


TO: GENERAL COMMITTEE

SUBJECT: SETTLEMENT OF ONTARIO MUNICIPAL BOARD APPEALS:
ANNEXED LANDS SECONDARY PLANS

WARD: ALL

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MANAGEMENT 

CHIEF ADMINISTRATIVE OFFICER APPROVAL: C. LADD, CHIEF ADMINISTRATIVE OFFICER 

RECOMMENDED MOTION

1. That the Mayor and City Clerk be authorized to execute Minutes of Settlement and any ancillary documentation related to appeals against the Annexed Lands Secondary Plans that may be resolved while Council is in recess subject to the approval of the General Manager of Infrastructure and Growth Management and in a form satisfactory to the Director of Legal Services.

PURPOSE & BACKGROUND

Report Overview

2. The purpose of this Staff Report is to seek delegated authority to settle Ontario Municipal Board appeals against the Annexed Lands Secondary Plans that may be reached while Council is in recess over the summer months.

ANALYSIS

3. On June 16, 2014, Council adopted Official Plan Amendment 38 (Salem Secondary Plan), Official Plan Amendment 39 (Hewitt's Secondary Plan) and Official Plan Amendment 40 (General Growth Management Related Amendments). Official Plan Amendment 38 (OPA 38) and Official Plan Amendment 39 (OPA 39) established a detailed planning framework for the future urban development of the 2,350 hectares of land (Annexed Lands) that was annexed from the Town of Innisfil on January 1, 2010. Official Plan Amendment 40 (OPA 40) refined the growth management policies in the City's Official Plan.
4. A total of 23 appeals were filed with the Ontario Municipal Board (OMB) against OPA 38, OPA 39, OPA 40 and combinations thereof. Eight of the appeals were site specific in nature either with respect to the land use designation for a particular property or a policy in one of the Secondary Plans. Five other appeals relate to the Natural Heritage System (NHS) and four of the five were site specific in nature, i.e. the extent of the NHS as it applies to the particular properties.
5. Almost one third of the appeals can be classified as 'friendly' appeals. In these cases, the appellants have not raised specific issues. The appeals were filed out of an abundance of caution to ensure the land owners, their counsel and consultants were full participants in any proceedings

before the OMB. Two other owners challenged the limits of the lands that were designated for development within the two Secondary Plan areas.

6. The Ontario Municipal Board has held Pre-Hearing Conferences at City Hall on January 6, March 26 and June 8, 2015. A Pre-Hearing Conference via telephone conference call was held on May 29, 2015. A second telephone conference call is scheduled for June 29, 2015 and a fourth Pre-Hearing Conference has been planned for August 5, 2015.
7. The OMB has set aside two blocks of hearing time. A 10-day hearing on the Natural Heritage System is scheduled to begin on July 20, 2015 and a second hearing on the Land Budget is planned for the weeks of November 30, 2015 and December 7, 2015. Additional hearing time will be required in 2016.
8. An important focus of the Pre-Hearing Conferences held to date has been to coordinate the logistics associated with managing the file. This includes an overall plan for how the hearing will be organized, identifying issues, parties and participants, determining procedural matters and setting future pre-hearing and hearing dates. The process also provides a forum to discuss and possibly settle matters that are in dispute.
9. Discussions are ongoing with respect to the settlement of various appeals. Staff and counsel are optimistic that some issues can be resolved in advance of proceeding to a full hearing. These settlements could range from revised policy wording to adjusting the limit of a land use designation on one of the schedules.
10. By their very nature, certain settlements will need to be held in abeyance pending an opportunity for staff to discuss with Council following the summer recess. These settlements would include those that represent a significant change in policy or a fundamental departure from the direction identified in either of the adopted Secondary Plans. Settlements that have financial implications for the city and those that staff believe would trigger other issues being raised at the OMB will also be held in abeyance.

ENVIRONMENTAL MATTERS

11. There are no environmental matters related to the recommendation.

ALTERNATIVES

12. The following alternatives are available for consideration by General Committee:

Alternative #1

General Committee could decide not to delegate the approval to finalize Minutes of Settlement over the next two months.

This alternative is not recommended as it could result in unnecessary delays. Significant progress has been made towards resolving a number of appeals against the Annexed Lands Secondary Plans and staff are confident that settlements can be reached during the summer. If agreements are reached and Minutes of Settlements finalized, the City will avoid, or at the very least minimize, hearing time at the OMB.

FINANCIAL

13. The costs associated with Ontario Municipal Board hearings have been included in the 2015 Business Plan. Negotiating settlements with appellants will minimize hearing time and associated costs.

LINKAGE TO 2014-2018 STRATEGIC PLAN

14. The recommendation(s) included in this Staff Report support the following goals identified in the 2014-2018 Strategic Plan:
 - Responsible Spending
15. The recommendation in this Staff Report will facilitate the settlement of appeals against the Annexed Lands Secondary Plans while Council has recessed for the summer. This will minimize the amount of hearing time at the Ontario Municipal Board, reduce costs and begin to bring closure to the appeal process. Such an approach demonstrates value for money which is a cornerstone of responsible spending.