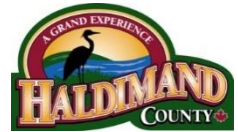

HALDIMAND COUNTY

Report CS-SS-23-2018 Road Closure and Conveyance, Part of the Road Allowance Between Lots 8 and 9, Concession 1, Sherbrooke – Update to Report CS-SS-05-2018



For Consideration by Council in Committee on June 19, 2018

OBJECTIVE:

To provide Council with updated information related to a previous request to purchase part of the road allowance between Lots 8 and 9, Concession 1, Sherbrooke; and to declare this property 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-23-2018 Road Closure and Conveyance, Part of the Road Allowance Between Lots 8 and 9, Concession 1, Sherbrooke – Update to Report CS-SS-05-2018 be received;
2. AND THAT Part of the southerly extension of King Road in Dunnville, legally described as Part of PIN # 38127-0344(LT) being Part of the Road Allowance Between Lots 8 and 9, Concession 1, Sherbrooke, now Haldimand County, with an approximate location as shown on Attachment #1 to Report CS-SS-23-2018, be stopped up, closed and declared surplus to all County needs;
3. AND THAT, notwithstanding Recommendation #12 of the Council in Committee meeting of January 16, 2018 and based on the revised road closure and conveyance application, Part of the southerly extension of King Road in Dunnville, legally described as Part of PIN # 38127-0344(LT) being Part of Road Allowance Between Lots 8 and 9, Concession 1, Sherbrooke, now Haldimand County, with an approximate location as shown on Attachment #1 to Report CS-SS-23-2018, be sold to the abutting owners, Joseph Mussari and Mary Mussari, for the purchase price of \$600, plus HST and certain costs of the closure and conveyance, conditional on the property being merged with the adjacent land owned by the Mussaris;
4. AND THAT public notice of the proposed closure and conveyance be given;
5. AND THAT By-laws be passed to authorize the closure and conveyance;
6. AND THAT the Mayor and Clerk be authorized to execute all necessary documents.

Prepared by: Sandra Marsh, Property Coordinator

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:

At the January 16, 2018 Council in Committee meeting, staff presented Report CS-SS-05-2018 which outlined a request from Joseph and Mary Mussari to close and convey part of the road allowance between Lots 8 and 9, Concession 1, Sherbrooke, for the purpose of installing erosion control measures along Lake Erie. This road allowance is untraveled and is the southerly extension of King Road in Dunnville, running to Lake Erie. Council gave staff direction to meet with the applicants to discuss solutions to their breakwall concerns and report back. Such discussions have occurred, leading to a revised request for closure and conveyance by the Mussaris which staff recommend accepting at this time.

BACKGROUND:

In 2017, the County received a request from Joseph and Mary Mussari to purchase part of the southerly portion of the road allowance between Lots 8 and 9, Concession 1, Sherbrooke, in Lowbanks, at an approximate size of 150' X 66'. Report CS-SS-05-2018 was presented at the January 16, 2018 Council in Committee meeting. There were many delegations which opposed the sale of this piece of land to the Mussaris due to a belief that it would then be used to potentially increase the size of their intended residential development, as well as take away publicly owned greenspace that was currently used by residents and visitors to this area of lakeshore property. Mr. Mussari indicated at that time that the erosion occurring at this location was affecting his property located to the east and he would like to be able to install erosion control. Council passed the following resolution:

“THAT Report CS-SS-05-2018 Road Closure and Conveyance, Part of the Road Allowance Between Lots 8 and 9, Concession 1, Sherbrooke, be received;

AND THAT the application from Joseph Mussari for the road closure and conveyance of Part of PIN #38127-0334(LT) being the southerly part of the road allowance between Lots 8 and 9, Concession 1, Sherbrooke, Haldimand County, not be approved for the reasons outlined in Report CS-SS-05-2018;

AND THAT staff be directed to meet with the applicants to review solutions to their breakwall concerns and report back to Council.”

ANALYSIS:

Mr. and Mrs. Mussari's original 2017 request indicated that they wished to purchase lands from the County in order to add them to the lands they currently own to allow for future residential development on their existing property and to allow for the installation of erosion control measures. The Mussaris believe that, without having erosion control on the abutting County property, their existing lands will continue to erode with each new season. Lakeshore erosion is a naturally occurring condition along the entire Lake Erie shoreline. There is no legislative requirement for a municipality to install erosion control on lands it owns, nor has it been past practice to do so.

