

STAFF REPORT: PLANNING & BUILDING SERVICES



REPORT TO: Council
MEETING DATE: April 12, 2010
REPORT NO.: PL.10.28
SUBJECT: Cash in Lieu of Parkland – Residential Consents (S. 53 of PA)
PREPARED BY: David Finbow, Director, Planning & Building Services

A. Recommendations

1. **THAT** Council receive Staff Report PL.10.28 respecting “Cash in Lieu of Parkland – Residential Consents (S. 53 of PA)”;
2. **THAT** Council adopt the Policy entitled “Cash in Lieu of Parkland – Residential Consents (S. 53 of PA)”;
3. **THAT** Council make a determination with respect to the request from Jack and Naomi Vail related to deleting condition number 2 of Provisional Consent Decision No. B24-2009 (5% cash in lieu of parkland requirement); and,
4. **THAT** Council make a determination with respect to the 5% cash in lieu of parkland requirement associated with Provisional Consent No. B11-2009 – “Grainger”.

B. Background

Council at its meeting of February 8, 2010 considered Staff Report PL.10.14 respecting “Cash in Lieu of Parkland” and adopted the following resolution:

Moved by: Cameron Kennedy Seconded by: John McGee

THAT Report PL.10.14 be tabled for a future Council Meeting until a full complement of Council is present, Carried.

The minutes associated with Council’s consideration of this matter are attached as Addendum “A”.

Council discussion proved to be beneficial in terms of providing direction on this matter and has allowed Town staff to refine the Draft Policy related to Residential Consents considerably (with it being noted that the reference to Residential Consents includes all consent applications that are not for commercial or industrial purposes). The attached draft policy is reflective of the following principles:

- Cash in lieu of parkland is to be provided at the rate permitted by the *Planning Act* being 5% of the value of the land to be conveyed.
- Addressing consistency (maximum parcel size that the valuation will be calculated on is 0.8 hectares).
- Alleviating concerns related to the costs associated with an appraisal by way of utilizing MPAC Current Value Assessment.
- Establishing a minimum of \$500.00 cash in lieu of parkland payment per lot.
- Entrenching a dispute mechanism by allowing the proponent the option of having an appraisal prepared by an accredited appraiser.

If the Policy is adopted, the formula for calculating parkland would be as follows:

(Value per Acre based on MPAC Current Value) x (# of Acres associated with the newly created parcel, maximum parcel size of 0.8 ha/2 acres) x 5% = Cash in Lieu of Parkland Payment

Examples of Application of Proposed Policy:

1. 0.54 Acre Serviced/Urban Parcel/Proposal to sever land and create two 0.18 acre lots

MPAC 2008 Current Value \$523,000.00

Value per acre = \$968,518.51

Maximum 0.8 ha (1.98 acres) parcel for the purposes of calculating the cash in lieu payment
5% of the value of the land cash in lieu (minimum \$500.00)

$\$968,518.51 \times 0.18 \times 2 \times 5\% = \$17,433.33$ (or, \$8,716.67 per lot)

Cash in Lieu of Parkland Payment = \$8,716.67 per lot

2. 100 Acre Rural Parcel/Proposed 50 Acre Consent

MPAC 2008 Current Value \$385,000.00

Value per acre = \$3,850.00

Maximum 0.8 ha (1.98 acres) Parcel for the purposes of calculating the cash in lieu payment
5% of the value of the land cash in lieu (minimum \$500.00)

$\$3,850.00 \times 1.98 \text{ acres} \times 5\% = \381.15

Cash in Lieu of Parkland Payment = \$500.00 (minimum)

3. 91.85 Acre Rural Parcel/Proposed 25 Acre Consent

MPAC 2008 Current Value \$521,967.00

Value per acre = \$5,682.82

Maximum 0.8 ha (1.98 acres) Parcel for the purposes of calculating the cash in lieu payment
5% of the value of the land cash in lieu (minimum \$500.00)

$\$5,682.82 \times 1.98 \text{ acres} \times 5\% = \562.60

Cash in Lieu of Parkland Payment = \$562.60

4. 0.52 Acre Serviced/Urban Parcel (150' x 150')/Proposed Consent to create a 0.26 acre parcel (75' x 150')

