
HALDIMAND COUNTY

Report LSS-21-2023 Easement Agreement with Rogers Communications Canada Inc. – Grand Vista Bridge and Trail, Cayuga



For Consideration by Council in Committee on November 21, 2023

OBJECTIVE:

The purpose of this report is to authorize staff to negotiate and execute an Easement Agreement with Rogers Communications Canada Inc. to allow for the installation of fiber optic equipment across County owned lands and bridge as a part of their high-speed broadband internet service in the rural areas of Haldimand County.

RECOMMENDATIONS:

1. THAT Report LSS-21-2023 Easement Agreement with Rogers Communications Canada Inc. – Grand Vista Bridge and Trail, Cayuga, be received;
2. AND THAT staff be authorized to finalize an Easement Agreement with Rogers Communications Canada Inc. over the lands and bridge shown in red on Attachment 1 to Report LSS-21-2023, for the provision of installing equipment to supply internet services at a cost of \$8,437.50 plus all associated costs, subject to a survey being provided by Rogers Communications Canada Inc. with legal description of the easement lands, and pending all necessary permits;
3. AND THAT a by-law be presented for enactment to authorize the easement;
4. AND THAT the Mayor and Clerk be authorized to execute all necessary documents.

Prepared by: Melissa Lloyd, Property Coordinator, Legal and Support Services

Reviewed by: Lori Friesen, Manager, Legal and Support Services

Respectfully submitted: Megan Jamieson, CHRL, General Manager of Corporate & Social Services

Approved: Cathy Case, Chief Administrative Officer

EXECUTIVE SUMMARY:

Rogers Communications Canada Inc. has requested an easement on County property for the purpose of laying fibre optic infrastructure on a portion of the Grand Vista trail starting from Munsee Street North, Cayuga across the Grand Vista Bridge and continuing down the trail to King George Street. The proposed site for the easement is shown as Attachment 1. Staff is recommending that the easement be granted.

BACKGROUND:

In September 2019, Council adopted corporate priorities for the 2018-2022 term which included providing high-speed, reliable internet service for all Haldimand County residents. Rogers Communications Canada Inc. (Rogers) is constructing a high-speed broadband internet network in the rural areas of Haldimand County and has entered into a Municipal Access Agreement with the County

for the installation of the associated infrastructure within the County's Road Right of Way (ROW). The design of the fibre optic cable system also requires an easement across a section of County owned lands including a bridge known as the Grand Vista Trail, Cayuga (Attachment 1). Trails are not included within the Municipal Access Agreements and therefore require an easement agreement to be executed. The County and Rogers will enter into an agreement for an underground fibre optic cable line. The final design for installation of the cable has not yet been confirmed, however, the options being considered are subject to review by the County's structural consultant noting the installation must not detract from the aesthetics or bridge functionality.

Through Report LSS-14-2022 Easement Agreement with Xplornet Communications Inc. – Grand Vista Bridge and Trail, Cayuga, staff were authorized to enter into a similar easement agreement with Xplornet Communications Inc. That agreement is currently not finalized but the intent is that both utilities will coordinate their work and use a common trench within the easement area to minimize impact on the trail and Grand Vista Trail bridge crossing.

Subject to approval and finalization of the easement agreement, Rogers expects that the construction of this section of the network will be completed by the end of the Spring of 2024, with the installed infrastructure remaining within the lands in perpetuity. The easement will be registered with the Land Registry Office (LRO) for the portion of land on either side of the bridge. Bridges are not considered 'property' for land registration by the (LRO); however, for due diligence and risk mitigation purposes, the bridge is identified on Attachment 1 in red and included in the draft easement agreement (Attachment 2).

ANALYSIS:

Upon receipt of request for easement, staff circulated notice to County divisions: Public Works Operations; Facilities, Parks, Cemeteries & Forestry Operations; Building & Municipal Enforcement Services; Community Development & Partnerships; Economic Development & Tourism; Emergency Services; Engineering Services; Environmental Operations; and Planning & Development.

No objections were brought forward by County divisions or utilities, however, comments were provided and are outlined below. Feedback was not received from the Ministry of Natural Resources and Forestry.

