

Section I – Items for Authority Action

TO: Chair and Members of the Authority
Meeting #5/18, Friday, June 22, 2018

FROM: Michael Tolensky, Chief Financial and Operating Officer

RE: TORONTO ZOO
Request to Update the 1978 Tripartite Agreement (CFN 24800)

KEY ISSUE

Request from City of Toronto, Toronto Zoo and Parks Canada for Toronto and Region Conservation Authority approval to update the 1978 tripartite agreement between TRCA, Board of Management of the Toronto Zoo, and City of Toronto for use of TRCA lands licensed to the Toronto Zoo in support of Toronto Zoo objectives and of the proposed transfer of TRCA lands to implement the Rouge National Urban Park.

RECOMMENDATION

WHEREAS Toronto and Region Conservation Authority (TRCA) is the owner of certain lands containing 182 hectares (449 acres), more or less and being Part of Lots 4, 5, 6, 7, 8 and Part of Road Allowance between Lots 6 and 7, Concession 3, Part of Lots 5 and 6 Concession 4, City of Toronto (TRCA Lands);

AND WHEREAS the TRCA Lands have been turned over to the City of Toronto for management, in accordance with the terms of an agreement dated June 14, 1961;

AND WHEREAS City of Toronto and TRCA entered into a tripartite agreement with the Board of Management of the Toronto Zoo (Board) dated April 28, 1978 for use of TRCA Lands as part the Toronto Zoo;

AND WHEREAS TRCA is in receipt of a request from City of Toronto Council and the Toronto Zoo Board to update the tripartite agreement and the boundaries of the Toronto Zoo;

AND WHEREAS any TRCA land not included in the boundary to the Toronto Zoo will be transferred to Parks Canada (PC) for Rouge National Urban Park (RNUP) purposes;

AND WHEREAS there is interest in ensuring that any transfer of lands for Toronto Zoo or RNUP purposes be subject to certain conditions to ensure best management practices of ecological integrity and restoration opportunities;

THEREFORE, LET IT BE RESOLVED THAT TRCA enter into an updated tripartite agreement with City of Toronto and the Toronto Zoo Board for the use of the TRCA Lands for Zoo purposes subject to the following amendments:

- 1. Removal of the Finch Meander from the lands to be added to the tripartite agreement subject to Parks Canada entering into a lease with the Toronto Zoo for the Finch Meander area south of Old Finch Avenue;**

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2. Removal of the browse garden use from the lands being added to the tripartite agreement north of Finch Avenue with the understanding that the Zoo and PC shall work together in partnership toward an agreement for a new browse location;
3. Any development proposed on the lands north of Finch Avenue be restricted to the areas highlighted in blue on Attachment 2 with the access to the conservation breeding facility highlighted in red on Attachment 2 and be subject to City of Toronto approval processes;
4. That the tripartite agreement be amended so that the clause relating to TRCA and PC staff being allowed access to the lands north of Finch Avenue as required in order to undertake environmental monitoring and restoration activities also apply to lands on the east side of Meadowvale Road;
5. That a clause be added to the tripartite agreement to ensure that Valley Halla is restored and maintained in a condition that protects the heritage value of the buildings subject to Toronto Zoo Board approval;
6. That a clause be added to the tripartite agreement that the parties may agree to amend the boundary at a future date to accommodate the outcome of the PC lead process for determining the ultimate location of an orientation and education facility;
7. That a clause be added to the tripartite agreement to ensure cooperation on requests to PC and other bodies to support the restoration and maintenance of built heritage assets in the RNUP including but not limited to Valley Halla and the Pearse House;
8. That the Zoo work with PC and community groups to provide periodic access to Valley Halla allowing small groups the opportunity observe the rich historical architecture and craftsmanship subject to Toronto Zoo Board approval.

