



THE CORPORATION OF THE TOWNSHIP OF KING
REPORT TO COMMITTEE OF THE WHOLE

Monday, June 10, 2019

Clerks Department
CL-2019-15

**RE: *Introduction of Draft Private Tree By-law
Villages (King City, Nobleton, Schomberg)
Community Consultation Work Plan***

1. RECOMMENDATIONS

It is respectfully recommended that:

- a) Committee receives report CL-2019-15 for information; and
- b) Committee endorses, in principle, the concept of the Draft Private Tree By-law (subject to all comments received), as presented within this report; and
- c) Committee supports the Community Consultation Work Plan, as outlined within this report, with the intent to receive a feedback summary and consider adoption of a final Private Tree By-law (with modifications following consideration of comments received) in Q4 of 2019.

2. PURPOSE

The purpose of this report is to provide Committee with details regarding development of a Draft Private Tree By-law for the three village communities (King City, Nobleton and Schomberg), and to obtain support to implement the Community Consultation Work Plan, as outlined within this report.

3. BACKGROUND

Consideration of a tree preservation by-law in King Township has been an item of Council and community concern for the past 10+ years. To outline the history, the key milestones with directions/outcomes are as follows:

- June 22nd, 2009 – Report to Committee recommending development of a tree by-law - through King Environmental Advisory Committee (KEAC) and Planning
- KEAC and staff researched regulatory by-laws, best practices, etc.
- December 16, 2013 – [Report to Committee](#) with a Draft Tree Preservation By-law and Community Consultation program – through Clerks/By-law Enforcement
- January 28, 2014 – Staff presented and consulted with Sustainability Advisory Committee
- February 24, 2014 – [Report to Committee](#) summarizing the feedback and proposing various changes to the by-law designed to streamline the permitting process and reduce impacts to property owners. Committee directed Staff to

continue with public consultation to collect feedback on the proposed changes to the Tree Preservation By-law as presented within that report.

- April 22, 2014 – Staff presented and consulted further with Sustainability Advisory Committee
- May 26, 2014 – [Report to Committee](#) which summarized feedback, concerns, options, resulting in direction for the need to pursue a ‘made in King’ solution that takes into account the community’s unique urban and rural nature and strong connection to the environment through a phased work plan solution by responding to input from the community and exploring options that encourage residents to plant and maintain trees without the necessity of a regulatory approach.
- 2018 – King was approached by Concerned Citizens of King (CCKT) proposing the establishment of a Tree Focus Working Group consisting of CCKT members and King staff, to explore and initiate the introduction of a ‘Made in King’ regulatory by-law to protect healthy trees within the community.
- June 26, 2018 and March 27, 2019 – Tree Focus Working Group provided presentations to Sustainability Advisory Committee for feedback.
- 2018/2019 – Meetings bi-monthly with the Working Group, resulting in the draft by-law and report, as presented this evening.

Tree Focus Working Group

A working group derived from Concerned Citizens of King (CCKT) members was formed in 2018 with the objective of working with King staff to develop a draft tree preservation by-law that could be considered by Council in the future. The King staff members forming this group are the Chief Administrative Officer, Director of Parks, Recreation & Culture, and Director of Clerks/By-law Enforcement. Throughout the working group’s sessions, periodic presentations and/or involvement of internal or external staff were also engaged.

As a result of researching the extensive background and materials with respect to the history of King’s past consideration of a regulatory tree by-law, including community feedback received during these exercises, it was determined that a more “permissive” approach should be considered. The group members identified the key elements of concern to help form the base core principles of the by-law. These key elements of concern were:

- Need to regulate/protect the removal of healthy trees
- Historically, more risk to trees in the village areas (King City, Nobleton & Schomberg)
- Apply common, established standards for tree replacement ratios, as set through the development approval process
- Community feedback previously cited objection to excessive permit fees, noted the diverse rural to urban landscape, the overall growth in King’s tree canopy, and the desire for more encouragement to owners to voluntarily replace trees

Based upon the above key elements, the working group resolved that the draft by-law should therefore be based on the following core “roots”:

