



The Corporation of the City of Cornwall
Regular Meeting of Council
Report

Department: Infrastructure and Municipal Works
Division: Parks and Recreation
Report Number: 2021-27-Infrastructure and Municipal Works
Prepared By: Bill de Wit, Division Manager
Meeting Date: April 26, 2021
Subject: Locomotive #17 – Notice of Intention to Repeal By-law #134-2006

Purpose

To request Council approval to issue a Notice of Intention to Repeal By-law #134-2006 as outlined in this report.

Recommendation

That Council direct Administration to issue a Notice of Intention to Repeal By-law #134-2006 as outlined in this report.

Financial Implications

There are no financial implications resulting from the recommendations of this report.

Background / Discussion

At the special meeting of February 1, 2021, Council approved a motion to donate Locomotive #17 to the Smiths Falls Railway Museum of Eastern Ontario (RMEO). Following approval of the resolution, Administration issued a Request for Quotation for the removal of the locomotive from the existing site as well as transportation and relocation to a new site at RMEO. The quotation was awarded



to the lowest bidder at a price of \$41994 (net to the City). The contract has been negotiated in a manner which allows the City to direct the contractor to schedule the move of the locomotive anytime before September 1, 2021. Should the schedule be extended beyond September 1, the City would incur a 3% or \$1,250 increase in contract costs.

Ontario Heritage Act

To finalize the process of donating the locomotive to RMEO, it is necessary for Council repeal By-law #134-2006 to comply with stipulations of the Ontario Heritage Act. By-law #134-2006 designated the immediate lands upon which Locomotive #17 is situated and the locomotive itself, as of “cultural heritage value or interest”. A copy of the By-law is enclosed. On the basis that Council has approved the donation of the locomotive to RMEO, Administration is providing information which would lead Council to repeal By-law #134-2006.

Attached is a flowchart provided by the Ministry of Culture which outlines the necessary process to be followed to repeal a designating By-law. The following paragraphs summarize the actions according to Section 31 of the Ontario Heritage Act which need to be followed by Council to proceed with the repeal of By-law #134-2006.

Consultation

To start the process of repealing the heritage By-law, Council must consult with the municipally appointed heritage committee. Heritage-Patrimoine Cornwall (HPC) have been appointed by Council as the City’s heritage committee. Administration have contacted the chair of HPC and have provided all the details associated with the imminent relocation of the locomotive to RMEO as well as the proposed notice of intention to repeal By-law #134-2006. HPC, as a group, met on March 29, 2021 and discussed the proposed notice of intention to repeal. Comments provided by HPC are attached.

Notice of Intention to Repeal

The next step towards repeal of the heritage By-law, requires Council to approve motion to execute a “notice of intention” to repeal By-law #134-2006. The main purpose of this report is to request Council approval to issue a Notice of Intention to Repeal By-law #134-2006. This notice is to be presented to the owner of the property which, in this case, is the Corporation itself represented by the Clerk. Upon approval of this motion, the Clerk’s office would publish in the local



newspapers and on the City website, a notice describing the property and associated artifact (being the locomotive), the reason for repealing the By-law and a statement indicating that any person wishing to submit an objection to the repealing By-law must do so in writing to the City Clerk within 30 days following the issuance of the newspaper/website notice. A draft copy of the proposed newspaper and website announcement is attached.

The notice would also be distributed to the Ontario Heritage Trust (OHT). The OHT is the province's heritage agency, with a statutory responsibility for identifying, preserving, protecting and promoting built, cultural and natural heritage across the Province. The OHT essentially serves as the registry for properties with heritage designations. Through By-law 134-2006, the immediate lands upon which Locomotive #17 is situated and the locomotive itself had been registered with OHT. Upon repeal of By-law 134-2006, the OHT would be notified, and the subject property and Locomotive would be removed from the registry.