MPAC 2008 Current Value \$275,000

Value per acre = \$528,846.15

Maximum 0.8 ha (1.98 acres) Parcel for the purposes of calculating the cash in lieu payment
5% of the value of the land cash in lieu (minimum \$500.00)

$\$528,846.15 \times 0.26 \times 5\% = \$6,875.00$

Cash in Lieu of Parkland Payment = \$6,875.00

As referenced in Staff Report PL.10.24, there remain two consents (Grainger, Expiry Date July 13, 2010 and Vail, Expiry Date January 11/2011) wherein proponents have requested Council's reconsideration of the condition related to cash in lieu of parkland. It is within Council's authority to change or to delete a condition of the consent. If Council is desirous of doing so, it first must determine that the change is minor in nature. This can be done by resolution. If Council determines that it is, no further notice is required and Council can then delete or change the condition, again by resolution.

The above could be utilized in reconciling the Vail and Grainger requests by adopting the following Resolutions:

1. That Council hereby determines that it desires to change the conditions related to cash in lieu of parkland associated with its Consent Decision Nos. B11/2009 and B24/2009;
2. That Council hereby determines that the proposed changes are minor in nature; and,
3. That Council hereby changes the conditions related to cash in lieu of parkland associated with its Consent Decision Nos. B11/2009 and B24/2009 to:

"That the owner make a cash payment in lieu of parkland in accordance with the provisions of the *Planning Act* and in accordance with Town Policy."

C. The Blue Mountains' Strategic Plan

"Providing a strong, well managed municipal government."

D. Environmental Impacts

N/A

E. Budget Impact

To be determined based on the number and type of consent applications.

F. Addendums

- A. "Cash in Lieu of Parkland – Consent" Policy
- B. Staff Report PL.10.14
- C. Council Minutes of February 8, 2010 – Cash in Lieu of Parkland

Respectfully submitted,

David Finbow
Director, Planning & Building Services



TOWN OF THE BLUE MOUNTAINS

POLICY & PROCEDURES

Subject Title: CASH IN LIEU OF PARKLAND – RESIDENTIAL CONSENTS (SECTION 53 OF THE PLANNING ACT)

Corporate Policy (Approved by Council)

X Policy Ref. No.:

Administrative Policy (Approved by CAO)

By-law No.:

Department Policy: (Approved by Mgr.)

Name of Dept.: Planning & Building Services

Date Approved:

Staff Report: PL.10.28 Cash in Lieu of Parkland – Residential Consents (S. 53 of PA)

Policy Statement

The Corporation of the Town of The Blue Mountains will require as a condition of a residential consent pursuant to Section 53 of the Planning Act the provision of 5% of the land for parkland or, at the discretion of the approval authority, a cash payment in lieu of parkland in accordance with this Policy.

Purpose

The purpose of this Policy is to provide direction related to calculating the cash in lieu of parkland required as it relates to a consent pursuant to Section 53 of the Planning Act.

Application

This Policy applies to all consent applications pursuant to Section 53 of the Planning Act.

Definitions

Residential Consent means a consent for other than a commercial or industrial purpose.

Procedures

In the instance of a provisional consent where the approval authority requires that cash in lieu of parkland be provided, the amount of cash to be provided is to be calculated in accordance with the following:

1. The value of the land is to be determined by the latest MPAC Current Value for the lands. If the proponent disagrees with the MPAC Current Value, the proponent may retain the services of an accredited appraiser to develop an appraisal for the property for the Town's consideration.
2. The maximum amount of land to be considered for determining the cash payment in lieu of parkland is 0.8 hectares (1.98 acres).
3. The minimum cash payment in lieu of parkland shall be \$500.00.

