

The Corporation of the City of Kawartha Lakes

Council Report

Report Number PW2017-002

Date: March 21, 2017

Time: 2:00 p.m.

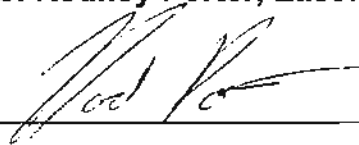
Place: Council Chambers

Ward Community Identifier: All

Subject: Limited Service Agreements- Private Roads

Author/Title: Rodney Porter, East Area Maintenance Manager

Signature:



Recommendation(s):

RESOLVED THAT Report PW2017-002, **Limited Service Agreements- Private Roads**, be received;

THAT all existing Limited Service Agreements for private roads be extended to April 30, 2020 after which they will be terminated;

THAT pending applications for Limited Service Agreements for private roads not be approved;

THAT no new applications for Limited Service Agreements for private roads be accepted;

THAT the City of Kawartha Lakes will not provide any maintenance on any private road within the municipality after April 30, 2020; and

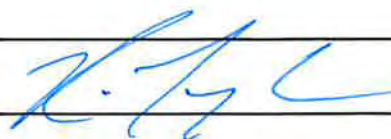
THAT staff be directed to include a program for consideration within the 2018 operating budget to determine ownership of unknown road segments.

Department Head:



Corporate Services Director / Other:

Chief Administrative Officer:



Background:

As part of the City's Core Service Review, the Limited Service Agreement (LSA) program was reviewed by Public Works staff in consultation with the Office of Strategy Management.

A presentation was made to Council on August 12, 2015 outlining the program and possible options for consideration.

At the Council Meeting of January 26, 2016 Council adopted the following resolution:

**Moved by Councillor Strangway, seconded by Councillor Yeo,
RESOLVED THAT** Report PW2016-002, **Core Service Review -
Limited Service Agreements for Unassumed and Private Roads,**
be received;

THAT staff develop a comprehensive strategy for Unassumed and Private Roads including a Seasonal Roadway Level of Service policy for review by Council to be presented prior to the end of 2016;

THAT no new Limited Service Agreement applications be accepted until completion of the comprehensive strategy;

THAT the City of Kawartha Lakes continue providing service for Unassumed Roads with Limited Service Agreements in place; and

THAT the City of Kawartha Lakes continue providing service for Private Roads with Limited Service Agreements in place, until such time as the comprehensive strategy is reviewed by Council.

CARRIED CR2016-075

A presentation to provide and update was made on August 9, 2016.

Two Public Information Centres were held to gather feedback on future options for the Limited Service Agreement (LSA) program. They were held on Wednesday, August 24, 2016 in Fenelon Falls and Saturday, September 24, 2016 in Omemee.

A presentation outlining the feedback received was made on November 29, 2016 which also included further alternatives for consideration.

There are two types of roads the City has entered into Limited Service Agreements for periodic maintenance at municipal expense: Privately owned roads; and Municipal highways exempted from the application of s.44 (i.e. those _____formed by original road allowances but unopened, or roads that have been _____dedicated to the City for road purposes which have not been assumed as publicly maintained highways).

The standard LSA service includes 2 gradings/year and up to 2 loads of gravel per road at no charge. There is also a provision for an additional load of gravel

for every kilometer of road (or portion thereof) over one km in length. In some instances winter snow plowing is also included as part of the Limited Service Agreement. In order to qualify for an LSA the road must meet City established minimum standards for limited service and pass an inspection. The roads included in this service are either private roads/laneways or unassumed municipally owned roads and typically do not meet municipal standards with respect to drainage, sight lines, brush clearing, road base and surface condition.

There are currently 22 active agreements on private roads and 4 pending renewal agreements currently pending renewal. The majority of the agreements are in the northern area of the City.

Rationale:

Through the Core Service Review process the Limited Service Agreements program was reviewed.

Staff are recommending that service on private roads be discontinued in order to limit the maintenance costs and exposure to liability for the City (see Closed Report LGL2017-03). There are an unknown number of private roads within the City of Kawartha Lakes that may be eligible under the current LSA program therefore costs for the program could grow exponentially. Costs are also expected to increase each year due to inflation.

