



Committee of the Whole Report For the Meeting of July 19, 2018

To: Committee of the Whole **Date:** July 12, 2018
From: Carrie Moffatt, Assistant City Solicitor
Subject: Crystal Pool uses requiring park dedication removal bylaw

RECOMMENDATION

That Council receive this report for information.

EXECUTIVE SUMMARY

The purpose of this report is to provide Council with a synopsis of the approval process for having either surface parking or affordable housing in Central Park adjacent to the new Crystal Pool.

In 1906, Council adopted a bylaw dedicating Central Park for park purposes and for the recreation and enjoyment of the public. Works undertaken by Council within the park must be consistent with the purpose of the bylaw: s. 30(5), *Community Charter*. If the works undertaken are not consistent with the bylaw, then Council is required to adopt a park dedication removal bylaw with the approval of the electors in order to pursue the works: s. 30(3), *Community Charter*.

A surface parking lot of the scale proposed and adjacent to the new Crystal Pool is consistent with a park purpose and public recreation because it is ancillary to and services a public recreational facility, which falls within the definition of "park" as that term has been interpreted by the courts. Therefore, a park dedication removal bylaw and elector approval would not be required for this design.

Affordable housing units are a residential use that fall outside the meaning of "park" and recreation/enjoyment for the public. A park dedication removal bylaw would be required to remove that portion of Central Park to accommodate this use. Additionally, any other use proposed for the site that does not serve a park purpose or for the recreation and enjoyment of the public would require a bylaw to remove the land from the park, with electoral approval.

A park dedication removal requires a bylaw that can only be adopted after approval of the electors, which may be obtained either through an assent vote (formerly known as referendum), or the alternative approval process ("AAP") (formerly known as counter-petition). Approval of the electors must be obtained after third reading of the park dedication removal bylaw and prior to adoption.¹

An assent vote requires a majority of the votes counted as valid in favour of the bylaw or question.

¹ S. 135(4), *Community Charter*

Under the assent process, voting takes place in the same manner as an election and may be held in conjunction with an election or as a stand alone event.² Voters must qualify as a resident elector or non-resident property elector and be registered to vote. Part 4 of the *Local Government Act* [Assent Voting] outlines the specific procedural steps for an assent vote.

Under the AAP, after third reading of the bylaw and prior to adoption, the City is required to publish notices of the approval process in accordance with s. 86 and 94 of the *Community Charter*. Council must establish a deadline for receiving elector responses, which must be at least 30 days after the second publication of the public notice. Council also establishes elector response forms which provides electors with an opportunity to indicate that Council may not proceed with the bylaw unless it is approved by assent of the electors. Similarly to assent voting, voters through an AAP must qualify as a resident elector or non-resident property elector and be registered to vote.

If less than 10% of the electorate submits responses indicating that council cannot proceed unless they hold an assent vote, then the approval of the electors is obtained. However, if more than 10% of the electorate submits response forms, then the City is required to either hold an assent vote or drop the matter. Section 86, *Community Charter*, outlines the procedural steps to an AAP.

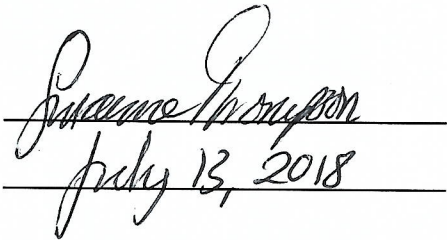
Respectfully submitted,



Carrie Moffatt
Assistant City Solicitor

Report accepted and recommended by the City Manager:

Date:


July 13, 2018

² See s. 84-85 Community Charter and Part 4 of the Local Government Act [Assent Voting].