
HALDIMAND COUNTY

Report LSS-07-2020 County Transfer of Various Closed Roads in Cayuga For Consideration by Council in Committee on September 15, 2020



OBJECTIVE:

To obtain authorization to transfer several roads in Cayuga that were closed by By-law 508/86 to the abutting landowners.

RECOMMENDATIONS:

1. THAT Report LSS-07-2020 County Transfer of Various Closed Roads in Cayuga be received;
2. AND THAT the lands described as Part of PIN # 38233-0036(LT) Winniett Street, Plan 217, closed by HC119127, HC161422, between Canboro Street and Robinson Street, except HC141349, except that portion of Winniett Street lying between Lots 60 & 82, Plan 217; Haldimand County, be declared surplus to the needs of the municipality and transferred to the abutting landowner, Leonard Albert Adams for \$1.00 plus all associated conveyance costs;
3. AND THAT the lands described as Part of PIN # 38233-0163(LT) Part of Canboro Street, Plan 217, closed by HC161422, being Part 6 on 18R-7191; Haldimand County; PIN # 38144-0164(R) Part of Lot 88, Plan 217, designated as Part 5 on 18R-7191; Haldimand County; PIN # 38233-0051(LT) Part of Colborne Street, Plan 217, closed by HC161422, being Part 8 on 18R-7191; Haldimand County; PIN # 38233-0035(LT) Robinson Street, Plan 217, closed by HC161422, between Colborne Street and Hepburn Street; Haldimand County; PIN # 38233-0031(LT) Part Hepburn Street, Plan 217, closed by HC161422, being Part 7 on 18R-7191; Haldimand County; and PIN # 38233-0037(LT) Winniett Street, Plan 217, closed by HC161422, between Robinson Street and Dunn Street; Haldimand County; Part of PIN # 38233-0036(LT) lying between Lots 60 & 82, Plan 217; Haldimand County, be declared surplus to the needs of the municipality and transferred to the abutting landowner, Karen Susanne Adams for \$1.00 plus all associated conveyance costs;
4. AND THAT the lands described as Part of PIN # 38233-0163(LT) Part of Canboro Street, Plan 217, closed by HC161422 as in HC161422 (Fifthly) save and except Part 6 on 18R-7171; Haldimand County, be declared surplus to the needs of the municipality and transferred to the owners of 16 Indiana Road East in Cayuga for \$1.00 plus all associated conveyance costs;
5. AND THAT a By-law be presented to authorize the sales;
6. AND THAT the Mayor and Clerk be authorized to execute all necessary documents.

Prepared by: Sandra Marsh, Property Coordinator

Reviewed by: Michelle Brandt, 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:

In order to transfer title of several closed roads in Cayuga to the abutting landowners as authorized by The Corporation of the Town of Haldimand By-law #508/86, staff are recommending that authorization be given to the Mayor and Clerk to execute the necessary documents enabling the transfer of properties, identified in green on Attachment #1, to the abutting landowners, at no cost to the County.

BACKGROUND:

A request has been received from C. Edward McCarthy, a solicitor representing Leonard and Karen Adams (Adams), who are interested in acquiring several closed roads located in Cayuga and owned by Haldimand County. Attachment #1 includes a location map identifying the subject lands and abutting property ownership. The request is to seek assistance from the County in transferring title of the closed roads which have been used by the Adams family (and previous owner, Robinson) for more than 70 years, and also by the owners of 16 Indiana Street East for many years. The subject parcels make up approximately 3.8 acres, comprising of several closed roads in Cayuga, are identified in green on Attachment #1.

These roads lost their public highway status when they were formally closed by The Corporation of the Town of Haldimand By-law No. 508/86 (Attachment #3). According to this By-law, registered on title July 19, 1983 as HC161422, these portions of roads on Plan 217 in the former Town of Haldimand, were stopped up and closed and ceased to be a public highway. The by-law stated that these closed roads were to be sold to the abutting property owners for the sum of \$1.00 plus costs of the conveyance where the property owners expressed an interest in purchasing the closed roads.

Mr. McCarthy provided a detailed history of events and included copies of all correspondence related to the subject parcel of land to assist in the staff investigation and validation.

ANALYSIS:

In reviewing the information provided by Mr. McCarthy, staff have concluded that, in 1986, the former Town of Haldimand passed By-law 508/86. This By-law permanently stopped up and closed several roads north of Cayuga lying south of Indiana Road East and East of Haldimand Highway 54; and authorized these roads to be sold to the abutting property owners for the sum of \$1.00 plus all related costs.

