



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall
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Attachments: 1. Appendix 1 Key Map, 2. Appendix 2 Photo of construction of new entrance to Salish Seaside RV Haven, 3. Appendix 3 Relationship of storm drain right of way to Guard House, 4. Appendix 4 Letter from Salish Seaside RV Haven, signed by Chief Ron Sam & Chief Andy Thomas

Date	Ver.	Action By	Action	Result
4/3/2017	1	Council	approved	Pass

REQUEST FOR DECISION

DATE: March 29, 2017

Report No. DEV-17-022

TO: Laurie Hurst, Chief Administrative Officer

FROM: Bill Brown, Director of Development Services

SUBJECT:

Request by Salish Seaside RV Haven to have \$11,000.00 in fees waived as compensation for replacing a storm drain that runs across the Salish Seaside RV Haven property.

RECOMMENDATION:

That Council approves the addition of a supplemental amount of \$11,000 within the Engineering & Public Works budget in the 2017-2021 Financial Plan to pay for the replacement of the storm drain that runs across the Salish Seaside RV Haven property.

RELEVANT POLICY:

Building Code Bylaw, 2002, No. 2538

Tree Protection Bylaw, 2015, No. 2837

Development Application Procedures and Fees Bylaw No. 2791, 2012

STRATEGIC RELEVANCE:

Although not directly relevant to any strategic priorities, this situation is related to working with the First Nations to support economic development as well as strategic policies related to infrastructure.

BACKGROUND:

As part of the redevelopment of the RV Park, a new entrance is being constructed adjacent to the Guard House at the intersection of Lyall and Head Streets (Appendix 1). During the construction of the new entrance (Appendix 2) an old storm drain was exposed. The Engineering Department subsequently conducted a video camera line inspection of the storm drain and found it to be in poor condition and in need of replacement.

Had the land above the storm drain remained undisturbed, the storm drain may have lasted at least another 10 or more years. Therefore, it could be argued that due to the impacts of the construction on the storm drain, it is the developer's responsibility to replace it at their cost. However, given the circumstances: that the pipe was older and would eventually need replacing; that there was a construction crew on site; and, the right of way right (Appendix 3) belongs to the crown, raising the question about whether the municipality could legally access the storm drain now or in the future to replace it; raises questions about who should actually pay for the replacement of the storm main.

Following discussions between staff and representatives of the Salish Seaside RV Haven, it was decided that it would be in everyone's best interest to replace the storm drain now in conjunction with the development of the new entrance and in fact the new storm drain has been installed by the developer. The developer has estimated the cost of installing the new storm drain at \$11,000.00. The owners of the Salish Seaside RV Haven have subsequently requested (Appendix 4) that, in order to compensate for the replacement cost, the Township waive/refund \$11,000.00 of fees as follows (the actual distribution of amounts from various sources was calculated by staff):

Fee	Actual or Estimated Fee	Maximum Amount to be Waived/Refunded
Building Permit	\$4500.00 to \$6500.00 depending on the value of construction	\$5500.00 (+/- \$1000.00)
Plumbing Permit	\$650.00 (paid)	\$0.00
Tree Replacement Deposit (not refunded unless removed trees are replaced)	\$7800.00 to \$10,800 depending on the size of trees to be removed. (\$1800.00 has already been paid for the removal of three trees)	\$5000.00 (+/- \$1000.00)
Variance Permit (refund)	\$500.00 (paid)	\$500.00
Total	\$13,450.00 to \$18,450	\$11,000.00

Staff have serious concerns about waiving fees including:

- It may be seen as setting a precedent;

- It may be seen as inconsistent treatment to other developments; and
- The relevant Bylaws do not actually contain provisions to waive fees.

Therefore, staff recommends that the developer provide the Township with an invoice for the work and pay the invoice through the normal accounts payable system.

ISSUES:

1. Rationale for Selected Option

It was far more efficient to have the storm drain replaced while the new entrance was under construction than to come back later and excavate new asphalt and potentially disrupt the business of the RV Park. Although the road building activities related to the new entrance likely damaged the storm drain, it was still an older piece of infrastructure that would have needed to be replaced in the future. Furthermore, there is some degree of uncertainty about whether or not the municipality could legally access the storm drain now or in the future. The municipality is currently working with the owners of the Salish Seaside RV Haven and the crown to register a new right of way on the property that would allow the municipality to access the storm drain in the future.

2. Organizational Implications

There are no extraordinary organizational implications.

3. Financial Implications

If Council approves the addition of a supplemental amount within the Public Works and Engineering budget in the 2017-2021 Financial Plan, this would reduce the amount of surplus available for other projects during this fiscal year.

If on the other hand, Council approves the waiving/refunding of fees, there will be a loss of up to \$11,000 in revenue.

4. Sustainability & Environmental Implications

There are no significant sustainability or environmental implications.

5. Communication & Engagement

There has been no communications or engagement associated with the replacement of the drain.

ALTERNATIVES:

- 1) That Council approves the addition of a supplemental amount of \$11,000 within the Engineering & Public Works budget in the 2017-2021 Financial Plan to pay for the replacement of the storm drain that runs across the Salish Seaside RV Haven.
- 2) That Council approves the addition of a supplemental amount less than \$11,000 within the Engineering & Public Works budget in the 2017-2021 Financial Plan to partially pay for the replacement of the storm drain that runs across the Salish Seaside RV Haven.
- 3) That Council authorizes staff to waive/refund the following fees for the following amounts in order to compensate the developers of the Salish Seaside RV Haven for the costs associated with replacing a storm drain that is used by the Township:

Fee	Maximum Amount to be Waived/Refunded
Building Permit	\$5500.00 (+/- \$1000.00)
Tree Replacement Deposit (not refunded unless removed trees are replaced)	\$5000.00 (+/- \$1000.00)
Variance Permit (refund)	\$500.00
Total	\$11,000.00

- 4) That Council authorize staff to waive/refund fees in an alternate manner or for an alternative amount, such as paying for fifty percent of the cost of replacing the storm drain.
- 5) That Council not approve the addition of a supplemental amount in the 2017-2021 Financial Plan and not authorize staff to waive/refund fees in order to compensate the developers of the Salish Seaside RV Haven for costs associated with replacing a storm drain that is used by the Township.