



City of  
**Peterborough**

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**To:** **Members of the General Committee**

**From:** **W.H. Jackson,  
Commissioner of Infrastructure and Planning Services**

**Meeting Date:** **September 10, 2018**

**Subject:** **Report IPSCOM18-021  
City Purchase of Lands at 550 The Kingsway from Embee  
(Peterborough) Limited**

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## **Purpose**

A report to authorize staff to purchase the lands at 550 The Kingsway from Embee (Peterborough) Limited.

## **Recommendation**

That Council approve the recommendation outlined in Report IPSCOM18-021 dated September 10, 2018 of the Commissioner of Infrastructure and Planning Services, as follows:

That a by-law be passed to authorize the acquisition of the part or parts of the land and premises known as Part of Lot 10, Concession 11, North Monaghan, designated as Parts 1, 2, and 3 on 45R16282, Peterborough (municipally known as 550 The Kingsway), that the Seller determines are not capable of development by it based on a purchase price of up to \$900,000 plus Land Transfer Tax of up to \$15,475 together with reimbursement to the Seller of an upset of \$50,000 for costs incurred by the Seller in originally purchasing and carrying to completion the property all prorated on an area basis for the lands or parts to be acquired.

## **Budget and Financial Implications**

At present, the General Property Reserve is fully committed although certain of the proposed future purchases will not happen immediately. In essence, this is a cash flow

situation whereby monies have been set aside for future purchases, some of which are still to be identified. Accordingly, it is proposed to use the General Property Reserve to fund the purchase of 550 The Kingsway and, if it is necessary to top up the General Property Reserve a further report to Council will identify where the additional funds will come from.

## **Background**

In November of 2016 the City sold the lands legally described as Part of Lot 10, Concession 11, North Monaghan, being designated as Parts 1, 2, 3 on Plan 45R-16282 (550 The Kingsway), Peterborough to Embee (Peterborough) Limited (Embee) for purposes of their development of the lands for a retail development.

Appendix A shows the lands in question including abutting land (330 The Parkway) owned by Embee.

### **Events Since Sale of Land**

In March, 2017, the Ministry of Natural Resources and Forestry (MNRF), the agency responsible for the Ontario Wetland Evaluation System, notified the City that it had updated the scoring for the Harper Creek Wetland and, as of March, 2017 had designated this wetland as a Provincially Significant Wetland (see Appendix B). The re-rating pertained only to the existing boundary of the Harper Creek Wetland that had been previously mapped in 1997. The notification from the MNRF however, also recommended that the City complete a wetland evaluation for the unevaluated wetlands in the immediate area.

From Appendix B, it can be seen that the entire lands of 550 The Kingsway are encumbered by an unevaluated wetland associated with the Byersville Creek and Harper Creek systems. If these areas can be shown to be associated (hydraulically connected) with the Provincially Significant Harper Creek Wetland then the presently unevaluated wetland within 550 The Kingsway could also be determined to be Provincially Significant Wetland. A Provincially Significant Wetland rating would render the property undevelopable. Until an evaluation is completed by a qualified evaluator for the unevaluated wetlands in the area, there is no way of conclusively determining if these unevaluated areas are also Provincially Significant. However, understanding the sensitivities of the area and the ability to complex wetland areas based on hydrogeological connections between features, there is general agreement amongst staff that the unevaluated wetlands in the immediate area could likely be complexed with the Harper Creek Wetland and become Provincially Significant as well mainly because they are all part of the same creek systems.

## **Consideration to Repurchase**

At the time of the sale, the City had no knowledge of the potential Provincially Significant Wetland designation of the Harper Creek Wetland and the potential consequences to 550 The Kingsway. Accordingly it can be argued that the City has no liability in this instance and that Embee has to bear the unfortunate consequences of these actions.

Although the subject lands were always slated for development (and it is still zoned for Service Industrial uses), the very real potential for these lands to be complexed with the newly established Provincially Significant Wetland in Harper Park, creates a situation where the City can be a good environmental steward. The best way to ensure the environmental health of an area is to own that area. From the aerial view shown in Appendix A, it can be seen that 550 The Kingsway is treed, and maintaining as much of this forested area as possible would be good.

The ability to proceed with other activities in this area such as the Crawford Extension and the development of the Embee lands to the south of 550 The Kingsway will be enhanced if the City reacquires 550 The Kingsway and establishes a management plan on the lands in concert with the management plan that will be established for Harper Park. In addition, a much better and more sustainable stormwater management scenario can be developed if 550 The Kingsway is included in the plans for stormwater management related to the casino, hotel and road improvements planned for this area.

In consideration of the above, staff approached Embee with an offer to purchase 550 The Kingsway and an Agreement has been brokered that contains the following three main clauses:

- The Seller shall determine the part or parts of the property (550 The Kingsway) that it will not be able to develop;
- The Purchase Price shall be \$900,000 factored by the amount of land that is not developable plus an upset \$50,000 for costs incurred by the Seller in originally purchasing the property; and
- The Seller will provide to Otonabee Region Conservation Authority, forthwith upon execution of the Agreement a letter, in a form acceptable to the Buyer, to the effect that the Seller permits stormwater to be diverted onto other property owned by the Seller (330 The Parkway) from the "Casino Lands" and "Hotel Lands" by reason of improvements to the Casino and Hotel Lands and related road construction.