THAT staff report back to a future Executive Committee meeting within the next year on the status of the tripartite agreement and the PC lead process for determining the ultimate location of an orientation and education facility;

AND FURTHER THAT authorized TRCA officials be directed to take the necessary action to finalize the tripartite agreement, including obtaining any necessary approvals and the signing and execution of documents.

BACKGROUND

At Executive Committee Meeting #11/13, held on January 17, 2014, Resolution #B169/13 was approved, in part, as follows:

...THAT staff be directed to enter into discussion with the City (Toronto) and the Zoo to finalize the terms of a revised Tripartite Agreement for the use of the Zoo lands; ...

At Authority Meeting #11/13, held on January 31, 2014, Resolution #A239/13 was approved, in part, as follows:

...THEREFORE LET IT BE RESOLVED THAT TRCA lands containing 2,266 hectares (5,600acres), more or less, and highlighted on the attached plan be conveyed to PC for the Rouge National Urban Park, in the cities of Toronto, Markham and Pickering, regional municipalities of York and Durham subject to the following terms and conditions; ...

... c) retention by TRCA of the lands included in the tripartite agreement between City of Toronto, Toronto Zoo and TRCA subject to refining the boundaries; ...

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At Authority Meeting #11/16, held on January 27, 2017, Resolution #A230/16 was approved, in part, as follows:

...THEREFORE LET IT BE RESOLVED THAT the 2016 Master Plan for the Toronto Zoo attached as Attachment 1, be approved.

The Zoo is located on City of Toronto and TRCA lands on the east and west sides of Meadowvale Road between Finch Avenue and Sheppard Avenue East, in the City of Toronto. The subject TRCA lands were acquired between 1962 and 1970 and are included in the June 14, 1961, Management Agreement with the City (formerly Municipality of Metropolitan Toronto).

On April 6, 1967, the Municipality of Metropolitan Toronto (Metro Toronto) Council approved in principle a proposal to construct a new zoological park on a site in the Rouge River area. In March of 1968, Raymond Moriyama, Architect and Site Planner, submitted to the Metropolitan Parks Commissioner a Feasibility Study and Master Development Plan for the Metropolitan Toronto Zoological Park, Glen Rouge. On April 29, 1969, the Metropolitan Toronto Zoological Society (the Society) was incorporated as a nonprofit corporation for the purpose of establishing, maintaining, and operating zoological facilities in the Metropolitan Area. On October 17, 1969, Metro Toronto Council approved the Master Zoo Plan submitted by the Society for the long term development of the Zoo.

On November 1, 1970, Metro Toronto, TRCA and the Society entered into an agreement for the construction and operation of a zoological park and related facilities in the Rouge River watershed. On June 16, 1977, Metro Toronto served a notice of termination of this Agreement to TRCA and the Society, effective July 1, 1979. On April 28, 1978, Metro Toronto, TRCA and a newly constituted (by Metro Toronto) Board of Management of the Metropolitan Toronto Zoo (the Board) entered into an Agreement for the operation, management and maintenance of the Zoo by the Board (1978 Tripartite Agreement). The 1978 Tripartite Agreement included 282 hectares of land (696 acres). Of that, approximately 44 hectares (109 acres) was owned by the City of Toronto comprising the main parking lot and front entrance area. The balance of the Zoo managed lands is owned by TRCA. TRCA also rents to the Zoo a small parcel of land including a barn on the north side of Old Finch Avenue on an annual basis.

The 1961 Management Agreement is the mechanism that allows for the use and management of TRCA Lands by the City of Toronto for park and recreation purpose. This is an important foundation document to any agreement for Zoo related use of this property and should remain in place. The agreement for the operation, management and maintenance of the Zoo has now been in place for 40 years and the parties have agreed that there is a need to update this agreement. In 2013, City of Toronto Council at its meeting held October 8, 9, 10, & 11, 2013 directed City and Zoo staff to finalize an update to the tripartite agreement.

