
HALDIMAND COUNTY

Report CS-SS-15-2017 Cayuga Rail Trail Associated Property Matters For Consideration by Council in Committee on October 3, 2017



OBJECTIVE:

To request authorization for various property transactions necessary for development of the Cayuga Rail Trail, including to: purchase lands in Cayuga from the Canadian National Railway Company; accept a donation of land from Albert Marshall for future trail purposes; and update Council on the current parking lot lease with the Province of Ontario for the Cayuga Courthouse.

RECOMMENDATIONS:

1. THAT Report CS-SS-15-2017 Cayuga Rail Trail Associated Property Matters be received;
2. AND THAT consent be given to acquire the following lands from the Canadian National Railway Company for a purchase price of \$100,000 plus HST and conveyance costs:

PIN # 38224-0119(R) PT BLK H S/S INDIAN ST VILLAGE OF CAYUGA E OF GRAND RIVER; PT BLK 1 N/S VICTORIA ST VILLAGE OF CAYUGA E OF GRAND RIVER, HALDIMAND COUNTY;

PIN # 38224-0281(LT) PT OTTAWA ST VILLAGE OF CAYUGA E OF GRAND RIVER CLOSED BY C83 EXCEPT HC61316 S OF INDIAN ST, HALDIMAND COUNTY;

PIN # 38224-0282(R) PT BLK F S/S INDIAN ST AND E/S OTTAWA ST VILLAGE OF CAYUGA E OF GRAND RIVER, HALDIMAND COUNTY; and

PIN # 38224-0243(LT) OTTAWA ST VILLAGE OF CAYUGA E OF GRAND RIVER CLOSED BY C83 AS IN C87 BTN INDIAN ST & LATHAM ST, HALDIMAND COUNTY;
3. AND THAT consent be given to acquire all rights, title and interest to the bridge that spans the Grand River as identified in the Bill of Sale and General Conveyance included as Attachment #2 to Report CS-SS-15-2017;
4. AND THAT, after acquisition of PIN # 38224-0243(LT) OTTAWA ST VILLAGE OF CAYUGA E OF GRAND RIVER CLOSED BY C83 AS IN C87 BTN INDIAN ST & LATHAM ST, HALDIMAND COUNTY, these lands be declared surplus to the needs of the County;
5. AND THAT consent be given to acquire the following lands from Albert Marshall for a purchase price of \$1.00, plus HST and conveyance costs;

PART OF PIN # 38224-0101(LT) PT IRONSIDE ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT QUEEN ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT GIVENS ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT MORAVIAN ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT CLAUS ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT BRITANNIA ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT DELAWARE ST TWP OF NORTH CAYUGA W OF GRAND RIVER CLOSED BY C123; PT BLK 1 N/S KING ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT BLK 2 N/S KING ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT BLK 3 N/S KING ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT BLK 2 N/S QUEEN ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT BLK 3 N/S QUEEN ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT BLK 4 N/S QUEEN ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT BLK 3 N/S MORAVIAN ST TWP OF NORTH

CAYUGA W OF GRAND RIVER; PT BLK 4 N/S MORAVIAN ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT LT 2 E/S DELAWARE ST AND N/S TALBOT ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT LT 3 E/S DELAWARE ST AND N/S TALBOT ST TWP OF NORTH CAYUGA W OF GRAND RIVER PT 3 18R5640, HALDIMAND COUNTY;

PART OF 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;

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;

PIN # 38224-0104(LT) PT RIVER ST TWP OF NORTH CAYUGA W OF GRAND RIVER; PT ONONDAGA ST TWP OF NORTH CAYUGA W OF GRAND RIVER PT 4 18R5640, S/T INTEREST OF THE MUNICIPALITY, HALDIMAND COUNTY

6. AND THAT PART OF 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, as shown on Attachment #1 to Report CS-SS-15-2017, be stopped up, closed and declared surplus to all County needs;
7. AND THAT a By-law be passed to authorize the closures and conveyances as outlined in Report CS-SS-15-2017;
8. AND THAT the Mayor and Clerk be authorized to execute all necessary documents required to give the intention herein.

Prepared by: Sandra Marsh, Property Coordinator

Reviewed by: Dana Mclean-Daniels, Risk Management & Insurance Coordinator

Respectfully submitted: Karen General, CPA, CGA, General Manager of Corporate Services

Approved: Donald G. Boyle, Chief Administrative Officer

EXECUTIVE SUMMARY:

To facilitate the development of the Cayuga Rail Trail, it is necessary to acquire parcels of land and a bridge from the Canadian National Railway Company (CNR), as well as parcels of land from Albert Marshall (donated). Negotiations are ongoing regarding the current courthouse parking lot lease arrangement with the Province of Ontario, which is relevant to this report given these lands are adjacent to the planned Cayuga trailhead.