The formula for calculating cash in lieu of parkland is as follows:

Value of the land based on MPAC Current Value

X

Area of the land associated with the newly created parcel
(maximum parcel size of 0.8 ha/2 acres)

X

5% =

Cash in Lieu of Parkland Payment
(minimum payable is \$500.00)

Examples:

1. 0.54 Acre Parcel/Proposal to sever land and create two 0.18 acre lots

MPAC 2008 Current Value \$523,000.00

Value per acre = \$968,518.51

Maximum 0.8 ha (1.98 acres) parcel for the purposes of calculating the cash in lieu payment
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Cash in Lieu of Parkland Payment = \$8,716.67 per lot

2. 100 Acre Parcel/Proposed 50 Acre Consent

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Value per acre = \$3,850.00

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5% of the value of the land cash in lieu (minimum \$500.00)

$$\$3,850.00 \times 1.98 \text{ acres} \times 5\% = \$381.15$$

Cash in Lieu of Parkland Payment = \$500.00

3. 91.85 Acre Parcel/Proposed 25 Acre Consent

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$$\$5,682.82 \times 1.98 \text{ acres} \times 5\% = \$562.60$$

Cash in Lieu of Parkland Payment = \$562.60

4. 0.52 Acre Parcel (150' x 150')/Proposed Consent to create a 0.26 acre parcel (75' x 150')

MPAC 2008 Current Value \$275,000

Value per acre = \$528,846.15

Maximum 0.8 ha (1.98 acres) Parcel for the purposes of calculating the cash in lieu payment

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$$\$528,846.15 \times 0.26 \times 5\% = \$6,875.00$$

Cash in Lieu of Parkland Payment = \$6,875.00

Exclusions

N/A

References and Related Policies

Section 53(1) of the *Planning Act* authorizes an approval authority to grant a consent if it is "satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality".

Section 53(12) of the *Planning Act* indicates that Section 51.1 applies with necessary modifications to the granting of a provisional consent. 1994, c. 23, s. 32.

Section 51.1 of the *Planning Act* indicates that the approval authority may impose as a condition to the approval of a plan of subdivision that land in an amount not exceeding, in the case of a subdivision proposed for commercial or industrial purposes, 2 per cent and in all other cases 5 per cent of the land included in the plan shall be conveyed to

the local municipality for park or other public recreational purposes or, if the land is not in a municipality, shall be dedicated for park or other public recreational purposes.

Section 53(13) of the *Planning Act* indicates that “on the giving of a provisional consent, land is required to be conveyed to a municipality for park or other public recreational purposes and the council of the municipality requires the payment of money to the value of the land in lieu of the conveyance, for the purpose of determining the amount of the payment, the value of the land shall be determined as of the day before the day the provisional consent was given”.

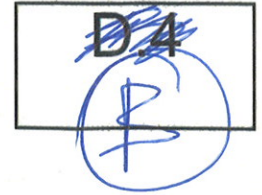
Consequences of Non-Compliance

Not Applicable.

Review Cycle

This policy will be reviewed annually by the Director, Planning & Building Services and, if in the opinion of the Director, Planning & Building Services changes are recommended and/or warranted, a recommendation will be presented to Council for Council’s consideration.

STAFF REPORT: PLANNING & BUILDING SERVICES



REPORT TO: Council
MEETING DATE: February 8, 2010
REPORT NO.: PL.10.14
SUBJECT: Cash in Lieu of Parkland
PREPARED BY: David Finbow, Director, Planning & Building Services

A. Recommendations

1. **THAT** Council receive Staff Report PL.10.14 respecting "Cash in Lieu of Parkland";
2. **THAT** Council make a determination with respect to the request from Jack and Naomi Vail related to deleting condition number 2 of Provisional Consent Decision No. B24-2009 (5% cash in lieu of parkland requirement);
3. **THAT** Council make a determination with respect to the 5% cash in lieu of parkland requirement associated with Provisional Consent No. B11-2009 – "Grainger"; and,
4. **THAT** Council make a determination with respect to the Town's Cash in Lieu Policy – specifically Option a, b, c, d or e as identified in this report.

B. Background

1. The Town is in receipt of a letter dated January 18, 2010 from Jack and Naomi Vail (Addendum A) with respect to Consent No. B24-2009. In this letter they raise a number of issues, including the costs of going through the consent process and obtaining an appraisal to determine the value of the land, and specifically requests that Council waive the 5% parkland fee.
2. With respect to the authority to collect cash in lieu of parkland, specifically 5% of the value of the land, same is found at Sections 42, 51.1 and 53(13) of the *Planning Act*.
3. The matter of cash in lieu of parkland, including policies related to technical severances, was considered by the Finance & Administration Committee on August 18, 2009 via Staff Report PL.09.94 (Addendum B).
4. Planning Services currently provide a recommendation to Council to impose the following condition of consent:

That the owner make a cash payment in lieu of parkland in the amount of 5% of the land to be conveyed with such value to be determined as of the day before of the day of approval of the consent by an accredited appraiser (AAI, P.App., CRA) with the Appraisal Institute of Canada.