The Toronto Zoo Board of Management, at its October 25, 2017 meeting, authorized the Zoo to enter into an updated tripartite agreement. Additionally, at its February 19 and 20, 2014 meeting, City of Toronto Council authorized the City to enter into an updated tripartite agreement that confirms the revised boundaries of the lands upon which the Zoo are located, prior to TRCA transferring any lands to Parks Canada for the Rouge National Urban Park.

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At the direction of the Authority and City of Toronto Council, Toronto, Zoo and TRCA staff, in consultation with Parks Canada (PC), assessed the land base needs of the Zoo operation and potential opportunities to revise the boundary. Among other considerations, the assessment included consideration of which organization was in the best position to provide enforcement and security from a trespass and ecological integrity perspective.

At Executive Committee Meeting #2/18, held on April 06, 2018, Resolution #B24/18 was approved as follows:

THAT item 7.1 – Toronto Zoo be deferred, to be considered no later than the May 25, 2018 Authority meeting;

AND FURTHER THAT the Toronto Zoo and Parks Canada be requested to conduct consultations with the local community stakeholders about the proposed changes in the Tripartite Agreement prior to the Authority considering this matter.

At Authority Meeting #4/18, held May 25, 2018, Resolution #A65/18 was approved as follows:

THAT item 8.1- Toronto Zoo, be deferred to Authority Meeting #5/18, scheduled to be held on June 22, 2018, for consideration and discussion for the recommendations;

AND FURTHER THAT deputants listed Delegations 5.1-5.3 on this agenda be advised that as they have been heard twice on this matter, that further delegations will not be heard by the Authority when the Toronto Zoo Tripartite Agreement is further considered.

Since the original item was presented to Executive Committee three follow-up meetings were held with representatives from the Toronto Zoo, PC, TRCA, and a number of interested parties, including Friends of the Rouge National Urban Park, Friends of the Rouge Watershed, the Rouge Valley Foundation (RVF) and the Waterfront Regeneration Trust.

A number of issues were raised during the meetings. These issues and the proposals from Toronto Zoo, PC, City of Toronto and TRCA staff to address the issues are included below:

1. Interest in understanding the impact on land uses and the functions of the RNUP associated with the removal of the lands west and south of the zoo from the tripartite agreement. Will this introduce new users into environmentally sensitive sections of the Rouge river?
 - This parcel identified as Area 1 on Attachment 1 is located west and south of the Toronto Zoo and contains 70 hectares (172 acres). It is part of the provincially significant Rouge River Valley Area of Natural and Scientific Interest and is also within the Natural Heritage System of the Greenbelt Plan. It is proposed that these lands be removed from the tripartite agreement and be transferred to Parks Canada, subject to an easement in favour of the Zoo over the existing Monorail structure for operational purposes. The limit of this parcel was established to include the river plus a minimum 5 metre buffer from the water's edge. This limit allows PC to take over the enforcement on the west and south sides of the main Rouge River as well as the river itself while continuing to allow the Zoo to enforce the Trespass to Property Act for protection of the Zoo facilities and animals. PC has concluded that there is no opportunity for the public trail in this area because of the topography. The area will remain substantially in its current state, with added enforcement by PC to reduce unauthorized access.

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2. Why does the Zoo require the Finch Meander to be added to the tripartite agreement, can it not be included in RNUP?
 - This parcel identified as Area 2 on Attachment 1 is located west of the Toronto Zoo and south of Old Finch Avenue and contains 4 hectares (10 acres). It is part of the provincially significant Rouge River Valley Area of Natural and Scientific Interest and is also within the Natural Heritage System of the Greenbelt Plan. The limit of this parcel was established so as to include a minimum 5 metre buffer from the water's edge.
 - The zoo requires access to these lands to allow the Zoo to enforce the Trespass to Property Act for protection of the Zoo facilities and animals. After extensive discussion, the Zoo has agreed that these lands can be transferred to PC subject to PC entering into a lease to allow the Zoo to enforce the Trespass to Property Act.

