

Neighbourhood to vote on tax for private pool, tennis courts

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RECORD STAFF

WATERLOO

Residents in Waterloo's Beechwood neighbourhood are going to the polls to decide whether the city should tax them to pay for their private pool and tennis courts.

The city is holding a vote among residents in Beechwood II Homes Association on whether it can essentially force them to continue paying membership fees even after covenants on their homes expire in the next few years.

When homes in the west-side subdivision were built 37 years ago, they were billed as an exclusive neighbourhood where residents were bound by covenants on their deeds that prohibited them from hanging unsightly objects like clotheslines and basketball courts.

As part of the agreement, the developer also built private neighbourhood tennis courts and outdoor swimming pools, which residents paid for through mandatory fees to a neighbourhood association.

It was a unique situation in Canada that is about to come to an end as the covenants across 12 neighbourhood associations are to expire over the next few years.

That left some neighbours worried that facilities will be forced to close because residents will no longer support them through yearly membership fees of about \$300.

As a result, the city is studying whether to take control of the neighbourhood facilities and shift the cost of running them to the property tax bill.

It is using Beechwood II as a test site for the idea and asking residents to vote by Oct. 9 on whether they support a tax hike. The vote is non-binding, but city councillors will consider the results when they decide whether to sign the lease and impose a tax levy, equal to the same as current membership dues.

Under the plan, the city would lease the facilities, tax residents and turn the money over to the neighbourhood association, which would continue to run them.

It was a contentious idea when it was proposed two years ago. The association held a vote of its own among its 182 members. About 69 per cent supported it, well below the 80 or 90 per cent the association had wanted.

This sparked a division between neighbours who feel the private facilities add to local property values and those who said they didn't use the facilities and shouldn't be forced to pay for them longer than required.

The neighbourhood association decided to strike a deal with the city, but that was stalled because restrictions on the deeds didn't allow the group to lease out the facilities until now.

Without mandatory fees or tax levies, the facilities could be sold off if no other group steps in to run them, said Bruce Simpson, president of the Beechwood II Homes Association.

Not only could neighbours lose their pools and courts, but the community would lose its identity, he said.

Covenants within the neighbourhood expire at different times -- some as soon as two years, said Brian Stief, whose committee proposed the idea of a tax levy. Without a neighbourhood-wide tax levy, those who are bound by covenants for longer will end up paying higher fees, he said.

Neighbour Sheila Brown rarely uses the pool and tennis courts, but said she doesn't mind paying a fee so families in the area can enjoy the neighbourhood.

"It's a very small amount to maintain something that is so good."

But Grant Greenfield, who said he represented homeowners opposing the levy, said the city shouldn't get involved with administering private membership clubs.

The debate over a property tax levy has unnecessarily divided the community, he said. Instead, the homes association should consolidate underused facilities, ask for voluntary fees, open their membership to outsiders and rent out the facilities to other groups.

"This is not an essential service, so why is the city involved?" he asked

City council is to decide on the levy on Nov. 5. If it ultimately decides not to impose a special tax, the neighbourhood association is determined to keep the facilities open, Stief said.

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Debate over special area levy continues

Jennifer Ormston
Waterloo Chronicle
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A handful of homeowners in the Beechwood II Homes Association area showed their support for the implementation of a special area levy to cover the costs of their neighbourhood recreational facilities at Monday's city council meeting.

"On behalf of the board, we see this special area levy as representing a continuation of the model of successful funding for our association that's gone on for the last 30, 35 years," said Bruce Simpson, the association's president.

The Academy Crescent resident will support the levy in the vote that runs from Sept. 17 to Oct. 9.

"In our view, it's a worthy experiment in perpetuating locally funded, locally managed recreational facilities," he said.

The idea of implementing a special area levy arose years ago to address the fact covenants some homeowners pay to maintain and operate their neighbourhood pools and tennis courts were nearing their expiration date.

About 25-35 years ago, real-estate developers constructed these recreational facilities for marketing reasons to benefit homeowners, said John Morrison, the city's director of revenue.

Home associations were created to oversee these neighbourhood pools and courts, with upkeep being paid through membership fees that were enforced by deed covenants.

When they expire, homeowners will no longer be forced to pay the membership dues unless some measure, such as a levy, is implemented.

If the levy goes forward, every neighbourhood association member would be taxed for their membership fee, which the city would collect.

The funding model to be used with this pilot project is a lease arrangement with the city leasing the recreational facilities.

"All the maintenance, upkeep and costs would be borne by the Beechwood II (association) and, of course, it would be administered through the implementation of the special area levy," Morrison said.

