



BRIEFING NOTE

TO: Members of Council

CC: Tim Commisso, Nancy Shea-Nicol, Joan Ford, Angela Morgan, Allan Magi

DATE: December 13, 2019

Council Meeting December 16, 2019

In the interest of conducting informed conversation on the Dec. 16th Council meeting, staff have prepared the briefing note for your review pertaining to proposed amendments from Committee Members, or staff directions that can be answered at the time of Council meeting.

Councillor Paul Sharman, Amendments and Staff Directions

1. Direct staff to prepare a Forestry Management Plan equally as comprehensive as the Oakville Urban Forest Strategic Management Plan Town of Oakville, 2008 - 2027 by Q3 2020

The Forestry section has \$100k from 2019 and \$200k in the budget for 2020 to initiate a new Urban Forest Master Plan. RFP will be issued in the new year. Prior to issuing the RFP, staff plan to hold a forestry workshop with council members and include the scope of the Urban Forest Management Plan in the discussions.

2. Direct staff to update the Burlington Private Tree By-Law relative to the Burlington Forestry Management Plan when complete by Q3 2020

It is anticipated that the new UFMP will not be completed until 2021. Staff intend to bring back to council a report on the implementation and effectiveness of the new private tree bylaw one year after implementation, and to consider any further revisions at that time.

3. Direct staff to a) compare the Burlington Private Tree By-Law to Oakville's 2017 By-Law and explain differences, and whether to modify Burlington's b) update the Burlington Private Tree By-Law for review at March Committee Meetings

Careful review of other municipal bylaws including the Town of Oakville's in force private tree bylaw was completed as part of the review process prior to drafting Burlington's proposed bylaw.

4. Amend the Burlington Private Tree By-Law to forego replanting or cash in lieu and planting of 1st 20 cm of any tree cut down under the tree by-law application process.

Staff do not support this amendment. In the interest of replacing lost canopy, it is important to keep to the full leaf cover replacement.

5. Amend the Burlington Private Tree By-Law to revise the aggregate planting policy and replace it with the Modified Oakville replanting requirement (Attachment 1)

The Town of Oakville replaces trees at the rate of 1 tree for every 10 cm removal and does not consider the condition of the tree. Staff recommend the aggregate caliper method as set out in the proposed bylaw with adequate reductions based on tree health.

Should council wish to consider other options, the following are listed below for review:

Option One: Aggregate Caliper Method, Reduced Replacement Size and Cash in Lieu fees (Recommended)

In the interest of encouraging tree replacement on the subject property, a minimum tree size of 30 mm caliper, and cash in lieu rate of \$305.00 per 30 mm replacement tree could be applied to the Aggregate Caliper Method.

Pros: Smaller sized trees make it easier for homeowners to replace as a DIY project on their own property. If planting smaller trees, more trees can be planted either on the subject property or elsewhere (funded by cash in lieu).

Cons: Smaller trees will take longer to recover the canopy loss. There may be higher replacement tree mortality.

Option Two: Aggregate Caliper Method, Reduced Cash in Lieu Fees, 50 mm replacement

To reduce the financial burden on homeowners, cash in lieu of replacement fees would be reduced to \$500.00 (50 mm tree). Aggregate Caliper method would still be applied and a 50 mm tree remains the minimum replacement size.

Pros: Canopy recovery is realized as early as year one, and more affordable to homeowners.

Cons: The cash in lieu rate is lower than market rates for tree replacement, enticing homeowners to pay cash in lieu rather than replace on site. 50 mm trees are not easily transported by homeowners without special equipment.

Option Three: Change Replacement Criteria, Reduce Cash in Lieu Fees, 50 mm replacement

Match replacement criteria to Oakville (1 tree for 10 cm removed) and reduce cash in lieu fees to \$500.00 (50 mm tree).

Pros: Reduced financial burden on homeowners

Cons: Does not consider tree condition. The cash in lieu rate is lower than market rates for tree replacement, enticing homeowners to pay cash in lieu rather than replace on site.

6. Amend Burlington Private Tree By-Law to increase 2mtrs set back from house allowance (whereby no application fees or replacement is required) to equal drip distance line or 4mtrs, whichever is less

Staff do not support this amendment. The current draft bylaw refers to distance from an occupied dwelling of 2m . This amendment as written would result in significantly more trees being eligible for removal without compensation.