Considering that these sections of former road allowances run through the occupied abutting properties, were officially closed by a former municipality and have been occupied privately for a number of years, the abutting owners may have an argument for adverse possession under the *Real Property Limitations Act*. It is evident that the former municipality fully intended to convey the lands to the abutting owners, so this report deals with the technicality of finalizing this matter and registering the necessary documentation on title at the Land Registry Office.

In order to finalize the property transactions as authorized by By-law 508/68, staff are recommending the following:

- The lands described as Part of PIN # 38233-0036(LT) Winniett Street, Plan 217, closed by HC119127, HC161422, between Canboro Street and Robinson Street, except HC141349, except that portion of Winniett Street lying between Lots 60 & 82, Plan 217; Haldimand County, be declared surplus to the needs of the municipality and transferred to the abutting landowner, Leonard Albert Adams for \$1.00 plus all associated conveyance costs resulting in a consolidated parcel of approximately 0.8 acres;

- The lands described as Part of PIN # 38233-0163(LT) Part of Canboro Street, Plan 217, closed by HC161422, being Part 6 on 18R-7191; Haldimand County; PIN # 38144-0164(R) Part of Lot 88, Plan 217, designated as Part 5 on 18R-7191; Haldimand County; PIN # 38233-0051(LT) Part of Colborne Street, Plan 217, closed by HC161422, being Part 8 on 18R-7191; Haldimand County; PIN # 38233-0035(LT) Robinson Street, Plan 217, closed by HC161422, between Colborne Street and Hepburn Street; Haldimand County; PIN # 38233-0031(LT) Part Hepburn Street, Plan 217, closed by HC161422, being Part 7 on 18R-7191; Haldimand County; and PIN # 38233-0037(LT) Winniett Street, Plan 217, closed by HC161422, between Robinson Street and Dunn Street; Haldimand County; Part of PIN # 38233-0036(LT) lying between Lots 60 & 82, Plan 217; Haldimand County, be declared surplus to the needs of the municipality and transferred to the abutting landowner, Karen Susanne Adams for \$1.00 plus all associated conveyance costs resulting in a consolidated parcel of approximately 9.78 acres;
- The lands described as Part of PIN # 38233-0163(LT) Part of Canboro Street, Plan 217, closed by HC161422 as in HC161422 (Fifthly) save and except Part 6 on 18R-7171; Haldimand County, be declared surplus to the needs of the municipality and transferred to the owners of 16 Indiana Road East in Cayuga for \$1.00 plus all associated conveyance costs resulting in a consolidated parcel of approximately 0.5 acres.

The proposed outcome of the above-noted property transactions is illustrated on Attachment #2.

As part of this report, staff are also seeking authorization to address another property matter. Shown as Part E on Attachment #1 is a small piece of property owned by the County which is technically land locking 16 Indiana Road East. Although staff have made several attempts to reach the owners of 16 Indiana Road East by regular mail in order to determine if they would like to obtain title to the lands in front of their property, no response has been received. However, as a pre-emptive measure, staff are requesting authorization to transfer the lands for \$1.00 to the owners of 16 Indiana Road East, should they decide they wish to move forward with the land acquisition, as this would eliminate the need for another report to Council in the future.

The required notice of the proposed sales authorized by By-law No. 508/86 was published prior to the registration of the By-law in 1986, therefore no further notice to the public is required.

FINANCIAL/LEGAL IMPLICATIONS:

The proposed sale to Adams would be at no cost to the County, as Mr. McCarthy will prepare the paperwork necessary to facilitate the transfers to Adams and Adams will be responsible for all associated costs. The nominal fee of \$1.00 will be contributed to the Land Sales Reserve in accordance with County Policy.

Likewise, the proposed sale to the owners of 16 Indiana Road East would be at no cost to the County, as their solicitor, once retained, will be required to prepare the paperwork necessary to facilitate the transfer to the owners of 16 Indiana Road East who would be responsible for all associated costs. The nominal fee of \$1.00 will be contributed to the Land Sales Reserve in accordance with County Policy.

All costs associated with the registration of necessary documentation to allow the municipality to transfer the subject lands to the abutting landowners will be borne by the requesting party. There will be minimal costs to the municipality related to the necessary title searches.

STAKEHOLDER IMPACTS:

Planning & Development and Roads Operations divisions have provided information for this report.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Map of Current Ownership
2. Map of Proposed Outcome
3. Copy of By-Law 508/86