Consideration of Objections

Upon completion of the 30-day period of the newspaper/website advertisement regarding the notice of intention to repeal By-law #134-2006, Administration will compile any objections and forward the same to the Conservation Review Board (CRB). The CRB is an adjudicative tribunal that, through the mandate provided by the Ontario Heritage Act, considers a number of matters such as: the proposed designation of a property as having cultural heritage value or interest; applications for the repeal of a By-law on a specific property; applications related to the alteration of a property covered by a By-law; and, matters related to archaeological licensing. The CRB, through a prehearing process and mediation efforts, will attempt to settle any dispute where appropriate.

Where a case does not settle and proceeds to formal full hearing, within 30 days following the full hearing, the CRB will provide recommendations on the matter to the municipal council who have the final decision.

Council Deliberation of By-law Repeal

In the event that objections to the notice of repeal have been submitted to CRB for their review at a prehearing (or potentially at a subsequent formal full hearing), Administration will have the recommendations of the CRB presented at a subsequent Council meeting. Council will be requested to consider the recommendations to deliberate whether to proceed or not, with the repeal of By-



law #134-2006. Ultimately the decision to repeal By-law #134-2006 lies with Council and not with any other provincial or municipal body.

Upon Council approval to repeal By-law #134-2006, a “notice of repeal” would be served to the owner of the property which, in this case, is the Corporation itself represented by the Clerk. The Clerk would then be required to publish the notice of repeal in the newspaper and on the City website. The notice of repeal would also be issued to the Ontario Heritage Trust. At this point the Ontario Heritage Trust would remove the property and locomotive from all municipal, Provincial and Canadian registers. Upon removal from all from all registers, Council could then direct Administration to proceed with the physical move of the locomotive to RMEO.

Motion to Delay Donation of Locomotive #17

At their regular meeting of April 12, 2021, the following motion was submitted for Council consideration at their meeting of April 26, 2021:

“Whereas City Council voted to relocate locomotive engine 17 to the railway museum of eastern Ontario from its current location on city property near Ninth Street and Brookdale Avenue; and

Whereas a group of interested persons in the city has expressed interest in making a presentation and providing a plan to refurbish and keep the engine in the city; and

Whereas, because of COVID-19 restrictions, the said group was not able to do so prior to our budget meetings.

Now therefore be it resolved that the transfer of the engine to Smiths Falls be put on hold until this group of citizens is able to make its presentation to Council.”

As previously mentioned, the City has awarded a contract to move the locomotive to RMEO before September 1, 2021. Considering weather conditions, the ideal time to move the locomotive would be during the summer months. Additionally, the sooner the locomotive is moved to RMEO, the sooner their specialists can commence refurbishment of the deteriorating artifact. Considering the preceding, Administration is recommending that Council continue to advance with the Notice of Intention to Repeal By-law #134-2006 regardless of whether Council approve or not, the above motion to consider the information being presented by a citizen’s group. In this manner the potentially lengthy process associated with repeal of the By-law can commence. As an example, to clarify how the process could potentially become lengthy, should objections be received within the original 30 day newspaper/website public notice period regarding the



intention to repeal, a prehearing (and possible subsequent full formal hearing) to be conducted by the Conservation Review Board could take an additional 45 to 90 days to complete before By-Law #134-2006 could finally be presented to Council for repeal.

If, at any point during the described repeal process, substantive information from concerned citizens, heritage groups or objectors was provided that would encourage Council to reverse their decision to donate the locomotive to RMEO, the By-law repeal process can simply be withdrawn.

Document Title:	Locomotive No.17 - Notice of Intention to Repeal Bylaw 134-2006 - 2021-27-IMW.docx
Attachments:	<ul style="list-style-type: none">- Locomotive 17 Bylaw 134 2006.pdf- Locomotive 17 Bylaw Repeal Flow Chart.pdf- Locomotive 17 HPC Comments.pdf- Locomotive 17 Notice to Repeal Draft.docx
Final Approval Date:	Apr 21, 2021

This report and all of its attachments were approved and signed as outlined below:

Tracey Bailey - Apr 20, 2021 - 5:51 PM

Maureen Adams - Apr 21, 2021 - 8:35 AM