- Emergency Services has requested that access continues to be maintained to the area for emergency response purposes while the cables are being installed.
- Engineering Services confirmed that Rogers Communications Canada Inc. (Rogers) has engaged structural engineering services to ensure that the attachment of the fibre cable to the bridge will not have any impact on the bridge integrity or design/aesthetics with installation subject to approval and execution of the draft easement.
- Environmental Operations confirmed that there are watermains running through a section of the trail in the area of the proposed easement. The cable lines must have a shallow bury depth and some separation between infrastructure, and must be maintained to ensure no impact to the existing water infrastructure.
- Facilities, Parks, Cemeteries & Forestry Operations support the application with the understanding that Rogers must not disturb the current trail system and if any excavation or grounds are being disturbed, that they be returned to their original state to the satisfaction of the County. The latter provision is included in the easement document.
- Hydro One relayed there is a pole line that appears to be near the limit of the trail property on the South side, crossing to the North and heading East toward the river. Hydro One recommends the easement, if granted, starts close to the edge of the traveled portion of the trail.

Rogers has been provided this information and acknowledged the comments and requirements.

The draft easement agreement is enclosed as Attachment 2. Rogers Communications Canada Inc. has filled out a formal application and paid the application fee of \$249. The easement is in perpetuity or until the infrastructure is no longer required and then shall be removed at the expense of the easement holder. A survey/reference plan is required to be provided by Rogers in order to register the easement on title. Once provided, a full legal description of the easement lands will also be included within the easement agreement and subsequent by-law presented to Council for approval.

Compensation for easements of this nature has been sought in the past from other companies requiring easements over municipal lands and is appropriate where the subject land is not a roadway. Staff have completed an informal valuation using the Vacant Land Values Chart as a guide. When formulating compensation for an easement such as this, factors that are considered include whether or not permanent infrastructure will be placed over, on or under the easement lands and the impact to the value of the remaining property. In the past, similar methodologies for valuating easement lands for various wind energy companies were used, and the identical methodology was used when considering LSS-14-2022 and the easement agreement with Xplornet Communications. It is presumed that going forward, similar requests for easements for other internet expansion projects will also require compensation from other private entities on the same basis. Staff recommend maintaining the current agreement methodology with Rogers.

Details of the compensation being sought for granting an easement to Rogers is shown in the Financial Implications section of the report. Rogers is aware of the costs involved.

FINANCIAL/LEGAL IMPLICATIONS:

Staff will continue to work with representatives from Rogers to finalize the details of the easement agreement subject to Council’s approval. The execution of the agreement will be subject to Rogers submission of payment for the one-time fee, providing the required insurance documentation, and easement compensation, the reference plan and reimbursing any legal costs incurred by the County. Once the easement is executed, it will be registered on title with the LRO.

The proposed compensation as shown below represents 75% of the estimated market value of the easement lands, as per the Vacant Land Values Chart (using the “other” category of land). Historically, if an easement in perpetuity is being granted and the easement will include permanent infrastructure within it, the market value of the lands is discounted by 25%. Alternatively, if the easement lands has no infrastructure installed within it, the market value is discounted by 50%. Rogers has been advised of the easement value and the requirement to cover any associated costs.

	Acres	Estimated Market Value	75% Market Value
Value of Easement	1.0	\$ 11,250.00	\$ 8,437.50

Net revenue received will be contributed to the Land Sales Reserve in accordance with County Policy.

STAKEHOLDER IMPACTS:

The easement agreement will include a provision that requires Rogers to advise the County when works will be undertaken on the property so that the County may provide appropriate notification to the public in the event of temporary trail closures.

Approval of this easement facilitates the installation of rural high-speed internet in Haldimand County.

REPORT IMPACTS:

Agreement: Yes

By-law: Yes

Budget Amendment: No

Policy: No

REFERENCES:

1. [Report LSS-14-2022 Easement Agreement with Xplornet Communications Inc. – Grand Vista Bridge and Trail, Cayuga](#)

ATTACHMENTS:

1. Map of Easement Area including Bridge
2. Draft Easement Agreement