



City of
Peterborough

To: **Members of the General Committee**

From: **Cynthia Fletcher,
Commissioner of Infrastructure and Planning Services**

Meeting Date: **March 25, 2019**

Subject: **Report IPSIM19-007B
Interim Strategy for the Tree Conservation By-law**

Purpose

A follow up report to provide an interim strategy and Tree Conservation By-law to address Council's concerns with the recommendations in Report IPSIM19-007, dated March 4, 2019.

Recommendation

That Council approve the recommendation outlined in Report IPSIM19-007B dated March 25, 2019, of the Commissioner of Infrastructure and Planning Services, as follows:

That the report and staff presentation be received for information

Budget Implications

There are no Budget implications to the acceptance of this report.

Background

During the General Committee meeting of March 4, 2019, staff presented a proposed 2019 Tree Conservation By-Law via Report IPSIM19-007 in keeping with the approved 2017 motion, as per Report USDIR17-008; Introduction of a Tree By-law for the Conservation and Enhancement of the City's Tree Canopy presented to Committee of

the Whole on September 25, 2017. The proposed 2019 By-Law was intended to be less restrictive than the 2017 By-Law. However, Council expressed concerns with the proposed and the existing By-Laws, as being too restrictive and indicated the permitting process has been poorly received. Council members cited specific examples of concern expressed by property owners and the Arborist industry.

While subsection 270(1) of the **Municipal Act, 2001** (Act) (clause 7) requires the City to adopt and maintain policies that outline **“The manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality”**, a balance needs to be struck between property owners’ rights and the legislative requirement for the City to protect and enhance the tree canopy. To put the magnitude of Urban Forest canopy regulated under this by-law into perspective, 25% of trees that make up the urban canopy are on private properties under 1 ha (approximately 4.95 sq km within the City) or equivalent area of approximately 27 Jackson Parks.

The motion adopted at the General Committee on Monday March 4, 2019 was as follows:

- a) **That the report be deferred to enable staff to consult with the public on the current by-law and,**
- b) **That the permitting provisions in By-law 17-120 be temporarily suspended and,**
- c) **That the permitting requirements for all current applications be included in the suspension and,**
- d) **That staff seek public input on a new tree conservation strategy.**

The effect of the motion, if it is adopted by Council on March 25, is that By-law 17-120 will become more restrictive. This is because the permitting provisions in the By-law are an exception to the By-laws overriding prohibition on destroying, injuring or pruning trees other than in prescribed circumstances. If the motion were adopted as is, the only recourse for an owner would be an appeal to the Commissioner.

Staff believes it was the Committee’s intention for a less restrictive program. Staff is proposing an interim By-law that will provide a balanced approach and accomplish the intention of the General Committee’s motion of March 4, 2019. Staff attempted to do an amendment instead of a new By-law but it proved too messy and cumbersome for anyone to understand.

Reflecting on the main objective as outlined in the **Act**, which is to protect the City’s Urban Canopy, staff has identified key elements for a proposed interim tree protection process:

1) Information Gathering Regarding Trees

Basic information allows staff to maintain an urban forest inventory, review the concentration of species location, identify potential risks and plan for urban forest renewal.

As opposed to a restrictive by-law, Council can enact a prescriptive by-law allowing the City to collect the appropriate information required to shift the replacement of lost trees from private property owners to City responsibility. Staff can then plan for appropriate funding or incentives for replacement of trees.

Proposed Notification Process

Any owner who provides prior notice has the ability to prune or remove any trees on their own property. Staff is proposing a 72 hour notice period prior to removal of a tree. This notice period is simply intended to allow for the gathering of information, not to provide direction/permission. The reason for the notice period is to provide some requirement for tree owners to advise the City. Without any timeline for an owner to notify the City of removal of a tree, the City cannot meet their obligation under the **Act** to protect and enhance the canopy.

The City email treebylaw@peterborough.ca would be considered immediate notice. The 72 hour period would start when the notice is received by email at treebylaw@peterborough.ca or when it is delivered to City Hall.

The information to be gathered will be the following:

- owner's name and contact information,
- species; if known
- diameter/size: a picture can also be submitted
- condition of the tree(s): dead or dying or healthy
- purpose for removal of tree(s)
- intention to replace (yes/no)

Within 72 hours of receiving this information, the City can choose to visit the site to confirm information or gather additional information such as confirmed health, disease, location of tree, etc.

2) The opportunity to offer assistance to property owners

If a property owner is unsure of answers to the notification questions, staff is willing to assist. A site visit, if requested by the owner, may also give City staff the opportunity to speak with owners about reasons for removal and provide professional insight to potential opportunities for planting certain species, to protect diversity within the Urban Forest. Educational material can be delivered and further discussion will be provided at the request of the property owner.

Incentive and Canopy Protection

To encourage the replacement of tree(s) and ongoing participation in the notification process, staff intends to offer an incentive program. Staff will finalize the incentive program and include details in the fall report to Council.

To ensure the health of the urban canopy, the City will review the information collected via the notification process and create a tree replacement program the following year. Replacement will occur on City property and via those property owners who wish to plant/re-plant trees. Funding the tree replacement program will come from the annual capital program, which is funded from the general tax levy. City staff will review opportunities for grants and potential corporate partnerships to augment the program and ensure the City can maintain a healthy urban canopy.

3) Consultation and Awareness Building:

With the new proposed notification process, continued public consultation and awareness building will be required. Staff will design a robust public engagement program, which will include the Arborists, property owners, potential partners and key stakeholders. The feedback and data collected will be analyzed to ensure the new program achieves the balance between property owners' rights and the legislative requirement for the City to protect and enhance the tree canopy. The information collected will be reported to Council in the follow up report later this fall.

Motion Required

In response to Council's motion of March 4, 2019, staff considered removing the permitting provisions in existing Tree By-law 17-120 by amending the by-law to delete, edit and replace wording throughout the by-law. Staff felt a better approach was to repeal By-law 17-120 and provide Council with a new by-law that does not contain permit requirements. The draft of the proposed by-law is attached as Appendix A to this report. The draft by-law, if adopted, is intended to serve as the interim Tree Conservation By-law until public consultation and a further analysis of the process can occur.

If Council agrees with this approach, staff suggest that, at the March 25, 2019 Council meeting, the following motion, that were adopted at the March 4, 2019 General Committee meeting for final approval **not be approved**:

- a) That the report be deferred to enable staff to consult with the public on the current by-law and,
- b) That the permitting provisions in By-law 17-120 be temporarily suspended and,
- c) That the permitting requirements for all current applications be included in the suspension and,

- d) That staff seek public input on a new tree conservation strategy

And that the following proposed motion be adopted:

- a) That By-law 17-120 be repealed;
- b) That the interim Tree Conservation By-law, attached to Report IPS19-007B as Appendix A, be adopted and
- c) That staff implement the proposal interim strategy as outlined in new By-law, including community consultation, and report back to Council in the fall of 2019.

Submitted by,

Cynthia Fletcher
Commissioner of Infrastructure and Planning Services

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Attachment:
Appendix A: Proposed Interim Tree By-Law 19-042