In order to provide adequate notice and allow private individuals or groups to procure alternate services, Staff recommends maintaining the level of service through to April 2020.

There are currently over two thousand (2000) road segments within the City's road network where ownership is unconfirmed. These roads could be unassumed, private or assumed through service prior to 2003. In order to properly address service levels and maintenance requirements, the ownership of these road segments must be confirmed through legal searches.

Other Alternatives Considered:

As indicated, Staff recommends discontinuing the LSA program with a phase out period to April 2020 on private roads. This will reduce unnecessary operating costs and limit potential liability while providing adequate notice to the affected groups.

Other alternatives considered as part of the comprehensive review and are not recommended by Staff are as follows:

- Council could opt to maintain the private roads that had an LSA agreement in place when the comprehensive review commenced (January

26, 2016) with no further agreements for private roads being considered. This would continue service on roads that currently receive this benefit. This option is not recommended by Staff as it will create inequality for residents and exposes the City to liability.

The resolution would be: "THAT the City of Kawartha Lakes shall continue to provide service on the private roads that had an approved Limited Service Agreement in place prior to January 26, 2016."

- Council could opt to maintain status quo. This would maintain the services provided to private roads under existing agreements, with the option of renewal, and the addition of new private roads as applications are approved under the program requirements. This option is not recommended by Staff as the City would be investing municipal funds in private property and it exposes the City to liability.

The resolution would be: "THAT the City of Kawartha Lakes shall continue to provide service on private roads under the Limited Service Agreement program."

Financial Considerations:

The termination of all Limited Service Agreements of Private Roads would deliver an approximate cost reduction in 2020 as follows:

Delivery of Service (Material/Equipment/Labour) = \$ 15,500.

Relationship of Recommendation(s) To The 2016-2019 Strategic Plan:

The roads maintenance program aligns with the Strategic Enablers of "Efficient Infrastructure & Asset Management" and "Responsible Fiscal Resource Management".

Review of Accessibility Implications of Any Development or Policy:

N/A

Servicing Comments:

N/A

Consultations:

Robyn Carlson, City Solicitor

Brenda Stonehouse, Strategy and Performance Specialist

Attachments:



Limited Service
Agreements Update I

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Department Head: Bryan Robinson, Director of Public Works

Department File:

Core Service Review: Maintenance of Unassumed and Private Roadways

Roads Operations, Public Works



Core Service Review



Definitions

- **Assumed Road:** A municipally owned right of way opened through By-Law or where the municipality provided full and regular maintenance operations prior to 2003.
- **Unassumed Road:** Right of Way property owned by the municipality where the City is not legally required to provide maintenance services.
- **Private Road:** A right of way owned by a private resident or group of residents where the City has no ownership or legal responsibility to provide maintenance service.

Kawartha Lakes: Assumed Gravel Roads

- ~903km of assumed Gravel Roads City Wide
- Assumed gravel roads receive gravel application on an approximate 10 year cycle
- Provided new gravel to ~75 km of assumed roads in 2015 and ~78 km in 2016
- LSA roads currently receive gravel application on an annual basis per the standard agreement

Legal Opinion

- In 2009 the City received a legal opinion from external Counsel on Limited Service Agreements
- Essentially: The City is not legally obligated to provide maintenance on either category of road (private or unassumed) and not doing so limits both the maintenance costs and exposure to liability for the City

LSA: What are we doing now?

- Limited Service Agreements (LSA) provide limited service on some private and unassumed roads
- Includes 2 gradings/year and up to 2 loads of gravel plus an additional load of gravel for every kilometer of road (or portion thereof) over one km in length per road at no charge
- Can include snowplowing as well
- The road must meet standards and pass inspection before LSA is approved

LSA What are we doing now?