If the city had collected the levy in 2006, each of the 182 homes in that area would have paid \$291, plus a one per cent administrative fee.

The cost would be based on the association's budget, Morrison said. "Basically the homeowners could expect pretty much the same bill that they're getting today, and it would show up on their tax bills."

Based on the outcome of a preliminary vote, it seems there's support in the Beechwood II neighbourhood for this type of system.

In June 2005, 83 out of 120 ballots cast were in favour of the levy. Thirty-seven voted against the proposal.

Neighbourhood resident Sheila Brown has lived there for more than seven years, during which time she's used the pool once and the courts twice.

That won't stop her from voting for the levy, though.

"I am paying the money for other people. I am paying the money for if I sell my house and a young family comes in and wants the opportunity to use this facility," she said.

"I'm thinking ahead. Suppose this facility disappears because people don't want to pay approximately \$300 a year.... All of a sudden you have a lot of families, a lot of households, with no facilities."

But not everyone is in favour of the proposal.

Grant Greenfield raised a number of concerns, including the fact continuing to collect fees after the covenant expires is a violation of the legal intent of the original contract.

"It has been repeatedly said that the city should not be involved in administering private organization's membership fees," he said. "This is not an essential service, so why is the city involved?"

"The directors do not have the authority to give away our right to expect covenant payments to terminate at the end of our contract."

If the levy isn't adopted, Simpson said most association members assume fees will then be paid on a voluntary basis.

"The board's view is voluntary membership organizations are probably quite different and have some unwelcome features - the obvious one is unstable funding," he said.

As well, membership would fluctuate, with some people joining one year and not the next. And the community would be divided between members and non-members, he predicts.

"At this point, I'm not worried about that because I don't think we're going there," he said. "We feel we have support for the SAL (special area levy)."

The residents' vote is not binding. City council will make the final decision, taking the results into consideration, at its Nov. 5 meeting.

Voting has begun for some

Waterloo Chronicle

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Although the provincial election is still a couple of weeks off, some residents in Beechwood are already going to the polls.

This time they're voting on whether or not to implement a special area levy that will cover the costs of operating and maintaining their recreational facilities now that the covenants that forced them to pay dues are expiring.

In the Beechwood II Homes Association neighbourhood, those fees, which cost about \$300 a year, went to cover their pool and tennis courts.

Without the covenant, homeowners will no longer have to pay those monies.

And without a drastic measure -- such as the levy -- the future of those facilities may be in jeopardy.

The association's president told city council on Monday night that the group supports implementing the levy, which would be administered by the city and come out on homeowners' tax bills.

One resident said even though she doesn't use the facilities, she's more than happy to pay for them.

"I am paying the money for other people," said Sheila Brown. "I am paying the money for if I sell my house and a young family comes in."

She has the right idea.

If homeowners don't agree to the levy, and the payment becomes voluntary, it's likely the popular pool won't be kept up as it is now.

And what about the next person who lives in your home? Surely this is a selling feature potential home buyers will look for.

The city is part of this process, and that has some people concerned.

"It's not an essential service, so why is the city involved?" resident Grant Greenfield asked.

The answer to that is simple: the city's involvement will keep that community strong, its kids active and avoid dividing neighbours by those who choose to pay and those who don't.

The covenants

Beechwood residents pay for an exclusive network of pools and tennis courts. What will happen to the neighbourhood when fees are no longer mandatory?

TAMSIN MCMAHON
RECORD STAFF

November 3rd, 2007

WATERLOO

A gust of wind sends autumn leaves swirling down the winding streets and cul-de-sacs of Beechwood -- a fleeting touch of chaos in the otherwise neatly ordered west Waterloo subdivision.

The leaves settle in a blanket of red and yellow on the groomed lawns and lush gardens, the private community pools and tennis courts that Beechwood residents maintain in accordance with a unique system of suburban self-governance.

But the winds of change are blowing through Beechwood, bringing about more than just a mess of leaves.

A controversial city proposal, set to be decided on Monday, is dividing residents of one neighbourhood.

For nearly 40 years, a series of neighbourhood rules, called restrictive covenants, have dictated the law of the land in the subdivision between Columbia Street and Erbsville Road to the northwest, and Westmount Road and Erb Street to the southeast.

In Beechwood, covenants govern everything from the number of pets a family can keep, to whether they can dry their laundry on a clothesline or install a satellite dish.

About 2,000 homeowners in Beechwood's 12 communities pay hundreds of dollars a year to neighbourhood associations.