5. Prior to 2009, Planning Services simply recommended to Council that Council consider imposing a condition of consent requiring "payment of the applicable parkland dedication charges". This payment was implemented by way of the Town's collection of a flat fee of \$500.00 for all consents without regard to the value of the land.
6. With respect to the Vail's request, it is within Council's authority to change or to delete a condition of the consent. If Council is desirous of doing so, it first must determine that the change is minor in nature. This can be done by resolution. If Council determines that it is, no

further notice is required and Council can then delete or change the condition, again by resolution.

7. With respect to the Grainger Provisional Consent, the concerns that he has raised are similar to the ones raised by the Vails. Again, if Council is desirous of changing or deleting a condition of the consent, it first must determine that the change is minor in nature. This can be done by resolution. If Council determines that it is, no further notice is required and Council can then delete or change the condition, again by resolution.
8. From a broader policy perspective, if Council is concerned with respect to the condition currently provide by Planning Services staff to Council related to a consent, Council has many "go forward" options.

Prior to discussing options, it is appropriate to review the issues. Firstly in the instance of a rural consent, the issue appears to be that the conveyed parcel size is not necessarily reflective of the land required to support a new dwelling which is the driver on the Town's park infrastructure. Secondly, the cost of an appraisal especially in light of the fact that in some instances the cost of the appraisal could exceed the cash in lieu payment.

Options:

- a) Status quo.

"That the owner make a cash payment in lieu of parkland in the amount of 5% of the land to be conveyed with such value to be determined as of the day before the day of approval of the consent by an accredited appraiser (AACI, P.App., CRA) with the Appraisal Institute of Canada."

This condition has been found to be problematic for rural consents creating 20 + acres (i.e. 5% cash in lieu payment based on the value of the acreage) along with the cost of an appraisal being approximately \$2,000.00.

- b) Not require as a condition of consent a cash payment in lieu of parkland.

Town staff is not supportive of this direction in as much as the occupants of the newly created parcel would not be contributing financially to "park or other public recreational purposes" notwithstanding they potentially would place a demand on same.

- c) Impose as a condition of consent that the owner make a flat rate payment in lieu of parkland (\$500.00 was previously utilized) provided this amount does not exceed 5% of the value of the conveyed land (\$500.00 would equate to the conveyed land, without regard to the conveyed parcel size, having a value of \$10,000).

Town staff are not supportive of this direction in as much as it is not consistent with our current policy with respect to plans of subdivision, development and redevelopment of land as same are based on the value of the land and not a flat rate.

- d) Impose as a condition of consent that the owner make a cash payment in lieu of parkland of 5% of the land to be conveyed with such value to be determined as of the day before the day of approval of the consent by an accredited appraiser and that the valuation in the instances of rural land (not commercial and/or industrial) located outside of the Town's Service Districts, be assignable to 0.8 hectares of the conveyed parcel.

Town staff support the "0.8 ha approach" in as much as it recognizes the portion of the conveyed parcel that would be occupied by a new dwelling and related amenities that would put demands on the Town's park infrastructure. However, Town staff do note that the public has identified that the requirement for an accredited appraisal to be problematic due the cost (especially where the cost for same, in the instance of a 0.8 ha approach, may exceed the actual cash in lieu payment requirement).

- e) As per d) however the value of the land would be determined pursuant to an assumed value per hectare for rural land (not commercial and/or industrial) located outside of the Town's Service Districts, with same being assignable to 0.8 hectares of the conveyed parcel.

As stated previously, Town staff support the 0.8 ha approach and note that this option would address concerns related to the cost of the appraisal.