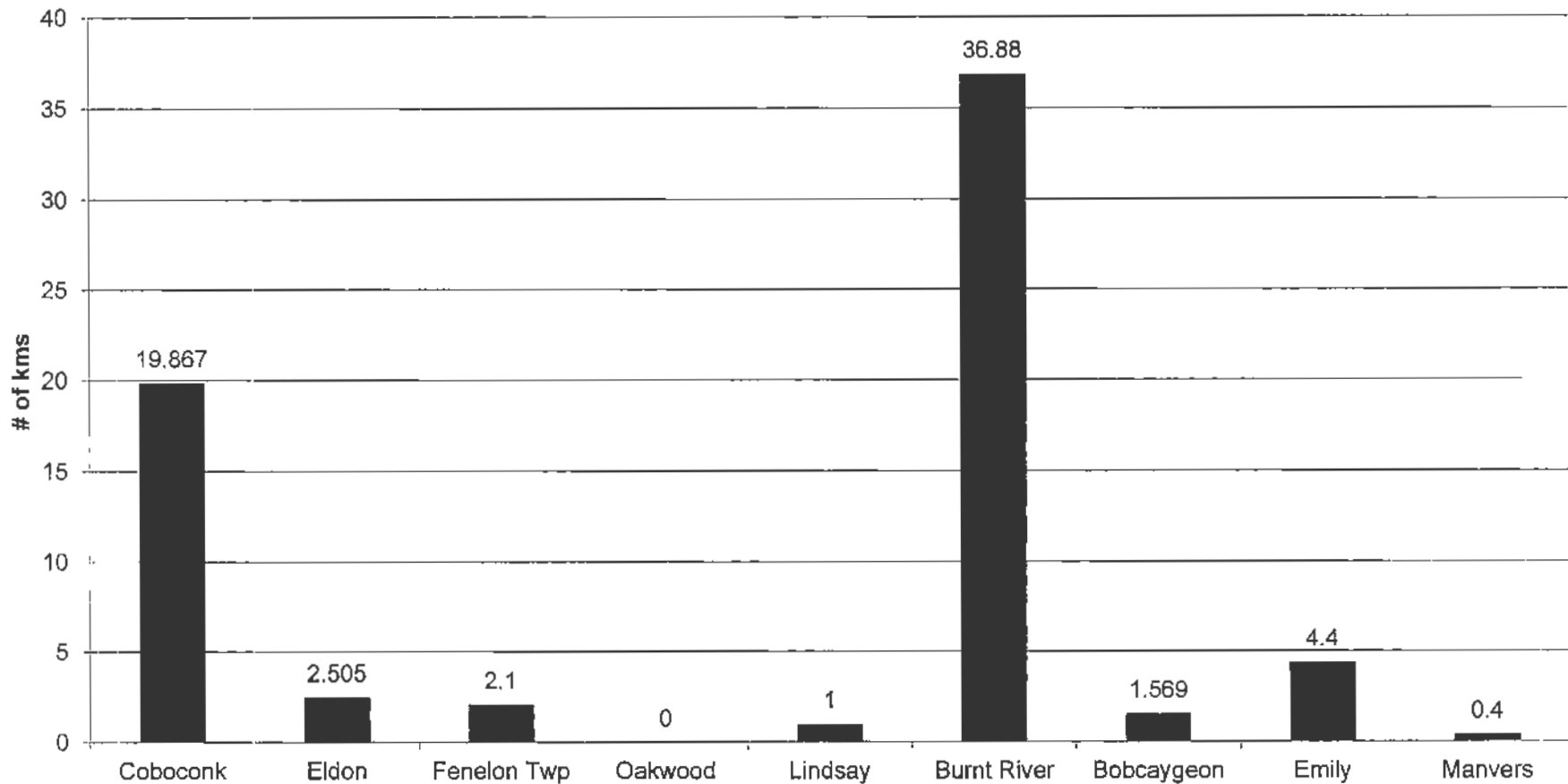
- Currently have 65 agreements to provide service to 68.72km of private & unassumed roads
- There are agreement applications for 22 new roads (17.7km) currently pending
- All current agreements are still receiving service while review is underway
- Applications have been put on hold

Who benefits from Current LSAs?

- There are 1968 households benefiting LSA agreements – or approximately 6% of the houses in Kawartha Lakes
- # of houses per road range from 2 to 145
- 29% of houses are on Private Roads
 - 566 Homes
- 71% of houses are on Unassumed Roads
 - 1402 Homes

Where do we have agreements?

LSAs by KM for each Depot Area



Subdivision Agreements

Winter Maintenance is provided to residents living in unassumed subdivisions in our community.