The money pays for community events like neighbourhood barbecues and newsletters along with a network of pools and tennis courts open only to neighbourhood residents.

It's an enforced order that has preserved Beechwood's reputation as one of Waterloo's most desirable neighbourhoods for well-heeled technology workers, university professors and the comfortably retired.

The covenants in Beechwood II were set long ago by a now-defunct developer. They will expire in 2010.

That means the \$300 annual fees from residents will no longer be mandatory, leaving many wondering how they will maintain their private facilities if their neighbours stop paying.

Now Beechwood II residents are asking the city for help in a pilot project that experts say is perhaps the first in North America.

The plan is for the city to lease Beechwood II's pool and tennis courts for 20 years, add the cost of maintaining the facilities to Beechwood II property tax bills and give the money to the homeowner's association to continue running the facilities.

The proposal is called a "special area levy," a process under the Municipal Act that allows municipalities to tax certain residents more than others to pay for services specific to the neighbourhood.

The proposal is called a special area levy a process under the Municipal Act that allows municipalities to tax certain residents more than others to pay for services specific to the neighbourhood.

Municipalities have used special area levies to pay for new transit routes, fire dispatch centres and renovations to community centres.

But Waterloo appears to be the first to tax residents to pay for a members-only pool. "It's the right type of answer," said ward Coun. Jan d'Ailly, who lives in Beechwood II and once sat on the board of directors.

"I think the community wants to continue managing their facility the way they are now and it's the best mechanism we've been able to find which maintains the day-to-day functioning of the community association."

Directors debated and scratched heads for years over how to handle covenants, which start expiring in just over two years.

They decided the tax proposal is the only way to maintain the status quo, said homeowner's association member George Breen.

Breen has lived in the community more than 30 years, putting four children through swimming lessons at the Beechwood II pool.

Even today, though Beechwood residents are greying and the kids have moved out, the private facilities continue to foster a rare sense of community, Breen said.

"Over the years we've had times where we haven't used the pool at all and later on our grandkids used it," he said.

"We always looked upon it as a community builder. It's a focal point in the community. It's made in the community and it's also enhanced our home value. I look upon it as an investment."

Last month, residents took to the polls in a city-organized vote. Unofficial results show about 70 per cent of voters supported the idea, though only 125 of the 179 eligible homes cast ballots.

The vote also exposed the rift between the ardent supporters who say the proposal would preserve a thriving community at no expense to the city, and the critics who see it as an unprecedented invasion by government into a private club.

"We want them to keep the city out of it," said Grant Greenfield, a longtime resident who is leading the charge against the proposal.

"There's no question: there's no place for the city to be in a privately owned recreational facility."

Many residents opposed to the tax will likely support the association voluntarily even after the covenants end, Greenfield said. But they want to see the association come up with its own solution, rather than turning to the city.

The proposal has some residents angry enough to consider taking the issue to court if the city doesn't abandon its planned levy.

"I'll tell you, when the hay hits the fan and they start to push it through, that will probably shake loose a lot of money for a lawyer," Greenfield said.

"But we shouldn't do that. This is a community, for heaven's sakes. We shouldn't have to go to court."

Beechwood's unique history dates back to 1964, when Major Holdings and Developments announced plans for a \$100-million subdivision in northwest Waterloo, the largest housing development proposed in the area.

Company president Abe Wiebe envisioned a series of small neighbourhoods of about 200 homes, built over two dozen years. Each would get its own swimming pool and tennis courts, facilities badly needed in the city.

Wiebe proclaimed his planned community "a new concept never before seen in Canada."

Under law, the restrictive covenants could be set for a maximum of 40 years, though one of the later associations, Glasgow Heights I, has covenants that don't expire.

Covenants have already expired in two Beechwood neighbourhoods, Beechwood Park and Beechwood North. Both have turned to voluntary membership for facilities.

At least half the 12 Beechwood communities have started offering memberships to outsiders.

This isn't the first time the city has tried to strike a deal with a Beechwood homeowners association. When most of the covenants expired in Beechwood Park, the original Beechwood

neighbourhood, in 2005, the city held a meeting with residents to drum up support for a similar plan. The neighbourhood rejected it.

"We were a little worried about the potential for it being a divisive issue in the neighbourhood," said Kathryn Craig, president of the Beechwood Park homeowners association. "Why risk that if you don't have to?"

Instead, the association turned to voluntary membership. Of the 102 Beechwood Park homes, a little more than half signed up again.