With respect to Options e), Town staff inquired of local real estate agents as to the value per acre of rural land located outside of the Town Service Districts which are not commercial and/or industrial. We have been advised that assuming that the land has the ability to support a dwelling (frontage on a public highway, not encumbered by natural features, etc.) that the value per acre could, depending on the attributes of the land (building envelope location, scenic, proximity to Thornbury, etc.), range from as little as \$3,500 per acre to \$25,000 per acre. Based on a 0.8 ha parcel (1.98 acres), the cash in lieu payment required would be as little as \$346.50 ($\$3,500.00 \times 1.98 \times 5\%$) and as high as \$2,475.00 ($\$25,000.00 \times 1.98 \times 5\%$) For Council's information, below is a table that is reflective of cash in lieu payment requirements based on certain land values per acre and the related Cash in Lieu requirements based on 0.8 hectares.

Value per Acre	Cash in Lieu at 5% (Based on 0.8 hectares)
\$3,500/acre	\$346.50
\$5,000/acre	\$495.00
\$7,500/acre	\$742.50
\$10,000/acre	\$990.00
\$12,500/acre	\$1,237.50
\$15,000/acre	\$1,485.00
\$20,000/acre	\$1,980.00
\$25,000/acre	\$2,475.00

If Council desires to proceed with an assumed value per acre for rural land (not commercial and/or industrial) located outside of the Town's Service Districts, with same being assignable to 0.8 hectares of the conveyed parcel, it would be appropriate for Council to identify which "assumed value" they wish to pursue. Town staff note that based on the information that we have been able to compile that a value per acre of less than \$7,500.00 would not necessarily be a true representation of the value of the majority of the land within the rural part of our community.

The above could be utilized in reconciling the Vail and Grainger requests by changing the problematic condition so as require:

"That the owner make a cash payment in lieu of parkland in the amount of \$x."

C. The Blue Mountains' Strategic Plan

"Providing a strong, well managed municipal government."

D. Environmental Impacts

N/A

E. Budget Impact

F. Addendums

- A. Letter dated January 18, 2010 from Jack & Naomi Vail,
- B. Staff Report PL.09.94

Respectfully submitted,

David Finbow
Director, Planning & Building Services

Jack & Naomi Vail
RR 1, Clarksburg, ON N0H 1J0
Tel.: (519) 599-3544

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January 18, 2010

Mayor Ellen Anderson & Members of Council
The Blue Mountains
26 Bridge St., PO Box 310
Thornbury, ON N0H 2P0

RECEIVED
JAN 21 2010

Dear Mayor Anderson & Members of Council:

RE: Application for Consent File No. B24-2009
Part Lot 23, Concession 10, Town of The Blue Mountains, PL10.01 SP

We received notification last week that the above Application for Consent has been approved and accepted by Council. We thank you for your approval.

The conditions outlined in the granting of the application are acceptable with the exception of Item #2, "That the owner make a cash payment in lieu of parkland in the amount of 5% of the value of the land to be conveyed with such value to be determined as of the day before the day of approval", etc. In no way do we disagree with the need to have resources for our community to have soccer and baseball facilities, as well as arenas, etc. It is indeed enough to have to pay the "hard costs of Town Wide Development Charges", but the additional "5% of the value of the land to be conveyed", with our current beef farming income is truly not viable at this time in our lives. We have been in the beef farming business for over 55 years, and prices are as low as they were approximately 30 years ago, including setbacks due to the BSE (Mad Cow Disease) in the country as well as more and more government regulations and added costs associated with producing our beef. The land is Specialty Agriculture and will never be developed, and as such, we feel that the 5% that you are requesting for parkland would take away from the economic viability of this agricultural land. Also, it is expensive to go through this proposal process and the added costs associated with obtaining an appraisal and the remaining costs associated with this would be better invested back into the agricultural land which the Town and Government of Ontario is now preserving.

Therefore, we are asking Council to waive the 5% parkland fee in order to be able to sustain the agricultural viability of this property. We look forward to hearing of your decision.

Yours truly,

Jack & Naomi Vail
Mr. & Mrs. Naomi Vail

cc: Planning
Rob Cummings



D.4 Cash-in-Lieu of Parkland, PL.10.14

Moved by: John McKean

Seconded by: Cameron Kennedy

1. THAT Council receive Staff Report PL.10.14 respecting "Cash in Lieu of Parkland";
2. THAT Council make a determination with respect to the request from Jack and Naomi Vail related to deleting condition number 2 of Provisional Consent Decision No. B24-2009 (5% cash in lieu of parkland requirement);
3. THAT Council make a determination with respect to the 5% cash in lieu of parkland requirement associated with Provisional Consent No. B11-2009 – "Grainger"; and,
4. THAT Council make a determination with respect to the Town's Cash in Lieu Policy – specifically Option a, b, c, d or e as identified in this report.