3. Impact of lands proposed to be licensed to the Zoo north of Finch Avenue on existing restoration plantings, interest in maintaining connectivity functions and interior forest conditions in this area, and impact of planned use for browse planting and a relocated new breeding facility to the north of its current location on sustaining interior forest habitat? What are the impacts on development in this area on flora and fauna?
 - This parcel identified as Area 3 on Attachment 1 is located north of Finch Avenue west of Meadowvale Road and contains 17 hectares (41 acres). It is within the Natural Heritage System of the Greenbelt Plan. A majority of the site has been restored with white pine which is mostly successful; deciduous trees and cedar which are heavily impacted by deer. The restoration areas are identified on Attachment 2. The areas not restored include the barn at Finch Avenue and surrounding land currently rented to the Zoo on an annual basis, along with an abandoned farm unit and associated driveway located closer to the rear of the site. Invasive species (dog-strangling vine, black locust, buckthorn, Scot's pine and Manitoba maple) dominate the areas around the structures and nearby hedgerows. The invasive species are dense and aggressively spreading.
 - The approved Zoo Masterplan identifies this area as proposed browse garden and conservation breeding area.
 - The Zoo and PC are currently assessing alternate locations for the browse garden in other locations in the RNUP. As a result, it is recommended that the browse garden use be removed from Area 3.
 - The current breeding facility is located on the east side of Meadowvale Road adjacent to a parking lot and with the establishment of the RNUP and the Beare Road Park. The Zoo has explained that the existing location of the facilities will be subjected to increased public traffic which can seriously jeopardize these important programs during critical breeding and weaning times. The area north of Finch Avenue is isolated and easier for Zoo staff to monitor and oversee given its close proximity to the new Wildlife Health Centre and the Zoo's Operations Complex. The proposed new facility will be constructed within the footprint of the abandoned farm unit which is approximately 1.2 ha (3 acres). The existing facility is approximately 15,000 sq. ft. and the new breeding facility would be no more than 30,000 sq. ft., including outdoor holding areas. The remainder of Area 3 will serve as a buffer to allow the Zoo to protect the breeding facility from noise and unauthorized access. As a result of these factors, it is recommended that any development of the new breeding facility proposed on the lands north of Finch Avenue be restricted to the area highlighted in blue on Attachment 2 with the access to the conservation breeding facility highlighted in red on Attachment 2. It is important to note that the proposed development will be subject to City of Toronto approval processes as noted in the recommendation section of this report.
 - The tripartite agreement contains clauses specifically relating to this area which are:

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- The Zoo will discuss details of its intended use and development of the lands, including any proposed facilities and their location with both the TRCA and PC prior to proceeding with its development to ensure compatibility with TRCA and PC conservation objectives and minimal impact on the movement of wildlife;
 - The Zoo will not make any major changes to land use without first seeking the approval of the TRCA in consultation with PC to ensure compatibility with both TRCA's and PC's conservation objectives for the adjoining RNUP lands;
 - TRCA and PC staff will be allowed access to the lands as required in order to undertake environmental monitoring and restoration activities.
 - Interior forest habitat is considered to be a minimum of 100m from any forest edge. As such, it is anticipated that much of the site north of Finch Avenue will become interior forest over the next several decades as the trees on the site mature, even with the creation of a conservation breeding facility. The facility would create additional forest edge, but would not preclude the eventual creation of interior forest 100m beyond the facility's borders.
 - Fauna corridors for generalist species are considered to require a minimum of 50m in width, while specialist species require a minimum of 500m in width. As such, it is anticipated that much of the site will function as a corridor for generalist species with or without the creation of a conservation breeding facility; because of the existing buildings and land uses on the site, as well as the proximity of Old Finch Avenue and the railway it is unlikely that the site will function as a corridor for specialist species regardless of the creation of a conservation breeding facility because of the proximity of Finch Avenue and the railway tracks.
 - Based on information provided to date, the proposed use of Area 3 for the breeding facility is, in the opinion of planning staff from TRCA, the City and PC, in conformity with the Greenbelt Plan and the Official Plan (Site and Area Specific Policy 141) and is consistent with the TRCA Living City Policies and the Draft Rouge National Urban Park Plan. Together the tripartite agreement, the Greenbelt Plan and the Official Plan will ensure that any proposed development or site alteration in the Zoo license area will protect the features and functions of the Natural Heritage System of the Park. The City of Toronto development planning process will determine the ultimate form of the Zoo breeding facility recognizing the parameters of the updated agreement, if approved.
4. Should the tripartite agreement area on the east side of Meadowvale Road only include lands above top of bank and not extend into the Little Rouge River Valley Corridor?
- This parcel identified as Area 4 on Attachment 1 is located on the east side of Meadowvale Road and contains 7 hectares (17 acres). It is part of the provincially significant Rouge River Valley Area of Natural and Scientific Interest and is also within the Natural Heritage System of the Greenbelt Plan. It is proposed that this area be added to the tripartite agreement. The limit of this parcel was established with a minimum 5 metre buffer from the water's edge. This limit allows PC to undertake enforcement on the west side of the Little Rouge River as well as the river itself while continuing to allow the Zoo to enforce the Trespass to Property Act for protection of the Zoo managed facilities including Valley Halla.