Currently, the Council endorsed Subdivision Agreement template commits the City “to snowplow and sand all roads in the Plan of Subdivision after issuance of the first final occupancy permit”.

Subdivision Agreements

Assumption of subdivision roads depends on the timing of build out of the lots and typically takes:

- approximately 10 to 15 years in the rural areas
- approximately 5 to 10 years in the urban areas

Therefore, the service is provided prior to the municipality accepting and assuming full responsibility for the roads.

Zoning By-laws & Building Permits

- Zoning by-laws for each former municipality still in effect
- Building Permits are issued based on zoning
- Many unassumed roads are zoned Limited Service Residential (LSR)
- Many zoning by-laws have a provision to allow permit issuance in LSR zones

Roads Maintenance Inventory Review

- Database of 4263 road segments
- Continuing to confirm status – assumed, unassumed, private, forced or assumed by service
- Confirming current maintenance activities – summer, winter or fully maintained
- 1655 segments are assumed by by-law
- 2211 require confirmation of ownership because service was provided prior to 2003
- 113 segments have a Limited Service Agreement in place

Roads Maintenance Review

Concerns / Considerations

- Discovered historical maintenance provided to private roads with no agreement in place. Review ongoing.
- Must consider impact on waste collection services.
- Legal / risk considerations.
- Potential cost, resource and staffing implications.

Roads Maintenance Review

Future Review

- Approximate 0.5 hr to pull registry for each road segment and approximately 2 hrs to review data if straight forward.
- 2.5 hrs multiplies by 2211 road segments is 5527.5 person-hours of work or 2.66 FTE for a year.
- Each registry search costs \$25.
- The review is required to have a defensible and accurate inventory.

Option 1- Status Quo

- **Limited Service Agreement program continues**
 - Includes 2 gradings/year and up to 2 loads of gravel per road plus an additional load of gravel for every kilometer of road (or portion thereof) over one km in length **at no charge**
- **Additional Considerations**
 - Cap agreement to current inventory of LSA's
 - Remove snow clearing services
 - Roads not meeting standards have agreements terminated with no renewal

Option 1 – Status Quo Cost

Year	Current Agreements	# of New Agreements	New Agreements	3%	Total
2015	\$ 34,757.37	0	\$ -		\$ 34,757.37
2016	\$ 35,800.09	0	\$ -		\$ 35,800.09
2017	\$ 35,800.09	22	\$ 11,132.00	\$ 1,407.96	\$ 48,340.05
2018	\$ 48,340.05	10	\$ 5,363.60	\$ 1,611.11	\$ 55,314.76
2019	\$ 55,314.76	10	\$ 5,363.60	\$ 1,820.35	\$ 62,498.71
2020	\$ 62,498.74	10	\$ 5,363.60	\$ 2,035.87	\$ 69,898.21

- Potential for 269 additional unassumed road segments to be maintained - cost could increase by ~\$135,000 or more depending on service provided.
- The potential impact of private is unknown and could exceed unassumed roads.

Option 2

Fee For Service & Administration Fee- Limited Service Agreements

- Fee for grading and gravel to be charged to Road Association
- Annual Administration Fee changed to Road Association
- LSA Stays in Place for Private & Unassumed Roads

Option 2 Costs

- Cost neutral to the municipality
- Approximately \$500/km cost to association for grading and gravel at current level
- Admin fee of \$100
- Annual inflationary cost increase

Option 3

Fee For Service Private Roads- LSA & Seasonal Level of Service for Unassumed Roads

- Private Road Fee for grading, gravel & an Administration fee to be charged to Road Association
 - LSA Stays in Place for Private Roads
- Unassumed Roads- Establish Seasonal Level of Service Policy for maintenance until roads are assumed (where possible)

Option 3: Seasonal Level of Service

Policy to identify:

- Minimum standard of road to qualify for maintenance
- Maintenance limited to grading and gravel (does not include brushing, tree removal, culverts, ditching, signs, etc.)
- Definition of the season (no maintenance provided Nov 1- April 30)
- No winter service/maintenance