BACKGROUND:

In December 2016, Council received report PED-GM-11-2016 "Cayuga Bridge and Rail Trail Initiative" and passed the following resolution:

1. *THAT Report PED-GM-11-2016 Re: Cayuga Bridge and Rail Trail Initiative dated October 12, 2016 be received;*
2. *AND THAT Staff be authorized to negotiate the necessary land acquisition and easement rights for the lands described in Attachment 1 to Report PED-GM-11-2016 with affected property owners and report back to Council with the results;*
3. *AND THAT Staff be authorized to renegotiate the current lease with the Province of Ontario to include the proposed trail design concept on the Victoria Street lands;*

4. *AND THAT the land acquisition and associated due diligence costs of the project be identified for Council's consideration in 2017 in the 2017 Capital Budget with construction in 2018 to be funded from debentures with the annual debt repayment funded from the Ward 2 CVF allocation.*
5. *AND THAT a project be included for Council's consideration in the Draft 2017 Tax Supported Capital Budget and Forecast to extend the proposed Cayuga Bridge and Rail Trail and create a trailhead on the existing Cayuga Administration Building and Haldimand County Museum Archives lands (PIN 0140 and PIN 0144), in the year 2019, at an estimated cost of \$100,000, to be funded by the Community Vibrancy Fund – Ward 2.*

Funding of the items included in Recommendation #5 above, along with the funds needed for the land acquisition, were approved in the 2017 Tax Supported Capital Budget and Forecast. Subsequent to Report PED-GM-11-2016, staff from the Planning & Economic Development Department undertook extensive public consultation on the trail routes that were identified for development over the next decade. Specific to the Cayuga Bridge & Rail Trail, a meeting was held on May 23, 2017 after being advertised extensively. In addition, the Trails Advisory Committee and the County's Accessibility Advisory Committee have had meetings to discuss the proposed project. Feedback from these consultations assisted staff in finalizing the negotiations on the land transactions necessary to advance the Cayuga Bridge & Rail Trail project.

The purpose of this report is to address Council's direction to report back regarding the negotiation of the necessary land acquisitions and Cayuga courthouse parking lot lease in order to accommodate the proposed trail design. Attachment #1 is a location and detail map of the subject lands.

ANALYSIS:

Acquisition of Land from CNR

In order to implement the proposed trail design, the County needs to acquire the bridge over the Grand River and three (3) parcels of land from CNR to gain access from the east side of the bridge. Staff entered into negotiations with CNR using the parameters set by Council and have provided CNR with an offer to acquire the parcels (identified in green on Attachment #1) and the bridge for a combined price of \$100,000, which CNR has verbally agreed to. A copy of the Agreement of Purchase and Sale with CNR is included as Attachment #3.

The County would be required to purchase the lands on an "as is/where is basis". Any environmental warranties as to the condition of the lands will not be provided by CNR. Staff are unaware of any environmental issues affecting the subject lands, however, due to the previous use of the lands, being a former railway corridor, minimal contamination is likely to exist. It is not expected to negatively impact the trail construction project or the use of the property as a trail. The County has constructed trails on other former railway corridors. The subject lands are currently zoned R1, MG and HL, which permits the construction of a walking trail.

The fourth parcel of land recommended for acquisition from CNR is not required for the trail design; however, CNR no longer requires ownership of this parcel of land and, as a condition of the agreement to purchase the other three parcels, included the fourth parcel of land in the agreement. This acquisition was at no additional cost to the County. This land, being on Latham Street, is zoned R1, has 66ft frontage, runs behind 5 residential properties, and is not serviced by water or sanitary sewer. There are gas and hydro lines at/near the site and any future development would require a zoning amendment or variance. As there is no public need identified for these lands, staff are seeking authority to declare these lands surplus to the needs of the County and will market these lands for sale in the future.

Each of the four parcels of land being acquired are shown on Schedule A-2 of Attachment #3. In accordance with the County's 2017 Vacant Land Values Chart, the property value exceeds the negotiated combined purchase price of \$100,000. It is recommended that the Mayor and Clerk be given authority to enter into an Agreement of Purchase and Sale with CNR for the purchase of the four parcels of land and the bridge to facilitate the Council approved Cayuga trail development project.

Acquisition of Land & Land Donation from Albert Marshall

In order to implement the proposed trail design, the County needs to acquire lands on the west side of the Grand River currently owned by Albert Marshall. A sketch of the lands currently owned by Mr. Marshall is included as Attachment #4. Mr. Marshall will be retaining the westerly portion of the lands for future development (identified in orange on Attachment #4). Mr. Marshall has offered to donate the lands to the County for trail purposes (identified in pink on Attachment #4). In exchange for his donation, Mr. Marshall has requested an official tax receipt for income tax purposes equivalent to the value of the property plus a prorated share of the cost of a recent environmental assessment on the lands. The lands to be acquired from Mr. Marshall are currently zoned A and HL, which permits the construction of a walking trail. In accordance with the County's 2017 Vacant Land Values Chart, the value of the property is approximately \$33,000.