So the neighbourhood opened their membership to nearby subdivisions, mostly young families from Westmount. They sent out flyers pointing out all benefits of membership -- from community building to higher property values.

This year the membership has swelled to 167, with the annual fee at \$360. The association has even turned away a few families to keep the pool from becoming overcrowded.

"It didn't really become a problem," Craig said. "People just seemed to sign up the way they had in the past. We were terribly worried and it really didn't come to very much in the end."

Membership has been voluntary in Beechwood North, which abuts Beechwood II, since covenants expired in 1991. The association approached the city to strike a similar agreement to the one proposed in Beechwood II, but the government of the day wasn't interested.

Only about half the 130 Beechwood North members live in the area. For years, the community has invited families from neighbouring Laurelwood and Clair Hills to share their pool and tennis courts. They also charge a \$40 co-op fee that members get back if they contribute some volunteer hours.

The open membership has been a way to get to know neighbours from outside the Beechwood enclave, said president Jim Bolger. But it's also been a struggle to manage the influx of cars because the pool doesn't have a parking lot.

Residents in other Beechwood subdivisions quietly grumble that Beechwood North facilities are badly in need of repair, but Bolger said the association has recently upgraded the pool and lighting and has plans to refurbish the tennis court next year.

It's been a challenge to keep fees low, while keeping the facilities nice enough to encourage new members, Bolger said. But he feels the neighbourhood is managing.

"It's a catch-22," he said. "To make it attractive to new people to join to keep members, you have to run it more like a business."

Even so, Bolger said the association is closely studying the Beechwood II plan. "Everybody is watching it right now," he said. "If it works successfully and everybody is really happy with it, maybe it's something we look at down the road."

The dilemma of how to manage private communities has been causing headaches for governments in the U.S. where an estimated 30 million people live in some form of private development, often behind gates with exclusive security forces and private roads.

Some U.S. homeowners associations manage million-dollar budgets and are increasingly handing over the job of collecting fees to a burgeoning for-profit property management industry that has foreclosed on homes for as little as a few hundred dollars in unpaid fees.

Newer private communities were set up with covenants that never expire. But those that have dissolved because their covenants ended, or they were poorly managed or went bankrupt, left behind not just untended recreational facilities, but roads, creeks and storm water ponds.

"What this stems from is local government trying to get something for nothing," said Evan McKenzie, a University of Illinois political science professor who studies the rise of private urban governance.

"Municipalities are really getting free helpers in the form of these volunteer directors. They're getting a lot of free government out of these people."

Some local governments have set up provisions for special improvement districts that tax residents extra to pay for critical health and safety improvements.

But McKenzie hasn't heard of governments stepping in to help with private recreational facilities.

"That's clearly a private responsibility," he said. "That's what would happen here. That's almost a betrayal of the public trust."

Canada has a much more modest legacy of private communities, mostly in the form of condominiums, said Professor Jill Grant, head of the Gated Communities Project at Dalhousie University.

But that trend is growing. Condos now represent about nine per cent of home ownership in Canada, compared to three per cent in 1981.

Yet governments seem either unaware or ill-prepared to deal with the consequences of expanding private infrastructure.

The Gated Communities Project tried to calculate how many kilometres of private roads existed in Canada. Kitchener officials told researchers there were no private streets in city.

In fact, Barberry Glen on the Park, a townhouse development on Green Valley Drive off Homer Watson Boulevard, maintains a private road. But city officials were calling it driveway.

"You've got lots of it happening, but it's not always acknowledged by municipal authorities who call it something else," Grant said. "Most of the provinces don't have much in the way of policy on it and are really not dealing with it to any great extent."

Municipal governments in Nova Scotia woke up to the issue after a fire truck refused to cross a private bridge in a rural area near Halifax because it wasn't up to municipal standards. That got councils interested in creating street associations, which they can then tax to pay for road repairs.

But Grant said it could be an issue of equity when governments get into the business of supporting private clubs.

"It's one thing for the government to take over a public park and keep it up," she said. "But if they're asking for involvement to provide services to allow them to keep it private, that's a question that needs to be discussed in a political context."

That's the kind of discussion residents expect to see at Waterloo City Hall on Monday night.

Based on the results of the neighbourhood vote, the homeowners association is expecting strong council support, Breen said.

Most residents are in favour of the proposal and of those that aren't, only a few are strongly opposed to it, he said.

"You don't see any people shouting and screaming at each other," he said. "I think they might feel they're being wronged. I think they also will roll with it in the interest of the community."

But Greenfield can see lingering hostilities if the city doesn't abandon the proposal.