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- The proposed use of Area 4 is, in the opinion of planning staff from TRCA, the City and PC, in conformity with the Greenbelt Plan and the Official Plan (Site and Area Specific Policy 141) and is consistent with the TRCA Living City Policies and the Draft Rouge National Urban Park Plan provided the tripartite agreement is amended to provide TRCA and PCA access to carry out monitoring and management in Area 4 (in addition to Area 3 which is already provided for). Together the Tripartite Agreement, the Greenbelt Plan and the Official Plan will ensure that any proposed development or site alteration in the Zoo license area will protect the features and functions of the Natural Heritage System of the Park.
5. Who should be responsible for the Valley Halla restoration and what uses should be permitted to ensure its longevity?
- The Zoo has spent significant funds maintaining Valley Halla over the years, and is currently renovating the building for use by the new Zoo Foundation fundraising entity. Parks Canada are inheriting 114 historic buildings throughout the Park and are concerned that the Valley Halla site would add to the current list of built cultural resources requiring investment and recapitalization work to undertake in the RNUP. The Zoo, PC and TRCA are encouraged by the opportunity for the Zoo Foundation to utilize the Valley Halla site and by the Zoo's effort to reinvest in the asset.
 - It is recommended that a clause be added to the tripartite agreement to ensure that Valley Halla is restored and maintained in a condition that protects the heritage value of the buildings. Additional recommendations regarding the support of restoration and maintenance of built heritage assets as well as access provisions for community groups to visit Valley Halla have also been added to the recommendation section of this report to address this issues.
6. Should Parking Lot 3 be in the RNUP?
- The Zoo regularly requires the Parking Lot 3 area (located in Area 8 on Toronto Zoo Land Transfer Study Map on lands east of Meadowvale Road north of Zoo Road) for overflow parking on busy days. The Zoo is concerned that transferring this area to the RNUP would take the parking lots out of the Zoo's control, potentially constraining Zoo operations and impacting attendance. TRCA and PC staff recognize that further study associated with the PC lead process for the shared orientation facility will inform parking strategies related to the shared orientation and education facility.
 - Recently, the Friends of Rouge National Urban Park has requested, "The lands on the east side of Meadowvale Road, from the Red Barn south to the Pearce House be conveyed to Parks Canada...An arrangement between Parks Canada and Toronto Zoo similar to the one proposed for the Finch Meander would be an appropriate mechanism to accommodate the Zoo's operational needs..." The Zoo and Parks Canada have been consulted on this request. PC and Zoo staff are satisfied with the current proposed arrangement for Valley Halla and parking lot 3. Clause 6 which provides the potential for any required dispositions of land after planning for the shared use facility is completed by PC addresses this concern. If the request from Friends of the Rouge National Urban Park is supported by the TRCA Board, staff of PC and the Toronto Zoo have indicated they would not support this amendment to the draft updated tripartite agreement until the conclusion of the PC lead process for the shared orientation and education facility and for a number of reasons. For example, this change would result in a delay in transferring the majority of lands to PC, additional potential liability to PC, and result in the potential for the updated tripartite agreement to not be approved by the Zoo leaving the zoo boundary as set out in the 1978 tripartite agreement.

