500 per Application
Cobourg	Y	Residential - 5% of Land Value
		Commerical/Industrial - 2% of Land Value
Kawartha Lakes	Y	5% of Appraised Value
Oshawa	Y	Commerical/Industrial - 2% of Land Value
		All Other - 5% of Appraisal Value
Peterborough	N	No
Port Hope	Y	Low and Medium density Res. (less then 40 units) - 5% of land value
		High density Residential (over 40 units) - 1ha for every 300 units
		Commerical and Industrial - 2% of Land Value
Quinte West	Y	Fee is collected at the time of building permit issuance (fee ranges from \$600-\$800 depending on lot location)
Uxbridge	Y/N	May or May not be imposed it is at the discretion of the director of development services; when imposed it is a charge of 5% of land value

For those that regularly apply payment in lieu policies on consent approvals the majority (i.e. 70%) of respondents apply the statutory provisions to the appraised land value. However in presenting these findings to staff it was felt the use of a flat fee per application would be preferable given the consistency in land values for the majority of application activity in the rural area of the County.

For the municipalities that impose the payment in lieu fees, the following is a typical procedural example:

Step 1:

Notice of Consent - Director of Planning ensures that, as a condition of severance, that the fee be paid upon application of a building permit.

Step 2:

Payments - Upon application for a building permit, the Chief Building Official (or member of the building department) requests that the Parks and Recreation Coordinator have the lands appraised at the value as of the day before building permit issuance (where appraised value is applicable).

Step 3

The Building Permit Coordinator (or member of the building department) receives the appraisal value from the applicant, calculates the appropriate charge based on the use which the CBO collects before the building permit is issued. In municipalities where no calculation is required a flat fee would be collected at the time of building permit issuance.

2.2 Payments in Lieu of Parkland Dedication Fee Calculations

In developing a policy for payment in lieu of parkland dedication for consent applications there are predominantly two methods that could be employed. The first would be the application of 2% of the appraised value of land for commercial and industrial developments and 5% of the appraised value of land of residential and all other developments. This is consistent with the approach utilized currently by the County for subdivision applications. However, given the nature of consents and the understanding that these would predominantly occur in the rural area of the County the inconvenience and cost to the applicant of having to produce an appraised value with their building permit application may be an unnecessary encumbrance.

In light of this the second method would result in the County developing a fee based on the assumed average value of a lot or per area (e.g. acre). This option would reduce the burden on the applicant of having to produce an appraisal with their building permit application, as well as result in an easier process for County building staff to administer.

In an attempt to design a flat fee option, the County's Official Plan was consulted and discussions were held with County staff. To design a flat fee for potential implementation a reasonable value would have to be developed for a typical consent application and the payment in lieu rates established by the *Planning Act* would be applied. Consulting the County Official Plan provided the minimum lot size criteria for consent lot creation. Under these policies a minimum lot size of 0.4 hectares (1 acre) is required for consents within the Village Hamlet and Prime Agricultural land use designations; and a minimum lot size of 0.8 hectares (2 acres) is required for Shore Land and Rural land use designations. Based on discussions with County staff it was presumed that the majority of consent activity would occur in the rural area and that an average lot size of 2 acres would be appropriate.

Again, based on further consultation with staff an estimated per lot value of \$50,000 was assumed for the rural area. Therefore in applying the *Planning Act* payment in lieu rates to the

assumed value, a per lot flat fee of \$1,000 (i.e. \$50,000 x 2%) was approximated for commercial and industrial developments, and a \$2,500 per lot fee (i.e. \$50,000 x 5%) was estimated for residential and other non-residential development. Alternatively if the County wanted to impose a fee on a per acre basis the fee would be \$500/ac. for commercial/industrial and \$1,250/ac. for residential and other uses.

While the valuation is based on assumed rural lot values, as a general rule, rural residential lots are often lower in value than urban residential lots and larger in size. As a result adjusting the valuation and size for urban area lots may yield a comparable fee per acre.

3. RECOMMENDATIONS

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3.1 Recommendations

Based upon the review undertaken herein, the County's current payment in lieu of parkland dedication policies are clearly within the established provisions of the *Planning Act*. The County as yet has not exercised these policies with respect to section 42 of the Act, which provides municipalities with the ability to collect a fee in lieu of land based on the value of land the day before the issuance of a building permit.

To assist Council in consideration of this matter it would appear that two approaches could be utilized in applying the payment in lieu provisions to consent approvals. The first would be to apply the Planning Act rates based on the appraised value at the time of building permit value. The second option would be to develop a flat fee that would be applicable to all consent applications. With respect to the second a per lot flat fee of \$1,000-\$2,500 per application could be applied or a per acre charge of \$500-\$1,250.

Based on the administrative impediment presented by the appraised value option on both the applicant and the County and potential fluctuation in value and lot size between urban and rural development areas; it is recommended that Council consider the implementation of a per acre fee of \$500 for commercial and industrial and a \$1,250 per acre fee for residential and all other development types.