- Develop a “permissive” by-law, permitting the removal of healthy trees but with a replacement policy to enhance/preserve the tree canopy in the Villages
- Application of the by-law will only be proposed to regulate within the Village Area Community Boundaries, being King City, Nobleton and Schomberg
- Base the replacement values for trees as set through the standard development approval process, at 3:1
- Consistent with King’s Tree Management standards (and other agencies), replacement trees shall be identified as “native species”
- Base the by-law on other common standards and definitions as established within other Private Tree By-laws

Conformity with the *Municipal Act* and Regional Forestry By-law

Municipalities are granted the specific authority to regulate tree and forest preservation under section 135 of the *Municipal Act, 2001*. Additionally, section 270, through amendments effective March 1, 2019, now requires that a municipality shall adopt and maintain policies* with respect to the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality (* note: these policies may be found in varying forms, such as Official Plans, Tree Management Plans, or regulatory by-laws).

The draft by-law considers upper-tier jurisdiction by recognizing the application of the Region of York’s Forest Conservation By-law. The Region’s by-law applies to all woodlands over 1 hectare in size, and to woodlots between 0.2 and 1 hectare where lower-tier municipalities have delegated authority to the Region to do so. The Township of King delegated this authority to the Region in 2005 and this draft by-law replicates that delegation of authority.

4. DISCUSSION & ANALYSIS

Summary of Draft By-law Application

The draft by-law applies to all trees (as defined) over 20 centimetres in diameter measured at breast height (1.37 metres from the ground) on private property, not including those trees deemed to be parts of woodlands or woodlots covered under the Regional Forest Conservation By-law. The intent of the draft by-law is to enhance the Township’s tree canopy and achieve the objectives of the Integrated Community Sustainability Plan by sustaining a healthy natural environment while also having regard to good arboricultural practice.

Individuals wishing to destroy or injure a tree on private property that is not part of a woodland or woodlot will be required to obtain a permit from the Township (unless exempt under the applicable section, explained further within this report). A permit may be approved for any of the following reasons:

- *Trees* are healthy and subject to the terms and condition of replacement per tree as detailed within sections 19 and 20

- Trees are dead, dying, or diseased, or in poor condition and cannot be maintained in a healthy and safe manner;
- Trees are in a *Hazardous* condition, or are causing or are likely to cause physical damage to a structure;
- Destruction or injury is required in order to remediate contaminated soil

A permit may be refused where a tree is recognized in an existing agreement or planning application, or is protected under other Provincial legislation such as the *Endangered Species Act* or the *Migratory Birds Act*.

Exemptions

There are several exemptions to the by-law that are mandatory under the *Municipal Act, 2001*, including activities of governments and public agencies, properties subject to applications under the *Planning Act*, surveys of properties, and maintenance of public utilities. Additionally, there are several optional exemptions included to accommodate businesses and agricultural activities in the Township, including existing or ongoing building permits, uses such as golf courses, orchards, tree farms, and cemeteries, and normal farm practices as determined by the Normal Farm Practices Protection Board. A permit will also not be required where trees require destruction or injury for emergency purposes.

Permit/Replacement Tree Costs

The draft by-law does not contemplate or reference a “permit fee”, as was noted within prior consultation exercises, this would not be well received and considered a “cash grab” (as has been routinely expressed by residents concerned with additional costs). Alternatively, the approach is solely to have an individual obtaining a permit to replace that one (1) tree to be removed with three (3) trees (planted or monetary contribution). The cost per replacement tree is approximately \$500 per tree, a typical average price that the Parks, Recreation and Culture (PRC) budgets for planting native tree species of the 5-7cm diameter at breast height (DBH) size (replacement size defined within the draft by-law – as recommended by PRC for optimal tree survival). Should the permit holder not wish to plant the replacement trees on their property, the option is provided for that the equal monetary contribution (“cash-in-lieu”) will be made to Township Tree Fund and held for future tree plantings on municipal property.