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7. Rouge Valley Conservation Centre- The RVF would like certainty on their continued use of the Pearse House and greater consideration of their operational issues.
 - The Pearse House is located within the parcel identified as Area 5 on Attachment 1, is on the east side of Meadowvale Road south of Zoo Road (access road to Beare Road Park), and contains 4 hectares (11 acres). It is part of the provincially significant Rouge River Valley Area of Natural and Scientific Interest and is also within the Natural Heritage System of the Greenbelt Plan. It is proposed that these lands be removed from the tripartite agreement and be transferred to PC.
 - PC has agreed to enter into a MOU with RVF for the continued use of the facility.
8. The lack of understanding on the tripartite agreement versus the proposed shared use facility design and location and what are the impacts of the tripartite agreement on the proposed shared use facility?
 - Parks Canada will continue to collaborate with partners and engage with stakeholders regarding the proposed location for a shared orientation and education facility. To this end, follow-up meetings and site tours with potential partners and key stakeholders are planned in the coming weeks. As the discussion advances, Parks Canada is committed to ensuring that the location and design of RNUP's flagship education and welcome centre provides the greatest possible long-term educational and interpretive value to the RNUP, its partners, stakeholders, and the public.
 - It is TRCA staff opinion that finalizing the tripartite agreement at this time does not preclude locating all or a portion of the shared use facility on the east side of Meadowvale Road. It also does not preclude future amendment to the Zoo boundary. However, stakeholders have requested assurances that the tripartite agreement can be amended. As a result, it is recommended that a clause be added to the tripartite agreement that the parties may agree to amend the boundary at a future date to accommodate the outcome of the PC led planning process for the shared orientation and education facility.

The resulting changes to the boundaries of the Zoo lands reduces the land requirement for use by the Zoo to 223 hectares (552 acres) which includes both Toronto and TRCA lands.

The updated tripartite agreement is a license to operate the Toronto Zoo on lands owned by TRCA. TRCA staff has worked with Toronto Zoo, City of Toronto and Parks Canada staff to complete the updated tripartite agreement. The two components of the updated agreement are:

- Updating the wording and clauses from the 1978 Agreement;
- Updating the survey defining the extent of the Zoo incorporating revised boundaries for the Zoo. Any amendment to the revised Zoo boundary that is now proposed would result in the need to re-survey the boundary causing significant delays in the transfer of TRCA lands to PC.

Key provisions of the updated tripartite agreement which remain unchanged from the existing version, state the following requirements:

- Buildings and other assets forming the Zoo are owned by the City and managed by the Zoo on behalf of the City;
- The Zoo will require written approval from TRCA and Parks Canada for any master plan revision or major redevelopment;
- All three parties shall seek opportunities for collaboration on conservation programming;
- TRCA will retain control of flood and erosion control mitigation in the river valleys;

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- The City is responsible for all maintenance, repairs, utilities, taxes and insurance of zoo buildings, structures and lands licensed for Zoo purposes;
- The Zoo shall promptly remedy any construction liens registered against the lands;
- The Zoo will indemnify TRCA against any charges or liabilities of using the licensed lands for Zoo purposes; and
- The Zoo shall not assign, transfer, or grant licenses or rights to another party for more than one year without approval of TRCA.

FINANCIAL DETAILS

Funds for the costs related to review and entering into this agreement are available in the TRCA general legal account.

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Date: May 9, 2018

Attachments: 2