
HALDIMAND COUNTY

Report CS-SS-21-2018 Road Closure and Conveyance of Part of Dickhout Road, Dunnville



For Consideration by Council in Committee on June 19, 2018

OBJECTIVE:

To declare part of the road allowance between Lots 12 and 13, Concession 1, Sherbrooke and Broken Front, Sherbrooke, as surplus to the County's needs and authorize staff to proceed with the road closure and conveyance process.

RECOMMENDATIONS:

1. THAT Report CS-SS-21-2018 Road Closure and Conveyance of Part of Dickhout Road, Dunnville be received;
2. AND THAT Part of Dickhout Road in Dunnville, legally described as Part of PIN # 38126-0325(LT) being part of the road allowance between Lots 12 and 13, Concession 1, Sherbrooke, and part of the road allowance between Lots 12 and 13, Concession Broken Front, Sherbrooke, now Haldimand County, with an approximate location as shown on Attachment #1 to Report CS-SS-21-2018, be stopped up, closed and declared surplus to all County needs;
3. AND THAT Part of Dickhout Road in Dunnville, legally described as Part of PIN # 38126-0325(LT) being part of the road allowance between Lots 12 and 13, Concession 1, Sherbrooke, and part of the road allowance between Lots 12 and 13, Concession Broken Front, Sherbrooke, now Haldimand County, with an approximate location as shown on Attachment #1 to Report CS-SS-21-2018, be sold to the abutting owners, Berend Vis and Joan Marie Vis, for the nominal value of \$1.00, plus HST and certain costs of the closure and conveyance;
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.

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Reviewed by: Dana McLean, Risk Management and Insurance Coordinator

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

Approved: Donald G. Boyle, Chief Administrative Officer

EXECUTIVE SUMMARY:

Erosion is a naturally occurring situation along the shores of Lake Erie and it has significantly impacted the southern most portion of the unopened road allowance known as Dickhout Road. Berend (Bert) and Joan Vis have contacted staff to see if the County would install erosion control at the end of this road. The County has previously identified this unopened road allowance as one that it could divest if a neighbouring owner were interested in acquiring it. Divesting to the abutting land owners would allow them to address the erosion issue so as to not further impact their property. This piece of roadway is

not required by the County and is not appropriate for public access to Lake Erie given the height, slope and natural erosion that is occurring. It is recommended that the County stop up and close the road, and divest the land to the abutting owner (Vis) for a nominal fee to permit them to install shoreline protection to protect their property.

BACKGROUND:

There is no legislative requirement for a municipality to install erosion control on land it owns, nor has it been the County's past practice to do so. In recent years, County staff from the Roads Department have identified two road allowances along the Lake Erie shoreline that have been drastically affected by erosion. The first was Warnick Road, in the Lowbanks area, which was stopped up, closed and sold to neighbouring owners in 2016 to allow the abutting owners to install erosion control to protect their property. The second is the unopened portion of Dickhout Road, which is the subject of this report (Attachment #1).

Mr. & Mrs. Vis are the neighbouring property owners to the west of the subject lands. They have installed erosion control on the lands they own; however, without having the same type of erosion control on the County property, they believe that their lands will continue to erode with each new season. They are interested in purchasing the County road allowance to prevent further erosion to their existing property.

ANALYSIS:

Typically, when a member of the public seeks to purchase a County road allowance, an application fee is required to begin the process, along with circulation to a wide variety of stakeholders to ensure that the property is not required and can be declared surplus to the needs of the municipality. Since the road closure and conveyance for Warnick Road, and now for Dickhout Road, are County generated, no administration fee is applicable, but the normal circulation process is still a requirement.

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 Controls & By-Law Enforcement, Community Development & Partnerships, Economic Development & Tourism, Emergency Services, Engineering Services, Environmental Services, Facilities & Parks Operations, Planning, and Roads Operations, Ministry of Natural Resources and Niagara Peninsula Conservation Authority. All comments received supported the closure with no need for easements. There were some comments, however, as follows.

Staff met on site and confirmed that no portion of the road allowance lying south of Villella Road or Derner Line would need to be retained by the County for operational purposes. An existing checkerboard road sign would need to be relocated from the subject property to the edge of the pavement. As well, an existing entrance culvert would need to be removed and this parcel be left as an open ditch.

The land leads to water owned by the Crown and consent to close and convey the road has been received from the Ministry of Natural Resources. Both the Ministry of Natural Resources and The Niagara Peninsula Conservation Authority have indicated that they can support erosion control measures at this location, to be undertaken by the Vis', once an agreement is in place to acquire the County lands. The Vis' will be required to obtain the necessary permits from both agencies prior to the commencement of any construction work.

The abutting landowner to the east has not expressed any concern with the possible closure and conveyance of this section of road and is not interested in purchasing it.

Typically, if publicly owned land is deemed surplus, it is to be sold for no less than the appraised value plus all costs of closure and conveyance. The purpose of the appraisal is to estimate the market value of the subject property based on the most probable “best use” at the time. Since the County has initiated this road closure and conveyance application for the reasons set out herein, no appraisal was obtained.

In accordance with the County’s Vacant Land Values Chart, the value of this 0.21 acre parcel of land is approximately \$1,100 but recommended to be sold for a nominal value based on the following:

- this portion of road serves as an access to Lake Erie, however it is very difficult and unsafe for public access;
- disposal of this property will eliminate the associated liability of these lands;
- there is no reasonable expectation that anyone other than abutting landowners would be interested in purchasing the subject lands;
- if the lands are divested to the abutting owner (Vis), they can take the necessary steps, with approval from the related authorities, to protect their property from further erosion;
- acknowledgement of the costs associated with installing erosion control, as well as the fact that the Vis’ will be required to cover necessary legal and survey costs.

For the above reasons, staff recommend closing this portion of road allowance, declaring the lands surplus and conveying the lands at a nominal value of \$1.00 for the purpose of installing erosion control to protect the Vis’ property. The usual land transaction provisions will apply, including the “as is/where is” condition. As well, the Vis’ will be responsible for certain costs of the closure and conveyance, including legal and survey costs.

FINANCIAL/LEGAL IMPLICATIONS:

The sale proceeds are nominal. Costs related to removing/replacing County signage as well as removal of the culvert will be borne by the County as part of normal operations. As staff initiated this road closure to address the potential erosion liability issues, the application administration fee is not applicable.

The Vis’ will be responsible for their legal and survey costs related to this transaction and will be required to make all necessary applications and obtain permits in order to install erosion control along Lake Erie once they have ownership of the property.

STAKEHOLDER IMPACTS:

The Roads Operations Division has been involved in this matter and will be responsible for removal/relocation of signage and removal of the existing culvert. The Building and By-Law Division has also provided relevant information for this report.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Map of the Subject Property