

NO: **R180**

COUNCIL DATE: **October 3, 2011**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **September 28, 2011**

FROM: **General Manager, Engineering**

FILE: **2430-01/11 #1**

SUBJECT: **Remedial Action Requirement Related to the Property at 11678 - 130 Street**

RECOMMENDATION

The Engineering Department recommends that Council receive this report as information.

INTENT

The purpose of this report is to provide information on the status of the Remedial Action Requirement that was issued pursuant to Council Resolution No. R11-338, which provides for the reinstatement of a ditch on the property at 11678-130 Street, and about the actions that the Engineering Department is preparing to undertake.

BACKGROUND

At its Regular meeting on February 28, 2011, Council considered Corporate Report No. L002; 2011 related to a circumstance where a section of drainage ditch (known as the "East Bridgeview Canal") located within a right-of-way through the property at 11678 - 130 Street had been filled without authorization from the City. Council imposed a Remedial Action Requirement order to require the owner to reinstate the drainage ditch.

The owner of the property, Gurcharan Enterprises Ltd., sought reconsideration of the decision of Council and on April 4, 2011 and April 18, 2011, Council held a hearing to reconsider the decision. At the conclusion of the reconsideration hearing, Council adopted the following resolution:

1. *"Council confirms the Remedial Action Requirement imposed by Council pursuant to Resolution No. R11-338 imposed by Council at the February 28, 2011 Regular Council Land Use Meeting and amended by Council at the April 4, 2011 Regular Council Land Use Meeting and further amends the date specified for compliance with the Remedial Action Requirement in Resolution No. R11-338 to be no later than sixty (60) days after April 18, 2011; and*
2. *Without affecting the Remedial Action Requirement, that staff work with the Owner to develop to the satisfaction of the General Manager of Engineering, modifications to the Remedial Work to address the needs of the City and, to the extent reasonably possible, the concerns of the Owner, with the development of the modifications and implementation of the Remedial Work to be at the Owner's expense; and*
3. *That staff report back to Council on progress within 30 days."*

In respect of item 3, staff provided an update to Council on May 9, 2011 by way of Corporate Report No. R085; 2011 and a further update on May 30, 2011 by way of Corporate Report No. R094; 2011. Another update was provided to Council on June 13, 2011 by way of Corporate Report No. R115; 2011, a copy of which is attached to this report as Appendix I. This most recent Corporate Report included the following information:

- After June 17, 2011, the City has the authority to enter the Property and construct the remedial works and charge the owner for any costs that the City incurs; and
- Engineering staff will continue to monitor progress by the owner and will report to Council if it is considered necessary for the City to intervene directly to construct the remedial works.

DISCUSSION

Since the most recent report to Council on June 17, 2011, staff has had regular correspondence and meetings with the owner(s) and their representatives to finalize the details of the design of the remedial works with the intent of having the owner complete the reinstatement by September 30, 2011. The design of the remedial works was completed during the last couple of months; however, at a meeting on September 14, 2011, the owner informed City staff that he does not intend to complete the remedial (ditch reinstatement) works.

As a result of the lack of action by the owner to undertake the remedial work, in view of the fact that the winter rainy season is quickly approaching and that the reduction in conveyance and storm water storage volume related to the infilling of the ditch could lead to higher water levels in the upstream ditches and canals during storm events and that this will in turn lead to more frequent overtopping and surcharging of the upstream storm sewer system, which could then result in an increase in flooding of upstream properties, staff are preparing to undertake the remedial works to reinstate the ditch commencing in mid-October and to collect all costs that are incurred by the City in completing the said works from the owner pursuant to s. 17 of the Community Charter. This action by staff will be commenced unless the owner of the subject property commences construction of such remedial works before the referenced time and completes the necessary works with diligence thereafter.

CONCLUSION

Staff are preparing to construct the remedial (ditch reinstatement) works in accordance with the Remedial Action Requirement adopted by Council related to the property known as 11678 – 130 Street. These preparations are being made in view of the fact that the owner has not commenced such work and in fact has advised staff that he does not intend to undertake such work. The reinstatement of the subject ditch is necessary to provide storm water drainage for an area of the Bridgeview community.

Vincent Lalonde, P.Eng.
General Manager, Engineering

JA/JML/brb

Appendix I – Corporate Report No. R115; 2011