



OAKVILLE

REPORT

Council

Meeting Date: June 21, 2021

FROM: Legal Department

DATE: June 8, 2021

SUBJECT: 64 Miller Road Creek Stabilization Easement

LOCATION: 64 Miller Road

WARD: Ward 5

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RECOMMENDATION:

That staff be authorized to acquire an easement over Part 2 on Plan 20R-21912 for the purpose of installing and maintaining creek stabilization works as part of the rehabilitation of Munn's Creek, and the Town Solicitor be authorized to execute all documents required to obtain the easement.

KEY FACTS:

The following are key points for consideration with respect to this report:

- 64 Miller Road backs onto the Munn's Creek block owned by the Town.
- In June 2020, the Town's Development Engineering department made specific recommendations to Council for erosion control for that portion of the Creek adjacent to the 64 Miller Road property.
- Town staff are planning to install an armourstone retaining wall along the Creek bank and the back of the 64 Miller Road property.
- The Town requires an easement from the 64 Miller Road property owners (the "Owners") in order to install and maintain these erosion control works in the future.
- The Owners have agreed to grant the Town a permanent easement over a portion of their backyard identified as Part 2 on 20R-21912 shown outlined on Appendix 'A' (the "Easement").
- In exchange for the Easement, staff are proposing the Town reimburse the Owners for disturbance damages caused by the works, their reasonable legal fees involved in granting the Easement and work with them to replace the landscaping lost during the work.

BACKGROUND:

The Town's 2015 Erosion Inventory and Assessment Study identified a particular area of Munn's Creek—between Culham Street and Upper Middle Road—as a priority erosion site. A 2017 update to this study raised this area to the highest priority site for erosion mitigation due to evidence of further deterioration and risk to public and private property.

Attached as Appendix B is a June 2020 Council report from Development Engineering which goes into more detail on the erosion protection works planned by the Town. If left unmanaged, the erosion in this area could result in increased risk to public infrastructure and loss of private property. Development Engineering staff proposed, among other erosion control interventions, the construction of an armourstone retaining wall at the back of 64 Miller Road.

In order to install the armourstone retaining wall and other erosion protection works and maintain these works in the future, the Town will require an easement from the Owners identified as Part 2 on plan 20R-21912 as shown outlined on Appendix 'A'. The area of this Easement is 122 square metres.

COMMENT/OPTIONS:

Staff have not obtained an appraisal to determine the value of the Easement because the cost of the appraisal is likely to be more than the Easement is worth given these lands are natural hazard lands. Instead, staff are recommending compensating the Owners \$5,000 for the easement rights, temporary disturbance to their lands and their time spent working through this process. In addition, the Owners will also be reimbursed for their reasonable legal fees required to grant the Easement and the Town will work with them to install replacement landscaping. The Owners have agreed to grant the Easement to the Town on these terms.

Given the relatively high erosion risk presented by the portion of Munn's Creek adjacent to the 64 Miller Road private property, as well as the Owners' willingness to grant to the Town the Easement to the Town, staff are recommending obtaining the Easement. If Council chose not to acquire this Easement and avoid installing these works on the Owner's property, staff would need to redesign the erosion control works for this project which would be timely and costly. Additionally, such a redesign would also provide a less than ideal creek alignment resulting in a narrower creek width that would potentially result in greater maintenance requirements for the Town. A copy of the proposed Easement agreement with the Owners is available in the office of the Assistant Town Solicitor.

CONSIDERATIONS:

(A) PUBLIC

The inclusion of this report in the public Council agenda will provide public notification.

(B) FINANCIAL

The Town will pay \$5,000 as compensation for the easement rights and temporary disturbance to the Owner. The Town will also reimburse the owners' reasonable legal fees incurred in connection with the conveyance of the Easement.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

This report was prepared with staff from the Transportation and Engineering department.

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goal to protect greenspace and promote environmentally sustainable practice.

(E) CLIMATE CHANGE/ACTION

N/A

APPENDICES:

Appendix A – Reference Plan 20R-21912

Appendix B - Development Engineering Council report from June 2020

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