In speaking to the Motion, Director of Planning & Building David Finbow then reviewed Report PL.10.14 referencing correspondence received from Jack and Naomi Vail regarding the cash-in-lieu condition of their Consent, noting this correspondence spurred the within Report. David then noted this Report will create a precedent in the rural community, noting the various determinations to be considered.

David then noted Town Staff have focussed on lands outside of the serviced areas and questioned how much land will be valued for a cash-in-lieu policy, noting the cost of an appraisal could be \$1500 to \$3000.

David then noted the Town could use an assumed value of land.

David then referenced the specific request from Vails' and further noted the Grainger Consent has the same impact. David noted both Consents are being dealt with at the same time.

David then reviewed the values in the Staff Report and identified the MPAC data on rural property values.

David then noted Council had approved the payment of cash-in-lieu from 2000 to 2009 on the basis of a flat fee of \$500 for all consents with no regard to the value of the land, further noting this fee was imposed across the Municipality. David then noted Staff is aware the value of rural land is not consistent with values along the Highway 26 corridor.

Councillor Kennedy then referenced Option (e) of the Report and questioned if this would be an issue that could be appealed to the Ontario Municipal Board (OMB),

David replying that any condition of Consent could be appealed to the OMB. David then noted in the urban community an appraisal of the property is required by Town Staff, noting the proponent would retain the services of an appraiser who would prepare an appraisal and submit the same to the Town for its review and satisfaction as to the property value.

Cameron then questioned if Option (e) is selected can the Applicant appeal, David replying if a specific value is assigned, then yes, the Applicant could appeal the condition.

Councillor McKean then questioned the value per acre and asked if area sales are considered, David replying that Town Staff needs a tool to deal with the Grainger Consent and future consents, further noting if the fee is too high it could be appealed, if it is too low it may not amount to much. David then noted if the Town continues to ask for an appraisal from Applicants, that the appraisal may cost more than the amount of the cash-in-lieu to be paid to the Town.

Councillor McGee then questioned if there is any different uses for parkland dedication fees in the rural areas versus in the urban areas, David replying no, residents in the rural areas have access to the Town's recreational facilities, including the baseball diamonds, arena or parks.

John then noted the cost for a lot in the urban areas could be \$100,000 that would amount to \$5000 in development charges, but in the rural areas a property could be valued at \$500,000 or \$1000 an acre, David replying yes, and further noted Provincial legislation years ago determined a value of 5% for parkland or cash-in-lieu. John then questioned the difference in rural land is treating only 2 acres of a parcel of land, David replying the *Planning Act* speaks to residential purposes only, whereas rural properties have only a small percentage used as residential, further noting .8 hectares is the minimum size of a parcel for residential lot.

Councillor McKean then spoke noting item (c) of the Report should be used for cash-in-lieu until further information can be obtained, David replying if Option (c) was applied across the entire Municipality, urban and rural, the loss to the Town would be significant.

David then spoke noting a recent cash-in-lieu payment of \$23,000 was received by the Town.

Cameron then spoke questioning if the Town could proceed with Option (e) with a minimum cash-in-lieu payment of \$500, David replying the Town would then be asking for an appraisal of the land as Staff need to be able to determine the appropriateness of the cash-in-lieu payment, further noting there are land values of less than \$7500 per acre.

Cameron then questioned if there is an urgency associated with this Report, David replying the Grainger Consent expires in the spring so Council does have some time, further noting he is attempting to find a comfortable solution.

Council then voted on the Resolution, Lost.

Council then dealt with the following subsidiary Resolution:

Moved by: Cameron Kennedy Seconded by: John McGee

THAT Report PL.10.14 be Tabled for a future Council Meeting until a full complement of Council is present, Carried.

David then noted appraisers have to do detailed work on each property, Councillor Gamble then questioned if Council could place a minimum cash-in-lieu sum of \$2500 for properties outside the serviced areas, David replying Council must take into consideration the value of the land the day before the land is conveyed without added value to the land.

David then noted he would be in contact with the Jack and Naomi Vail.

