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# HALDIMAND COUNTY

## Memorandum CS-SS-M11-2017 Additional Information Related to Report CS-SS-15-2017 Cayuga Rail Trail Associated Property Matters



For Consideration by Council on October 10, 2017

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**To:** Mayor Hewitt and Members of Council  
**From:** Cathy Case, Manager, Support Services

Report CS-SS-15-2017 Cayuga Rail Trail Associated Property Matters was presented to Council in Committee (CIC) on Tuesday, October 3, 2017. The report dealt with three separate property matters, all related to development of the Cayuga Rail Trail, as follows:

1. Acquisition of property from CN Railway Company
2. Acceptance of Land Donation from Albert Marshall
3. Update on Cayuga Courthouse Parking Lot Agreement with Province of Ontario

This memorandum is to provide Council with additional information related to the proposed donation of land from Albert Marshall.

Following the CIC meeting on October 3, 2017, staff were contacted by owners of land abutting the Marshall lands, Fred and Betsy Smith, requesting a meeting to discuss ownership of a part of the property being donated, more particularly described as Part 5. Attachment #1 to this Memorandum provides a revised map of the proposed Albert Marshall land donation, with Part 5 shown on the map as a small red triangle. (This map was included in the original report as Attachment #4, however it inadvertently did not identify Part 5.) Attachment #2 to this memorandum is a draft reference plan that identifies Part 5 in larger scale. The Smith's contend that they own Part 5 based on a review performed by a title searcher and their solicitor. The documentation the Smiths provided, going back to the 1800's, suggests that an error on title occurred many decades ago.

In the late 90's and early 2000's, the Province of Ontario undertook a conversion of land title records from hard copy to electronic. When doing so, they decided on a threshold of 40 years of historical title being carried over to the electronic titles system. Properties were given Property Identification Numbers (PIN's) and every PIN was classified as either LT or R. LT means that it is Land Titles Qualified, meaning the Province is guaranteeing title to those properties. R means that the property remains in the former Registry system due to uncertainty over title. The subject lands (Part 5) in this memorandum were given an LT PIN, meaning title is guaranteed by the Province of Ontario.

Following the meeting with the Smiths, staff contacted Mr. Marshall regarding the title dispute. He contends that he holds valid title to the lands because, when it was purchased, there was 40 years of good title on record, and therefore, under Land Titles, the Province of Ontario guarantees ownership.

When staff receive proposed purchases or sales of County lands, title searches are done on the property to review ownership and other important factors. When searching the Land Titles records, now that they are electronic, the title history only goes back 40 years. Staff rely on the 40 year history if the PIN is shown as LT, given the Province's guarantee. If the PIN is in Registry (shown as R), then staff may need to do a more thorough search involving microfiche records, requests to Ottawa for archived information, etc. For the subject lands identified as Part 5, since the property had an LT PIN, staff relied on the electronic registry office records showing ownership in the name of Albert Marshall. Since such title is guaranteed by the Province, there wasn't a reason to search beyond the 40 years, and this is why staff were unaware of the title concerns presented by the Smith's after CIC.

In light of the dispute over ownership of Part 5, staff took a closer look at the land donation and confirmed with the Community and Development Partnerships Division that acquisition of Part 5 is not necessary to develop the Cayuga Rail Trail. Staff confirmed that the rail trail would be contained entirely in the former rail corridor and would not spill onto Part 5. Therefore, it has been determined that Part 5 is not necessary for the Cayuga rail trail development. As such, staff recommends removing Part 5 from the donation of land so that the two private parties may work out the issue of ownership. Staff have been in contact with both parties regarding this recommendation and there were no objections.

In order to enact the removal of Part 5 from the Marshall donation, the original recommendation contained in Report CS-SS-15-2017 will need to be amended (item (a) in the amending motion below). The Agreement of Purchase and Sale, that was included as Attachment # 2 to the original report, will also be revised to remove any reference to the acquisition of Part 5 (reflected as (c)#9 in the amending motion below).

In reviewing the original staff recommendation, some further housekeeping amendments were required in order to properly deal with Part 2. This is the unopened road allowance at the westerly end of King George Street which is "subject to" the interests of the municipality as it was never properly closed and transferred. Attachment #1 to this memo shows a portion of Part 2 in blue colour, which is being retained by the County given it is required for trail access. The balance of Part 2 in yellow colour will be released in favour of Albert Marshall. These housekeeping amendments are reflected as (b) and (c)#10 in the amending motion below.

The required amending motion is as follows:

1. THAT Recommendation #16 from the Council in Committee meeting of October 3, 2017, be amended as follows, for the reasons given in Memorandum CS-SS-M11-2017:

(a) delete the following property from the description of lands to be acquired from Albert Marshall as outlined in clause #5:

PIN #38224-0105(LT) PT LT 2 E/S DELAWARE ST AND N/S TALBOT ST TWP OF NORTH CAYUGA W OF GRAND RIVER PT 5 18R5640; S/T HC40122, HALDIMAND COUNTY;

(b) delete clause #6 and replace with the following:

AND THAT PIN #38224-0103(LT) PT KING ST TWP OF NORTH CAYUGA W OF GRAND RIVER PT 2 18R5640, S/T INTEREST OF THE MUNICIPALITY, HALDIMAND COUNTY, shown as Part 2 on Attachment #4 to Report CS-SS-15-2017, be stopped up and closed;

(c) add the following clauses:

#9. AND THAT the Marshall Agreement of Purchase and Sale, included as Attachment #2 to Report CS-SS-15-2017 be amended to delete reference to Part 5;

#10. AND THAT the municipality's interests in Part 2, as shown in yellow on Attachment #1 to Memorandum CS-SS-M11-2017 be released in favour of Albert Marshall.

## **ATTACHMENTS:**

1. Revised Map of Albert Marshall Lands
2. Enlarged View of Subject Lands (Part 5)