

Appendix B

October 3, 1997

MEMO TO: Regional and Local Councillor Mabley and  
Members of the Transportation and Works Committee

FROM: R.J. Douglas  
Town Clerk

SUBJECT: Transportation and Works Committee Meeting - October 7, 1997

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Further to the preparation of the above noted agenda, we have been advised of the following requests for additions, which have been numbered to correspond to the consent agenda format:

**28. Staff Report SRE.97.144**  
One Foot Reserve and Costo  
Recovery Policyo

**Recommendation:** That the Transportation and Works Committee recommend too Council the approval of a One Foot Reserve Policy for the purposes of utilization for cost recoveries as follows:

Where developers install services which benefit their lands and those lands immediately adjacent thereto (the front ending developer); and where the Commissioner of Transportation and Works deems it reasonable that the owner of the adjacent land (the benefiting developer) should contribute towards the cost of such services,

The Town is prepared to, where possible:

- 1.o create, and in turn, accept the conveyance of a reserve adjacent to the lands of the fronto ending developer;o
- 2.o require the benefiting developer to purchase such reserve if he or she wishes to acquireo access to the up-fronted services, ando
- 3.o build-in the appropriate share of the front-ended services (including land values) in theo sale price of the reserve, the quantum being directly proportional to the benefits of theo front ended services.o

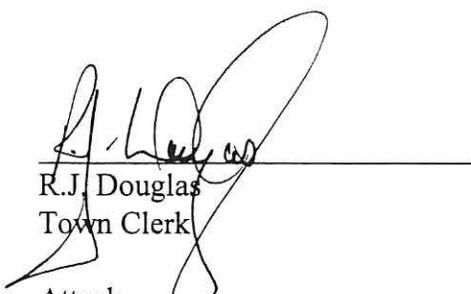
Provided the front-ending developer agrees to indemnify the Town against all costs incurred as a result of the said requirement, and;

Transportation and Works Committee  
October 7, 1997

Page 2

Further provided, where the town is legally obligated to allow the owner of the adjacent land to have access to the front-ended services pursuant to a lawful order decree or judgment of any board or court of competent jurisdiction, the town shall have no obligation to otherwise seek recoveries as part of a purchase agreement or otherwise before complying with such order, decree or judgment and;

Further provided, implementation of this policy is subject to execution of an appropriate agreement with the Town.



R.J. Douglas  
Town Clerk

Attach.

TRANSPORTATION AND WORKS COMMITTEE  
OCTOBER 7, 1997  
STAFF REPORT SRE.97.144

TOWN OF RICHMOND HILL  
TRANSPORTATION AND WORKS DEPARTMENT  
SEPTEMBER 29, 1997

SUBJECT: ONE FOOT RESERVE & COST RECOVERY POLICY

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RECOMMENDATION(S):

That Transportation and Works Committee recommend to Council the approval of a One Foot Reserve Policy for the purposes of utilization for cost recoveries as follows:

Where developers install services which benefit their lands and those lands immediately adjacent thereto (the front ending developer); and where the Commissioner of Transportation and Works deems it reasonable that the owner of the adjacent land (the benefitting developer) should contribute towards the cost of such services,

The Town is prepared to, where possible:

1. create, and in turn, accept the conveyance of a reserve adjacent to the lands of the front ending developer;
2. require the benefitting developer to purchase such reserve if he or she wishes to acquire access to the up-fronted services, and
3. build-in the appropriate share of the front-ended services (including land values) in the sale price of the reserve, the quantum being directly proportional to the benefits of the front ended services.

Provided the front-ending developer agrees to indemnify the Town against all costs incurred as a result of the said requirement, and;

Further provided, where the Town is legally obligated to allow the owner of the adjacent land to have access to the front-ended services pursuant to a lawful order decree or judgment of any board or court of competent jurisdiction, the Town shall have no obligation to otherwise seek recoveries as part of a purchase agreement or otherwise before complying with such order, decree or judgment and;

Further provided, implementation of this policy is subject to execution of an appropriate agreement with the Town.

### BACKGROUND

Prior to enactment of the Development Charges Act, the Town entered into what was termed "cost recovery agreements and/or obligations". These were usually in master development agreement or subdivision agreements.

The Development Charges Act made the imposition of cost recoveries outside development charges lawful. Effectively, this prohibited future cost recovery (for non-development charge items) agreements, since they are not enforceable by the Town against other landowners (from whom we would collect the recoveries).

The front-end provisions of the Development Charges Act are cumbersome and have precluded any front-end agreement to date. In any event, many services for which we might wish to impose cost recoveries are not included in the development charge by-law. Accordingly, under the Act, they cannot be included in a front-end agreement. This prohibition has been continued in the new legislation being enacted by the Province.

This situation has resulted in inequities, e.g., allowing certain landowners to unjustly enrich themselves and take advantage of local servicing, (such as a single-ended roads) installed by others, without contributing to those services. The Ontario Municipal Board has ruled that an approval authority for severance's and subdivisions had the authority to impost cost recoveries as a condition of approval and the Board has done so. Regrettably, this imposition of such a condition will be more restricted under the new legislation. The uncertainty as to whether such a condition will be imposed in any subsequent development application has not been an incentive to a developer to up-front services.

We, therefore, recommend that the Town adopt the policy on utilizing reserves for cost recoveries as set out in this report.

It is staff's intention to ensure that the benefitting developer is made aware that the one foot reserve is being created for purposes of future cost recoveries.

This may end up taking the form as a draft plan condition on some type of notice at the time the Town acknowledges that a one foot reserve should be created. Staff are also prepared to review actual costs associated with land and servicing by the front-ending developer in order to ascertain a fair and equitable distribution of costs between the two developers.

Such arrangements will not be suitable in all circumstances. Each of those will be reviewed by staff, but if appropriate, the above policy will form the basis of the arrangement with the developer front-ending the service.

Report Prepared By:

Report Reviewed By:

  
M. McCauley, P.Eng  
Commissioner of Transportation and Works

  
David Melitzer,  
Assistant Town Solicitor

Report Approved By:

  
C. D. Weldon,  
Chief Administrative Officer

MAM/me