7. Amend the Burlington Private Tree By-Law to include the following clause from the Oakville 2017 By-Law "5. The provisions of this By-law do not apply to the removal of trees: (g) to permit the construction of a building or structure, where the removal, injury or destruction is required under a building permit."

Based on the Development Application Process review, the recommended approach is a one-stop fully integrated permit office and tree permitting can be argued as applicable law. (as noted in the Audit and Accountability Report). Further, this clause would exempt all development related applications, which still require Forestry review at present.

8. Amend the Burlington Private Tree By-Law to require replacement tree diameter of 30mm instead of 50mm and adjust the associated cash in lieu accordingly

See cash in lieu options above

9. Amend Burlington Private Tree By-Law to exclude invasive species e.g. Norway Maple from application and tree replacement

Invasive species are exempt, and Norway Maple is not on the invasive species list for Ontario.

10. Direct staff to develop and amend the Burlington Private Tree By-Law to include forestry assessment standards in order to allow citizens to clearly understand the basis of all City arborist's assessments, decisions and ruling to ensure transparency and accountability

This would be managed through the development of policies and procedures pending bylaw approval and utilizing the TRAQ (Tree Risk Assessment Qualification) methodology. This will not be embedded in the bylaw to allow for updating as required.

11. Amend the Burlington Private Tree By-Law to exclude rural farm property other than up to 4 acres that are used for residential purposes. Exclude all wood lots that are subject to existing municipal by laws.

All woodlots greater than .5 ha are exempt from the proposed private tree bylaw. Land use maps from the Official Plan are not straightforward to utilize due to NEC and Greenbelt designations. Staff have 2 options for council consideration:

- A) Apply the private tree bylaw to rural settlement areas only within rural areas as indicated within the Official Plan.
- B) Exempt areas in the rural boundary considered agriculture as defined by the Official Plan. (To be covered in policy and procedures).

*Neither A or B would be considered in the North Aldershot region.

12. Direct staff to return of cash in-lieu funds to applicants if not used to plant trees on private property within 3 years on a FIFO basis.

Staff do not support this amendment. The funding will be held in a reserve account that will be utilized for a variety of private tree planting initiatives and full public accounting of the use of the funds will be available and posted annually on the forestry webpage.



Staff Direction – Committee of the Whole December 2

- Direct the Director of Roads, Parks and Forestry to research transition measures for the by-law and report back at the December 16, 2019 Council meeting.

Response to Staff Direction

- Staff has consulted with the Legal Department regarding the possibility of a transitional implementation of the proposed Private Tree Bylaw.
- Legal has advised that it is not possible to implement a phased approach. Once a bylaw is approved with an implementation date, it becomes fully in effect on that date.

Staff Recommendations

- Approve the implementation of a City-wide private tree by-law and present the by-law and amended rates and fees to Council at the January 27 meeting.
- Approve the amendment to the bylaw to exempt all farm classified land, exempt any not-for-profit housing projects undertaken by Habitat for Humanity and exempt any persons living below the low-income cut off before tax as determined by Statistics Canada.
- Staff to complete the remaining staff directions in Q1 of 2020.

Prepared by: Mary Battaglia/Steve Robinson

Approved by: Tim Commisso

Proposed Amended Rates & Fees:

Development Related Tree Permit Application (per site): \$680.00

Non-Development Related Tree Permit Application (per site): \$390.00

Tree Bylaw Contravention Fee (Per Tree): \$680.00

Cash in Lieu of Tree Replacement: \$305.00



Prepared by: Mary Battaglia/Steve Robinson

Approved by: Tim Commisso



Attachment 1

Modified Oakville By-law Number: 2017-038 Tree Replacement as The Condition Of Private Tree Removal Permit

Modified to reflect first 20cm requires no replacement

Diameter at Breast Height (DBH) in cm	Number of replacement trees
First tree < 20	0
20-24	1
25-34	2
35-44	3
45-54	4
55-64	5
65-74	6
75-84	7
85-94	8
95-104	9
105-114	10
>115	11