
HALDIMAND COUNTY

Report LSS-23-2019 Road Closure and Conveyance of Part of Haldimand-Dunnville Townline Road, Dunnville



For Consideration by Council in Committee on September 17, 2019

OBJECTIVE:

To authorize staff to proceed with the road closure and conveyance request for part of Haldimand-Dunnville Townline Road in Dunnville.

RECOMMENDATIONS:

1. THAT Report LSS-23-2019 Road Closure and Conveyance of Part of Haldimand-Dunnville Townline Road, Dunnville be received;
2. AND THAT Part of the southerly extension of Haldimand-Dunnville Townline Road in Dunnville, legally described as Part of PIN # 38130-0051(LT) being Part of the Road Allowance between the Township of South Cayuga and Township of Dunn (aka Townline Road) between Lake Erie and the north limit of 18R3212; Haldimand County, with an approximate location as shown on Attachment #1 to Report LSS-23-2019, be stopped up, closed and declared surplus to all County needs;
3. AND THAT Part of the southerly extension of Haldimand-Dunnville Townline Road in Dunnville, legally described as Part of PIN # 38130-0051(LT) being Part of the Road Allowance between the Township of South Cayuga and Township of Dunn (aka Townline Road) between Lake Erie and the north limit of 18R3212; Haldimand County, with an approximate location as shown on Attachment #1 to Report LSS-23-2019, be sold to the abutting owners, William Edgar Champion and Elizabeth Sharon-Ann Champion, for the purchase price of \$500, plus HST and costs of the closure and conveyance, conditional on the property being merged with the adjacent land owned by the Champions;
4. AND THAT public notice of the proposed closure and conveyance be given;
5. AND THAT a by-law be passed to authorize the closure and conveyance;
6. AND THAT the Mayor and Clerk be authorized to execute all necessary documents.

Prepared by: Sandra Marsh, Property Coordinator

Reviewed by: Dana McLean, Supervisor, Risk Management & Legal Services

Respectfully submitted: Cathy Case, General Manager of Corporate & Social Services

Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

The County has received a request to close and convey part of Haldimand-Dunnville Townline Road in Dunnville. Staff have determined these lands are not required for municipal purposes and can be deemed surplus to the County's needs and divested in accordance with the established process for road closures and conveyances.

BACKGROUND:

The County is in receipt of a request from William Edgar Champion and Elizabeth Sharon-Ann Champion to close and purchase part of the Haldimand-Dunnville Townline Road in Dunnville which abuts Lake Erie. The subject lands abut the land currently owned by the Applicants and contain a sidewalk, stairs and a break wall, which were all installed by the Applicants or previous owners on the County property. The request to purchase is being made in order to address erosion issues by installing a new break wall. A location map of the subject lands is shown as Attachment #1.

ANALYSIS:

Mr. and Mrs. Champion's request indicated that they wished to purchase lands from the County in order to add them to the lands they currently own to allow for the installation of erosion control measures along Lake Erie. The Champions need to replace their existing break wall, which currently encroaches onto part of the County road allowance. There is also a sidewalk and stairs that are encroaching onto the County road allowance in this location. The Champions believe that, without having erosion control on the abutting County property, their existing lands will continue to erode with each new season. Erosion is a naturally occurring condition along the entire Lake Erie shoreline and there is no legislative requirement for a municipality to install erosion control on lands it owns.

The parcel of road allowance to be closed and conveyed, totaling approximately 0.05 acres, abuts the easterly boundary of the lands currently owned by William and Elizabeth Champion and is bounded on the south by Lake Erie. If Council approves the sale, as a condition, the subject lands would need to be added to the property currently owned by the Champions. The County will retain ownership of the remainder of the road allowance.

In reviewing the road closure request, staff, in keeping with the County's past practice, notified all abutting property owners of the expression of interest received and the possible closure and conveyance. No abutting owners came forward with concerns or expressed an interest in purchasing the subject section of road allowance..

