

REPORT FOR INFORMATION**Fountain Creek drainage system****Report Purpose**

To provide Priorities Committee with information on the history of the Fountain Creek drainage system.

Our Strategic Goals

Goal 3 - Responsible Development

Goal 3 Priority - Investment in our infrastructure that supports development and complete communities

Report

In April 1991, Council approved the Fountain Creek Area Structure Plan (ASP) Bylaw 23-91. The Fountain Creek ASP included provisions for a fountain and water circulation system (creek) which would be ultimately owned and operated by a Community Association (Homeowners' Association).

The water circulation system (creek) was ultimately constructed by the developer and is located within the drainage channel within the back of lots in Fountain Creek and functions as an overland stormwater swale. The developer proposed this private improvement (creek) as an aesthetic feature which required pumping flow through the drainage channel. It was approved that the creek pump system, along with the fountain, would ultimately be operated and maintained by a Homeowners' Association as the enhancement does not serve a municipal purpose and is simply aesthetic in nature.

The subsequent development agreements for Fountain Creek acknowledged the developer's plans to design and construct a creek being incorporated within the drainage easement registered along the back of lots. The drainage easement would ultimately receive flows from abutting backyards, weeping tile discharge lines, reciprocating pump flow and in some major cases overland drainage.

A drainage easement was registered on the title of each residence at the time of subdivision registration, prior to the sale of a lot, and identified that the landowner is responsible for proper maintenance of the drainage easement (creek).

Unfortunately, in relation to the Homeowners' Association, the requirement to participate in a Homeowners' Association was not registered on title by the developer for two of the three stages of Fountain Creek and therefore the Homeowners' Association was not established as intended.

Up until 2014, the developer operated the creek pumping system with the intent of the Homeowners' Association taking over the operations. There had been ongoing issues with the creek including algae buildup during low-flow conditions and flooding at two properties when culverts were obstructed.

As the Homeowners' Association was not established by the developer as required, in 2014 the developer ceased operation of the creek system. Given there was no Homeowners' Association to take over the responsibilities of the private creek system, the County was

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approached to operate the system. As there had been multiple concerns over the years with respect to the creek system, in 2015, the County commissioned a study which included:

- evaluation of the channel capability of safely conveying drainage and to make recommendations for improvements/remediation where warranted
- provide suggestions for operation or discontinuation of the pumping system
- compile record drawings for the creek system and overall drainage system

The study confirmed that the pumping system was implemented to provide a flowing water feature to enhance the aesthetics of the creek system and that the operation of the pump system was to be operated strictly by a Homeowners' Association.

The assessment of the drainage channel concluded that the drainage channel will handle the required flows for 1:5 and 1:25 storm events. The survey identified a few instances where vegetation cleanup and minor grading was to occur to ensure that the drainage channel would have capacity for a 1:100 year event.

An investigation into the pumping system as well the entrance feature fountain was also conducted. The investigation concluded that the pump and other fountain infrastructure were not in satisfactory operating condition as there were the pump and electrical deficiencies.

While the County has a legal obligation to ensure that the drainage channel is appropriately conveying surface drainage as designed, we have no legal obligations to operate the private creek pumping system.

Given the pumping system and fountain are considered an esthetic feature and not a municipal system, it was a final determination by the County that all costs associated with repairs and all operational costs should the system be repaired would need to be borne solely by the properties that benefit from the enhanced feature. The County confirmed that it would not invest taxpayer dollars into repairing and operating a non-municipal pumping system.

From time-to-time throughout the years there has been interest in establishing the Homeowners' Association, in order to repair and operate the creek. Given all residents within the creek phases would need to agree to become a member of the Homeowners' Association and take on the repair and operations of the system, this has never come to fruition.

To move forward with reestablishing the pumping system, a Homeowners' Association would first need to be established. The Association would then need to retain a professional to undertake a current assessment of the system. The Homeowners' Association would then be responsible to pay for the costs associated with repairs and ongoing operations of the private system.

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Council and Committee History

October 3, 2023 THAT Administration prepare a report for Council's consideration by the end of Q1 2024 outlining the history of the Fountain Creek drainage system including:

- the purpose of the overland drainage easement;
- the developers original intent to establish a Homeowners' Association to operate and maintain a man-made creek system consisting of a private internal pumping system; and
- the feasibility of establishing a Homeowners' Association to operate and maintain the overland drainage easement with a private internal pumping system.

Other Impacts

Policy: n/a

Financial/Budget: n/a

Legislative/Legal: n/a

Interdepartmental: n/a

Master Plan/Framework: n/a