"There are some of us that don't feel we need the government to make us good neighbours," he said. "We won't be good neighbours, we're still going to have this problem later."

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UPPER BEECHWOOD I

213 members

\$350

Two tennis courts, pool, basketball court

Covenants expire in 2026

70 associate members pay \$490

BEECHWOOD NORTH

130 members

\$330 plus \$30 to \$40 co-op fee (refunded if members contribute volunteer hours)

Pool, tennis court

Covenants expired in 1992

Open membership

BEECHWOOD BRIDLEGATE

65 members

\$450 a year

Tennis court, pool, basketball court

Covenants expire in 2018

10 associate memberships

BEECHWOOD II

181 members

\$305 a year

Two tennis courts, pool

95 covenants expire in 2010; 86 expire in 2014

No associate memberships

BEECHWOOD PARK

167 members

\$360 a year

Most covenants expired in 2005; 35 expire in 2010

Tennis court, pool

48 associate memberships

BEECHWOOD SOUTH

209 members

\$235 per year

Two tennis courts, pool

Covenants expire in 2014

No associate memberships

GLASGOW HEIGHTS II

60 homes

\$285 a year

Tennis courts, pool

Covenants expire in 2019

No associate memberships

GLASGOW HEIGHTS I

47 members

\$360 a year

Tennis courts, pool

Indefinite covenants

No associate memberships

BEECHWOOD WEST II

128 homes

\$350 a year

Two tennis courts, pool

Covenants expire 2024

No associate memberships

BEECHWOOD WEST I

245 members

\$325 a year

Three tennis courts, pool

Covenants expire 2020

30 associate members pay \$425 a year

UPPER BEECHWOOD II

237 members

\$300

Covenant information unavailable

65 associate members pay \$450

CRAIGLEITH

About 150 members

\$360 a year

Pool, two tennis courts

Covenant information unavailable (no associate members)

* Membership fees vary based on the size of the neighbourhood and programs offered.

Waterloo steps into covenant gap

City will take on collecting money for Beechwood II pool and tennis courts

TAMSIN MCMAHON
RECORD STAFF

November 6th, 2007

WATERLOO

City councillors unanimously approved a plan to tax residents in a Beechwood neighbourhood to pay for their community pool and tennis courts.

Under the three-year pilot project the city will lease a pool and tennis courts from the Beechwood II neighbourhood homeowners' association for a nominal fee and then tax the 180 residents based on a budget set by the association plus a one per cent administrative fee.

The city will then hand the budgeted money back to the association to continue running the facilities.

The deal in effect extends the restrictive covenants that for nearly 40 years have required property owners in the neighbourhood to pay about \$300 in yearly membership fees to the voluntary homeowners association.

About half the covenants in Beechwood II are set to expire in 2010, the rest in 2014.

The city hopes the project can be a model for some of the 11 other Beechwood associations in the area of Columbia Street and Erbsville Road to the northwest, and Westmount Road and Erb Street to the southeast.

Those neighbourhoods also operate a network of private facilities paid for by membership fees under covenants that will eventually expire.

The project, which starts next year, is believed to be the first such experiment by a municipality in North America.

"This is a noble experiment that perhaps has the best interests of the neighbourhood at its heart" said Coun. Mark Whaley.

"It's going to be paid by the neighbourhood and no other citizens of the community. We'll find out whether it's a good deal for them or for us in the next three years."

But councillors also raised concerns about whether the city should be involved with an issue that has divided the neighbourhood.

In a city-run vote in Beechwood II last month, 88 residents voted in favour of the city plan, while 37 were against it.

"It's really pitted neighbour against neighbour," said Coun. Diane Freeman.

She was concerned that some residents may have bought into covenants expecting they would eventually end. "I'm willing to accept the results of the vote," she said. "But it is with a bit of a heavy heart that I will do so."

Grant Greenfield, who spoke for residents opposed to the plan, said the city violated the terms of its own vote that at least two-thirds of the total Beechwood II membership should support the plan for it to pass.

Only 125 of the 179 eligible residents voted. While nearly 70 per cent of those who voted supported the idea, they represented less than half the total membership.

"The results did not pass the City of Waterloo's own required threshold," Greenfield said.

"All activities in support of this test pilot should be abandoned immediately, totally, to prevent any further violations of the established criteria. Not doing so is legally, ethically and morally wrong."

City director of finance John Morrison said the two-thirds threshold was set for an earlier vote among Beechwood members in 2005 and that neither of the votes was legally binding on the city.