When the original request to purchase was received, in order to determine the feasibility of closure of the subject road, staff circulated a "Road Closure Inquiry Form" to Hydro One, Union Gas, Bell Canada, Rogers Cable and the following Haldimand County Divisions: Building & Municipal Enforcement Services, Community Development & Partnerships, Economic Development & Tourism, Emergency Services, Engineering Services, Environmental Operations, Facilities, Parks, Cemeteries & Forestry Operations, Planning & Development, and Roads Operations. All divisions would support the sale of this small portion of the road allowance on Lake Erie in order for the installation of a new break wall to proceed.

The Planning & Development Division has advised that the subject lands are zoned Hazard Land and are Agricultural in the Official Plan. The subject lands are completely regulated by the Grand River Conservation Area and any proposed development, including grading and any future shoreline protection works will require permits. The Grand River Conservation Authority has indicated that they can support the erosion control measures at this location to be undertaken by the Champions, once an agreement is in place to acquire the County lands and the appropriate permit is obtained.

This County-owned road allowance leads to waters owned by the Crown and consent to close and convey the road has been received from the Ministry of Natural Resources and the Department of Fisheries and Oceans.

This section of road allowance provides access to the Champion's seasonal cottage, but does not receive winter control maintenance. Garbage collection will not be affected by the proposed closure and conveyance, as the collection point is located on Lakeshore Road.

When taking into consideration the value of the subject property, Council should keep in mind the following:

- The Vacant Land Values Chart has been used in the past and deemed to be a reasonable tool to predict value in the absence of a competitive marketing or appraisal of the property. The rates in the chart were provided to the County by a licensed local realtor, but reflect general valuations and are not tailored to the location/specific attributes of individual properties.;
- This section of road serves as a public access to Lake Erie, however there is not a constructed entry point/parking area/etc.;
- A portion of the property being transferred contains a sidewalk, stairs, break wall, and is currently eroded with some of it being under water;
- Disposal of this property will eliminate the potential liability associated with use of these lands;
- There is no reasonable expectation that anyone other than the abutting landowners would be interested in purchasing the subject lands;
- It is not the County's practice to install erosion control, but if the lands are divested to the abutting owner, they can take the necessary measures, with approval from the related authority, to protect their property from further erosion;
- All County property is sold as is/where is and the purchasers will sign an Acknowledgement confirming this.

Staff have generated a value for these lands of \$500 for this 0.05 acre parcel of land using the County's Vacant Land Values Chart. The Applicants have been made aware of the suggested value and the requirement of Council approval. The Applicants are in agreement with the suggested value should Council approve the conveyance of the land to them.

For the above reasons, staff recommend closing this portion of road allowance, declaring the lands surplus and conveying the lands to the Champions for \$500 on the condition that the property will be added to the abutting lands currently owned by the Champions for the purpose of installing erosion control to protect their property. The typical land transaction provisions will apply, including the "as is/where is" condition, and any necessary easements. As well, the Champions will be responsible for certain costs of the closure and conveyance, including legal and survey costs.

If the closure and conveyance to the Applicants is not approved, the encroachments onto County lands will need to be addressed. Entering into an Encroachment Agreement for roadway encroachments is not considered a best practice; therefore, it is feasible that the Applicants will be required to remove all encroachments, at their cost.

FINANCIAL/LEGAL IMPLICATIONS:

Staff recommend that the property, totalling 0.05 acres, be sold to the abutting owners for a purchase price of \$500, plus HST and all costs of closure and conveyance. The net proceeds of the land sale will be contributed to the Land Sales Reserve in accordance with County Policy.

In accordance with the County's Notification Policy, a proposed road closure and conveyance is to be advertised in the local newspaper prior to consideration of a By-law.

STAKEHOLDER IMPACTS:

The Planning and Development Division and Roads Operations Division have provided information for this report.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Map of the Subject Lands