Community Consultation Work Plan

The intention is to initiate a robust community engagement exercise. The community consultation work plan involves the use of SpeaKing, King’s online engagement tool, throughout the months of June, July and August. There will also be enhanced communications on King’s website, within the Township’s Notice Board in the Weekly Sentinel as well as other communications methods (i.e. Social media, public meetings/events). The branding and communications of all marketing methods will express the key message **“KING LOVES ITS TREES”**, to consistently promote the positivity and benefits to the three villages in King with respect to tree preservation and tree canopy enhancement. This will also expand into other educational promotions with respect to the sustainable, environmental and natural benefit of trees in general.

Legal Review

The draft by-law has been provided to the Township's solicitor as well as the Director of Prosecutions, York Region, to obtain their comments. If changes are recommended by counsel, staff will amend the draft by-law accordingly and include an explanation within the report in late 2019, when the final by-law is considered by Council.

Internal/External Review – Establishing Administrative Processes and Workflows

The introduction of any regulatory by-law requires internal review by many Township Departments, to ensure that the provisions proposed are consistent with their processes and/or regulatory obligations. This is particularly relevant for staff processing Building Permits, Planning Applications, and Site Alteration Permits. This internal review has been ongoing and will continue for the next several months.

As administration of this by-law has been proposed to be assumed by the Clerks/By-law Department, efforts are being made to develop clear administrative processes, forms and workflows to enable staff the ability to administer the process effectively and efficiently. These tools will assist staff to possess a very clear understanding of the process when any member of staff responds to public inquiries, as well as being handled in a consistent manner. Discussions and review with staff has been ongoing and will continue for the next several months.

Staff will engage with the Sustainability Advisory Committee as well as our partner agencies that have been previously engaged in the prior review of the draft tree by-laws (i.e. York Region, LSRCA and TRCA). All will again be contacted and provided a draft copy for feedback. This will take place during the June – August consultation process.

5. INTEGRATED SUSTAINABILITY PLAN LINKAGE

The Township of King's Integrated Community Sustainability Plan (ICSP) was formally adopted by Council on April 2nd, 2012. The Plan is an overarching guiding document that is based on common values, priorities and community aspirations with the following vision:

“King Township is an idyllic countryside community of communities, proud of its rural, cultural and agricultural heritage. We are respected for treasuring nature, encouraging a responsible local economy and celebrating our vibrant quality of life.”

This report, draft by-law and the proposed Community Engagement Work Plan aligns with the ICSP's identified priority, being to strengthen the Township of King's planning legislation and by-laws to reinforce environmental protections and public health and safety, along with the ICSP's associated action item: “to pursue the adoption of a local tree by-law and build upon York Region's Forest Conservation By-law”.

6. FINANCIAL IMPLICATIONS

With respect to the recommendations of this report, there should be no adverse budgetary impacts to conduct the engagement exercises. Potential expenses related to publishing/printing of communication and promotional pieces associated with the engagement work plan will be managed within the approved 2019 operating budget. Use of innovative marketing/promotional methods will ensure that outreach with the community is achieved effectively. Administrative workload will be impacted but is not anticipated to affect financial commitments for the operational year.

Should, and as will be considered in the subsequent report, a Private Tree By-law be adopted in the future, anticipated financial impacts will be highlighted in the report and in the draft 2020 budget reflecting the need of staff resources for administration of the permitting process.

7. CONCLUSION

The draft by-law and Community Consultation Work Plan is recommended to solicit valuable feedback for a longstanding and relevant subject matter. The consultation and feedback received will be of considerable value to help educate and inform prior to the final decision and consideration of a by-law.

Staff acknowledges the efforts of the members of the Tree Focus Working Group and extends thanks for their dedication, sound judgement and display of volunteerism through their dialogue with the community independently, in an effort to help inform residents with respect to the importance of community trees.

The recommendations as presented within this report will assist staff and Council to continue the discussions with community groups, residents and the Sustainability Advisory Committee to seek informative feedback and thoughts. This research and information gathering will help inform future consideration of a Private Tree By-law, substantiating the end decision that is ultimately made, as a result of an open, transparent and consultative exercise.

8. ATTACHMENTS

Appendix 'A' – Draft Private Tree By-law

Prepared and Submitted By:

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