In an interview, Greenfield wouldn't say if residents opposed to the tax will challenge the city's decision.

"Whatever action we take, that will be decided in the future," he said. "We're not going to be able to challenge it today to change it for tomorrow. I think we're in for the long haul now."

Councillors grilled the Beechwood II association on why it didn't just open its membership up to people outside the neighbourhood, as about half the other Beechwood associations have done.

Beechwood II president Bruce Simpson said those associations have been competing with each other to attract new members just to stay afloat. That kind of competition kills community spirit.

"They're more like German social clubs than neighbourhood associations," he said.

"Neighbourhood goes away when you start opening the doors all over the place."

The pilot project could be a model for neighbourhood associations all across the city, said treasurer Bob Mavin.

It could be used to build new community pools in the subdivisions planned for the northwest corner of the city, said Jim Bolger, president of Beechwood North. Such neighbourhood-level facilities help to encourage a sense of community.

"I think this is a model that can be used throughout the city to set up what everybody dreams of," he said.

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Waterloo wrong to levy group

November 7, 2007

THE RECORD

Waterloo city council has made a regrettable decision that ignores the rights of individual property owners. Council voted in favour of the Beechwood II neighbourhood association's request that the city use the tax system to get about \$300 a year from each home in the neighbourhood to pay for the association's private pool and tennis courts.

That's right. The pool and courts are private. They are owned by the association, not the city. Waterloo, in short, has become the association's fee collector. The city plans to charge homeowners even if they don't want to use the recreational facilities.

The most positive comment that may be said of this scheme is that the city has endorsed it for only three years. Council will then have to look at this subject again.

The association sought council's help because covenants that the original homeowners signed with the developer of the neighbourhood are about to expire. Those covenants required the residents to contribute to the association. The original covenants, of course, were fine. Homeowners paid what they had agreed to pay.

There may be people now, however, who are looking forward to not paying for a service they don't want. Perhaps some homeowners who had originally been happy to pay for the pool no longer want to do so because their children have grown up.

Interestingly, the city organized a neighbourhood vote on the issue, but the result was far from unanimous. Eighty-eight of 125 residents who voted were in favour of the proposal while 37 were opposed. But 54 residents did not vote, which means less than half the residents expressed their support.

Surprisingly, Waterloo's councillors voted unanimously in favour of the fee even though some publicly expressed skepticism. Coun. Diane Freeman, for example, acknowledged that this proposal had pitted neighbour against neighbour, but she voted for it because she was "willing to accept the results of the vote."

What she has really done is set aside an important principle: A municipality elects a council to look after the public interest, not to make private decisions -- such as whether individuals should pay for private pools.

Coun. Freeman and the other councillors should have recognized that the Beechwood II association has many options. It may seek voluntary contributions. It may seek members from outside its neighbourhood. It may even consider whether the pool and tennis courts should be converted into other recreational facilities that the residents would be willing to support voluntarily.

At this point, the opponents should review their options. They will have to decide whether they want to launch a legal challenge or ask council to reconsider its decision. What they don't have to do is review their basic position: They are right to object to their council requiring them to pay a private fee.

Special levy passed for Beechwood facilities

Jennifer Ormston

Waterloo Chronicle

Published on Nov 07, 2007

Homeowners in one Beechwood neighbourhood should expect to see a new charge on their next tax bill.

Waterloo city council has voted unanimously in favour of implementing a special area levy, or tax, in the Beechwood II Homes Association area to cover the costs of its neighbourhood recreational facilities.

"I know you'll never make everyone happy ... but I absolutely see this as democracy," said Coun. Ian McLean at Monday night's city council meeting.

"This has been driven by the community and staff helping to facilitate an emerging problem, which I think tonight we'll go a long way towards solving."

This unique pilot project was proposed to address the fact deed covenants that force some Beechwood homeowners to pay membership fees to maintain and operate their neighbourhood pools and tennis courts were nearing their expiration date.

Real-estate developers constructed these recreational facilities about 25-35 years ago, and homes associations were created to oversee their upkeep.

Once the covenants expire, homeowners are no longer legally obligated to pay their dues, and other alternatives to cover the infrastructures' costs must be assessed.

The Beechwood II Homes Association approached the city a few years ago about initiating a pilot project in their neighbourhood. Under the special area levy model, its pool and tennis courts will be leased to the city.

The city, in turn, will tax homeowners for their membership fee, which will be returned to the homes' association -- minus a one per cent administration charge that will go to the city -- to pay for the maintenance and operations.