## **Timelines**

In consideration of the work that is now proceeding on both the Casino and Hotel lands and the work that needs to be done to improve the road network in this area, time is of

the essence. Accordingly, Staff is proposing that this report be considered on September 10, 2018 by both General Committee and Council. Attached, as Appendix C, is the proposed By-law to authorize the sale of the property at 550 The Kingsway. The By-law is included on the September 10, 2018 Council agenda, for Council's consideration.

## Summary

An agreement to purchase 550 The Kingsway has been brokered that will allow the City to maintain environmental stewardship of this property and assist with the overall stormwater management of the larger area encompassing the casino, hotel, road works and other development sites in this area.

Submitted by,

W. H. Jackson  
Commissioner of Infrastructure and Planning Services

Contact Name:

W. H. Jackson, P. Eng.

Phone: 705-742-7777, Extension 1894

Toll Free: 1-855-738-3755

Fax: 705-876-4621

E-mail: [wjackson@peterborough.ca](mailto:wjackson@peterborough.ca)

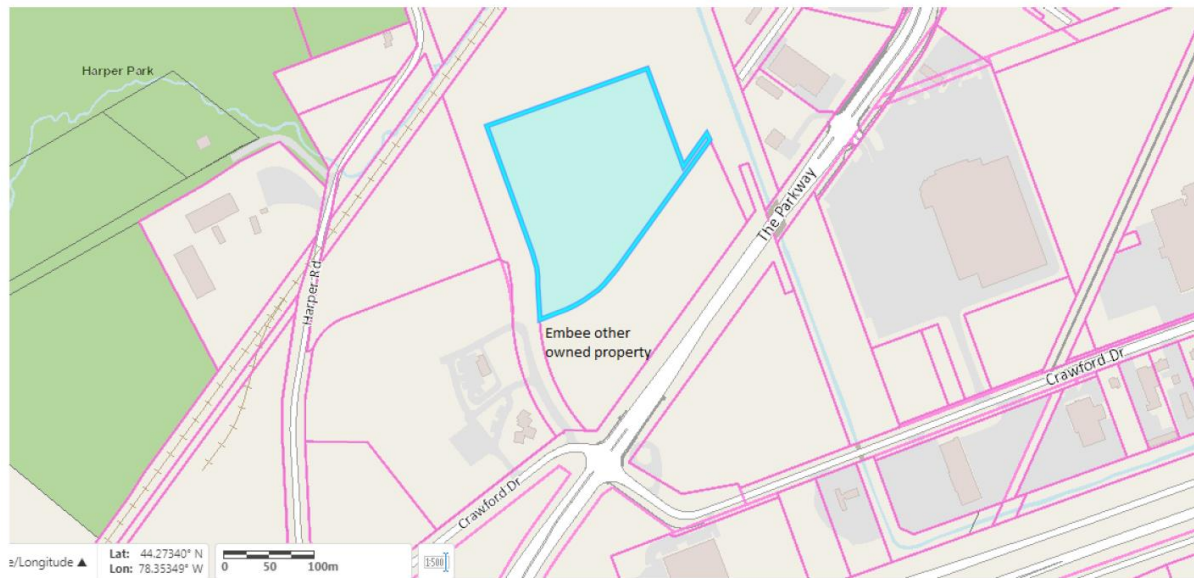
Attachments:

Appendix A – GIS Map/2016 Aerial View

Appendix B – Wetlands Within the Vicinity of 550 The Kingsway

Appendix C – By-law to Authorize the Acquisition of 550 The Kingsway

## Appendix A: GIS Map



2016 Aerial View



## Appendix B- Wetlands within the Vicinity of 550 The Kingsway



## Appendix C – By-law to Authorize the Acquisition of 550 The Kingsway



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### The Corporation of the City of Peterborough

#### By-Law Number 18-XXX

Being a By-law to authorize the acquisition of the land and premises municipally known as 550 The Kingsway, in the City of Peterborough, in the County of Peterborough

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**Whereas** The Corporation of the City of Peterborough deems it expedient to acquire the lands hereinafter described pursuant to the provisions of the **Municipal Act, 2001**, such lands being required for the purposes of The Corporation of the City of Peterborough;  
**Now Therefore**, The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

1. It is hereby authorized and decreed that The Corporation of the City of Peterborough acquire the part or parts of the land and premises known as Part of Lot 10, Concession 11, North Monaghan, designated as Parts 1, 2, and 3 on 45R16282, Peterborough (municipally known as 550 The Kingsway), that the Seller determines are not capable of development by it based on a purchase price of up to \$900,000 plus Land Transfer Tax of up to \$15,475 together with reimbursement to the Seller of an upset of \$50,000 for costs incurred by the Seller in originally purchasing and carrying to completion the property all prorated on an area basis for the lands or parts to be acquired.
2. That the Mayor and Clerk be hereby authorized to perform all acts and to take such steps and execute such documents under the seal of the Corporation as may be necessary to effect such acquisition.

By-law read a first, second and third time this 10th day of September, 2018.

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Daryl Bennett, Mayor

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John Kennedy, City Clerk