Based on Council's direction, Staff met with the applicants and neighbouring property owners and presented several options, as follows:

- The Mussaris, as an abutting landowner to the east of the subject lands, purchase a smaller strip along the lake (approximately 40' X 66') and construct a breakwall; or
- The abutting landowner to the west of the subject lands (Searles) purchase a smaller strip along the lake (approximately 40' X 66') and construct a breakwall; or

- Mussari and Searles jointly purchase a small strip along the lake (each purchase 40' X 33') and a breakwall is jointly constructed by Mussari and Searles; or
- A breakwall is constructed and maintained by Mussari or Searles but County remains owner of the land (no cost to County); or
- The County retains all of the road allowance and no breakwall is constructed.

The recommended option, following many discussions and meetings between the applicants and the delegates facilitated by staff, is for Mr. Mussari to purchase the smaller section of road allowance for the purposes of installing shoreline erosion control. Staff notified all previous delegations of the recommended closure and conveyance of this smaller portion of road allowance. The other abutting landowner to the west (Searles) has indicated that he does not wish to purchase a portion of the road allowance. As of the date of the drafting of this report, staff have not received any objections to the recommended option.

The revised parcel of road allowance to be closed and conveyed, totaling approximately 0.06 acres, abuts the westerly boundary of the lands currently owned by Joseph and Mary Mussari and is bounded on the south by Lake Erie. A location map of the subject property is shown as Attachment #1. This smaller portion will allow for the installation of erosion control measures, but is not large enough to be developed on its own. Final property dimensions will be determined in accordance with approved engineered drawings for the proposed new breakwall. The Mussaris have revised their road closure and conveyance request to reflect this smaller parcel. If Council approves the sale, as a condition, the subject lands would need to be added to the property currently owned by the Mussaris as there is no other way to access the parcel to be conveyed. The County will retain ownership of the remainder of the road allowance.

When the original request to purchase was received, 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 & Development, and Roads Operations. The Economic Development and Tourism Division and Planning and Development Divisions were consulted again and have indicated although they did not support the original road closure and conveyance request, they would support the sale of a smaller portion of the road allowance on Lake Erie in order for the installation of a new breakwall to proceed.

The County owned land leads to waters owned by the Crown and consent to close and convey the road has been received from the Ministry of Natural Resources and the Department of Fisheries and Oceans. The Grand River Conservation Authority has indicated that they can support the erosion control measures at this location, to be undertaken by the Mussaris, once an agreement is in place to acquire the County lands and the appropriate permit is obtained.

When taking into consideration the value of the subject property, Council should keep in mind the following:

- The Vacant Land Values Chart has been used in the past and deemed to be a reasonable tool to predict value in the absence of a competitive marketing or appraisal of the property. The rates in the chart were provided to the County by a licensed local realtor, but reflect general valuations and are not tailored to the location/specific attributes of individual properties ;
- This untraveled portion of "dead end" road serves as a public access to Lake Erie, however there is not a constructed entry point/parking area/etc.;

- A portion of the property being transferred is currently eroded with some of it being under water;
- Disposal of this property will eliminate the potential liability associated with use of these lands;
- There is no reasonable expectation that anyone other than the abutting landowners would be interested in purchasing the subject lands;
- It is not the County's practice to install erosion control, but if the lands are divested to the abutting owner, they can take the necessary measures, with approval from the related authority, to protect their property from further erosion;
- All County property is sold as is/where is and the purchasers will sign an Acknowledgement confirming this.

Staff have generated a value for these lands of \$600 for this 0.06 acre parcel of land using the County's Vacant Land Values Chart and the applicants have agreed to the suggested price.

For the above reasons, staff recommend closing this portion of road allowance, declaring the lands surplus and conveying the lands to the Mussaris for \$600 on the condition that the property will be added to the abutting lands currently owned by the Mussaris for the purpose of installing erosion control to protect their property. The typical land transaction provisions will apply, including the "as is/where is" condition, and any necessary easements. As well, the Mussaris will be responsible for certain costs of the closure and conveyance, including legal and survey costs.

FINANCIAL/LEGAL IMPLICATIONS:

Staff recommend that the property, totalling 0.06 acres, be sold to the abutting owners for a purchase price of \$600, plus HST and all costs of closure and conveyance. The net proceeds of the land sale will be contributed to the Land Sales Reserve in accordance with County Policy.

In accordance with the County's Notification Policy, a proposed road closure and conveyance is to be advertised in the local newspaper prior to consideration of a By-law.

STAKEHOLDER IMPACTS:

The Planning and Development Division, Economic Development and Tourism Division, Roads Operations Division and Building and By-Law Division have provided information for this report.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Map of the Subject Lands