The annual cost will be based on the association's budget. If the city had collected the levy in 2006, each of the 182 homes in that area would have paid \$291, plus the one per cent fee.

Based on the outcome of a recent vote, the majority of area homeowners support this pilot project. About 70 per cent of ballots cast were in favour of the levy, with the same percentage of eligible voters casting a vote.

Bruce Simpson, the association's president, said the results confirm an original vote taken in June 2005 on the principle of implementing a levy. At that time, 83 out of 120 ballots cast were in favour.

He views council's support of the project as a "courageous" move - one that's fraught with misunderstandings.

"There's actually minimal government involvement, however, the profile of council is one of involvement so they'll likely get lots of criticism if anything goes wrong, so it was a courageous move," he said in an interview.

A handful of delegates voiced their opinions to council before the decision was made.

Former city councillor Jim Bolger spoke on behalf of the levy, saying his neighbourhood association - Beechwood North - opened the doors of its recreational facilities to other neighbourhoods after its deed covenants expired.

That's led to parking problems, among others, because the facilities were not built to accommodate the cars, he said. This levy model, conversely, could be applied in new neighbourhoods, and in existing communities where ample lands on school properties could be leased.

"I think this model can be used throughout the city to set up what everybody dreams and has a vision of," he said. "You will never get a more cost-effective solution to delivering programs in this community than on the backs of volunteers who know their communities and have their communities' well-being in mind."

Jiri Vlach, who has lived on Craigleith Drive since 1971, doesn't have financial problems that make paying annual dues to the Beechwood II Homes Association difficult.

But he is against the levy.

Finding time to use the pool is difficult because of kids' programming that takes place there. And the pool is only open for daily use in July and August, he said. But these kinds of organizational details are of no interest to city hall employees.

"This is precisely the problem. By introducing another level of totally disinterested administration it will not be possible to influence anything because the money will be taken from everybody whether he agrees or not."

For Ivan Cerny, also of Craigleith Drive, the homes association is only partially accepted by its members because of the way it has managed the facilities.

"Instead of modifying the way the facilities' utilized to make it more widely acceptable, (the association) decided to engage the City of Waterloo to act as an enforcer in their quest to

maintain, as they say, the status quo - the status (quo) where we are forced to pay for services or activities we either do not wish to participate in or can not participate in."

Members of council also had some concerns.

"If the city had known what we were getting in for a couple of years ago, we might not have opened this Pandora's Box, but here we are," said Coun. Mark Whaley, adding he's learned there are other ways to deal with expiring covenants, such as voluntary or private initiatives.

"What I worry about is that we'll end up with this patchwork of ways of dealing with this issue in the future, and, from street-to-street, no standardized way of dealing with it."

Coun. Diane Freeman is also uneasy about some issues surrounding the levy, including the fact it has pitted neighbours against one another.

"I'm also torn from the perspective I feel as though covenants were signed and entered into with good faith, they were paid in good faith and they had an expiry date on them," she said.

For Coun. Scott Witmer, hearing homes associations talk about some of the challenges they face makes him wonder if there are too many pools in this part of the city.

"When you have a private facility that can't sustain itself, I struggle to force those fees onto a taxpayer that may have no use for that," he said.

Resident must pay

November 13th, 2007

William Trotter

I have to disagree entirely with The Record's Nov. 7 editorial position regarding the City of Waterloo's decision to impose a special levy on all the residents of Beechwood II (Waterloo Wrong To Levy Group Fee).

The homeowners knew when they purchased their property they would have to pay a special levy to support the community recreational facilities. All they are being asked to do now is continue paying the levy. The city is simply acting as a legal vehicle for the collection of the levy, to be paid by everyone in the development, in the same democratic way that they all pay municipal taxes.

This situation is very similar to the funding of a Business Improvement Areas (BIA). That was one of the most successful pieces of provincial legislation passed to enable downtown merchants to form associations to collect special levies from all businesses in the designated area in order to beautify and promote aging downtowns, to the great betterment of all.

Any local group seeking voluntary contributions is doomed to fail. Probably less than half would contribute when asked, with the result that insufficient funds would be collected to properly maintain and run the facilities.

Could use of those facilities be restricted only to those who contributed, to the exclusion of others? It would be a monumental task for any volunteer organization to monitor the facilities' use, and would no doubt end in tears. The proposed method is much superior. Give it a try for three years.

William Trotter

St. Clements

Why is neighbourhood asking for city's help

George Stec

One thing was not addressed in The Record's Nov. 7 editorial regarding the decision by Waterloo city council to assess Beechwood II residents for their association fees (Waterloo Wrong To Levy Group Fee). The question that should be asked is: Why are they asking for the city's help to levy these fees?