Staff have had several discussions with Albert Marshall and have negotiated an agreement within the parameters set by Council. Mr. Marshall has been provided with an Agreement of Purchase and Sale to purchase the properties for \$1.00, which Mr. Marshall has verbally agreed to. In addition the County will reimburse a portion of Mr. Marshall's legal fees, to a maximum of \$3,000, upon provision of a receipt. The County would be required to acquire the lands on an "as is/where is basis". Any environmental warranties as to the condition of the lands will not be provided by Mr. Marshall and staff is aware that, due to the previous use of the lands, being a former railway corridor, some contamination exists. Mr. Marshall provided copies of his environmental investigations and the County's consultant has confirmed that the lands are suitable for trail purposes.

Although Albert Marshall is identified as the registered title holder of one of the parcels, being Part 2 on Reference Plan 18R-5640, and shown on Attachment #4, this land is subject to the interests of the municipality due to the fact that it is a road allowance that was never closed. The County has no need for this entire road allowance but will require ownership to a small portion lying north of King George Street to allow access to the Cayuga trail/bridge. It is recommended that the County close the majority of this road allowance, being Part 2 on 18R-5640, thereby providing clear title to Albert Marshall.

The lands identified in green on Attachment #4 are a road allowance which is appearing on title as owned by Albert Marshall but "subject to the interest" of the municipality. This means that the County has a legal interest in the property. In discussions with Mr. Marshall, it was acknowledged that the county is still the owner of the lands since the road allowance has not been closed by bylaw. As part of the negotiations, ownership of these lands will be officially transferred to the County to correct the title issue. These lands will remain as a road allowance, allowing public access to the Grand River and access to the bridge for maintenance purposes.

It is recommended that the Mayor and Clerk be given authority to enter into an Agreement of Purchase and Sale with Albert Marshall for the purchase (donation) of lands on the west side of the Grand River to facilitate the Council approved trail development project. The Agreement of Purchase and Sale addresses all of the property matters related to lands currently on title to Albert Marshall and described above. A copy of the Agreement of Purchase and Sale is included as Attachment #2.

Courthouse Parking Lot Lease (License Agreement) with Province

For numerous years, the Province of Ontario has leased a portion of County-owned property on the northerly side of the Provincial Court House in Cayuga, along Victoria Street, for access and for parking. The current agreement is due to expire on April 30, 2018. CBRE Group, Inc., acting as agent for the Province of Ontario, has indicated that the Province only requires approximately 18 parking spots to accommodate staff and will no longer be providing a public parking area to clients of the courthouse. The Province believes that the required staff parking spots are currently located on the provincially-owned land and not County property so the Province is not seeking a renewal of the license agreement. This requires further investigation to officially determine ownership boundaries and parking obligations. If the Province determines that they wish to renew or renegotiate the current lease arrangement, a separate report will be presented to Council.

The proposed design for the Cayuga Rail Trail identifies a new trailhead to be constructed over a small section of the existing courthouse parking lot, resulting in the loss of two parking spaces. This does not have a negative impact on the possible lease with the Province or other parking requirements in the area.

FINANCIAL/LEGAL IMPLICATIONS:

The costs associated with the acquisition of the lands for the Cayuga Rail Trail were approved in the 2017 Tax-Supported Capital Budget in the amount of \$242,000, funded from the Community Vibrancy Fund – Ward 2, under the Community and Partnerships Development Division.

Costs associated with the acquisition from CNR include the purchase price of \$100,000 plus applicable HST and necessary closing costs. Costs associated with the acquisition of lands from Albert Marshall for legal fees, reference plan, title searches and registration costs are also included in the approved budget. The County will provide Mr. Marshall with an official tax receipt for income tax purposes for his donation of land to the County.

As identified in the 2018-2026 Capital Forecast that was approved in principle with the 2017 Council Approved Capital Budget, the current estimate for the 2018 construction portion of the trail is \$1,160,000, along with \$100,000 related to a possible extension of the trail and creation of a trailhead on the existing Cayuga Administration Building and Haldimand County Museum and Archives lands in 2019. Operating costs related to maintenance and repairs of the new infrastructure (estimated at \$2,600 annually and a bridge condition assessment to be undertaken every three years at approximately \$15,000 in PED-GM-11-2016) will require a levy increase over and above the Council approved budget guidelines. Staff will continue to review these estimates for accuracy during the operating budget review process and will incorporate these portions, for Council's approval, in the Draft 2018 Tax Supported Capital Budget and Forecast and Tax Supported Operating Budget, as required. This addition to the County's infrastructure will impact the County's existing long range financial plan from the perspective of ongoing capital maintenance and future replacement.

STAKEHOLDER IMPACTS:

The Community Development and Partnerships Division has been involved in this matter and have provided relevant information.

Access to the County's water tower/standpipe, which is located behind the courthouse is protected.

If a new agreement isn't signed with the Province, the County will need to assess implications and options in terms of the use and maintenance of the Cayuga Courthouse parking lot.

REPORT IMPACTS:

Agreement: Yes

By-law: No

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Location and Detail Map
2. Marshall Agreement of Purchase and Sale
3. CNR Agreement of Purchase and Sale
4. Lands of Albert Marshall