The answer is very simple. The majority of the neighbourhood residents want to limit traffic on their streets to local traffic. If the association does not receive the city's assistance in collecting the fees, their only other option would be to close the facility -- which would be a tragic loss not only to the area residents but to the city as well -- or open up membership to anyone in the city who would be willing to pay the association fees.

This would create increased traffic within the neighbourhood, and turn the quiet streets into a parking lot.

The association fees are the price people agreed to pay to live in this neighbourhood, and should be accepted as that.

George Stec

Waterloo

KW Record November 14th, 2007

JOHN COOPER

I wish to comment on the Beechwood Homes Association covenant issue in Waterloo, and The Record's Nov. 7 editorial, Waterloo Wrong To Levy Group Fee, which said, "Waterloo city council has made a regrettable decision that ignores the rights of individual property owners."

As a longtime resident of Beechwood Glen and Downs and a 13-year volunteer on the association's board of directors, I have an insight that others do not have.

The present debacle was created by the city council circa 1970 that supported the proposal by Major Holdings & Developments Ltd. to create the homes associations. The city representatives saw this proposal as a way to avoid the responsibility and costs to provide and maintain recreation services and parkland in the new neighbourhoods proposed for the area west of the university.

Not all of the residents of my neighbourhood are wealthy individuals who can afford to join an exclusive, private club. We worked hard and saved our money to buy a home in this neighbourhood for many reasons. We were prepared to accept the covenant on our property deed and the forced membership in the association for as long as we lived here. The original homeowners who were opposed to the covenant from the beginning should not have purchased a home here if they did not agree with this unique concept.

The neighbourhood associations are incorporated, not-for-profit, volunteer-driven organizations. They are not "private" clubs, as The Record calls them. The lands and facilities belong to the association, not to the individual homeowners. This is not a shareholder corporation where members benefit financially.

Membership cannot be opened to numerous non-members as suggested for two practical reasons. First, the pools are small with a bather load of no more than 35 at one time. There are almost 600 residents living in 182 homes in Beechwood II. The pool cannot support more people.

Second, insurance companies informed the directors that the rates for liability insurance would increase significantly, making it too expensive to operate the pools.

When the covenants end, the neighbourhood associations dissolve. The property of these not-for-profit organizations must be given to another not-for-profit or it reverts to the municipality. The members do not receive any financial payout.

When I was president, we received a legal opinion stating that when the covenant ends, the city could close the recreation facilities and sell the land for a housing development. Is that what The Record and the dissenting members want?

This community development model provides many benefits to our city -- at no cost to the taxpayers.

First, children learn to swim in their neighbourhood and use the pool without travelling across the city. This reduces the demand on the city's swimming facilities during the summer months, and reduces the use of personal vehicles consuming dwindling energy supplies.

Second, the pools reduce the demand for water and make it unnecessary for home owners to build personal pools.

Third, the tennis courts provide an opportunity for residents to learn and play, reducing health care costs and the demand on the city to provide these services.

Fourth, they provide jobs and leadership development for local teenagers working as life guards and swimming instructors.

Fifth, they offer a venue for neighbours to meet, strengthening the neighbourhood.

And finally, volunteers develop important leadership skills they utilize in other community organizations.

The Record editorial states that "Eighty-eight of 125 residents who voted were in favour of the proposal while 37 were opposed. But 54 residents did not vote, which means less than half the residents expressed their support." Perhaps the members who abstained support the decision.

Does The Record believe the provincial Liberal majority government should be disallowed because it was elected by only 25 per cent of those eligible to vote?

For 15 years, the directors informed every member about the status, proposals and potential outcomes of ending the covenants.

The dissenting members have not provided a realistic, alternative solution. Most of them never volunteered for their homes association despite the developer's original invitation in 1970 "to take an active interest in your homes association."

Why did they not volunteer on the board of directors as other members have done?

Several longtime residents have never used the pool or tennis courts. Yet they support the continuation of the covenant. They understand the benefits to the homeowners, the neighbourhood, and the city.

Thankfully, city council recognizes the city's responsibility in creating the homes associations, and its accountability to continue this benefit of neighbourhood recreation to the whole city.

John Cooper has lived in Waterloo for 25 years. He has been a volunteer and leader with the Beechwood II homes association, with peace and political causes, with environmental issues, and

his professional organizations most of his adult life. Second Opinion articles reflect the views of Record readers on a variety of subjects.