Option 3 Costs

Private Roads

- \$500/km charge plus \$100 admin fee

Seasonal Level of Service for Unassumed

Year	Current Agreements	# of New Agreements	New Agreements	3%	Total
2016	\$ 22,993.65	0	\$ -		\$ 22,993.65
2017	\$ 22,993.65	16	\$ 8,581.76	\$ 947.26	\$ 32,522.67
2018	\$ 32,522.67	10	\$ 5,363.60	\$ 1,136.59	\$ 39,022.86
2019	\$ 39,022.86	10	\$ 5,363.60	\$ 1,331.59	\$ 44,386.46
2020	\$ 44,386.46	10	\$ 5,363.60	\$ 1,492.50	\$ 49,750.06

Potential for 269 additional unassumed road segments to be maintained - cost could increase by \$135,000

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Option 4

Cancel LSAs on Private Roads & Seasonal Level of Service for Unassumed Roads

- Limited Service Agreements cancelled on Private Roads with phase out period
- Unassumed Roads- Establish Seasonal Level of Service Policy for maintenance until roads can be assumed (where possible)

Option 4 Costs

- No cost for private roads as LSAs would be cancelled

Seasonal Level of Service for Unassumed

Year	Current Agreements	# of New Agreements	New Agreements	3%	Total
2016	\$ 22,993.65	0	\$ -		\$ 22,993.65
2017	\$ 22,993.65	16	\$ 8,581.76	\$ 947.26	\$ 32,522.67
2018	\$ 32,522.67	10	\$ 5,363.60	\$ 1,136.59	\$ 39,022.86
2019	\$ 39,022.86	10	\$ 5,363.60	\$ 1,331.59	\$ 44,386.46
2020	\$ 44,386.46	10	\$ 5,363.60	\$ 1,492.50	\$ 49,750.06

Potential for 269 additional unassumed road segments to be maintained - cost could increase by ~\$135,000.

Option 5

Bring Road up to Standard for Assumption (Local Improvement Charge)

- Private & Unassumed Roads
- Work with resident groups to bring road up to standard for assumption (Local Improvement Charge)
 - Local Improvement charge would be placed on taxes

Option 5 Costs

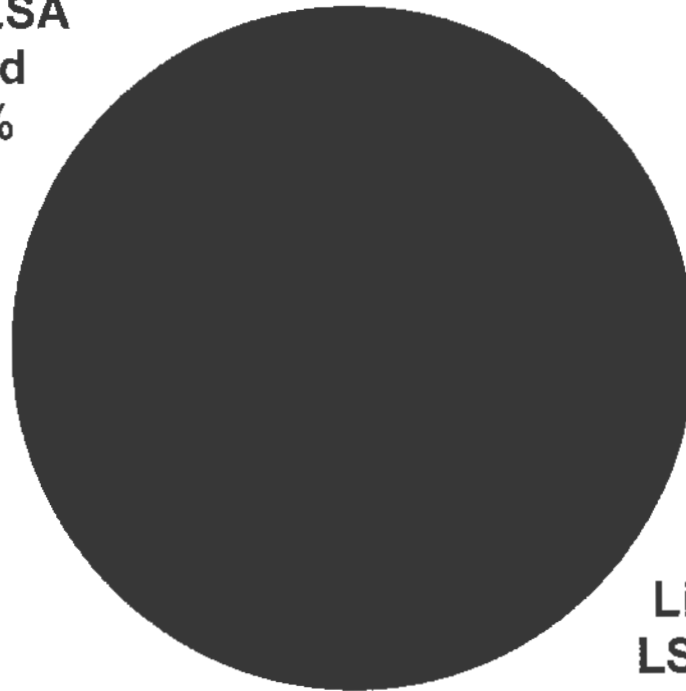
- Upfront capital costs funded by the municipality
- Costs recovered over a period of time on taxes through a Local Improvement Charge
- Operating budget would have to increase for year round maintenance of newly assumed roads

Public Consultation

- Two public meetings were held to outline the options and receive feedback
- Fenelon Falls Community Centre on Wednesday, August 24 (86 people attended)
- Omemee Coronation Hall on Saturday, September 24 (58 people attended)
- Feedback was collected at the meetings, by mail and by email until October 31

Who provided feedback?

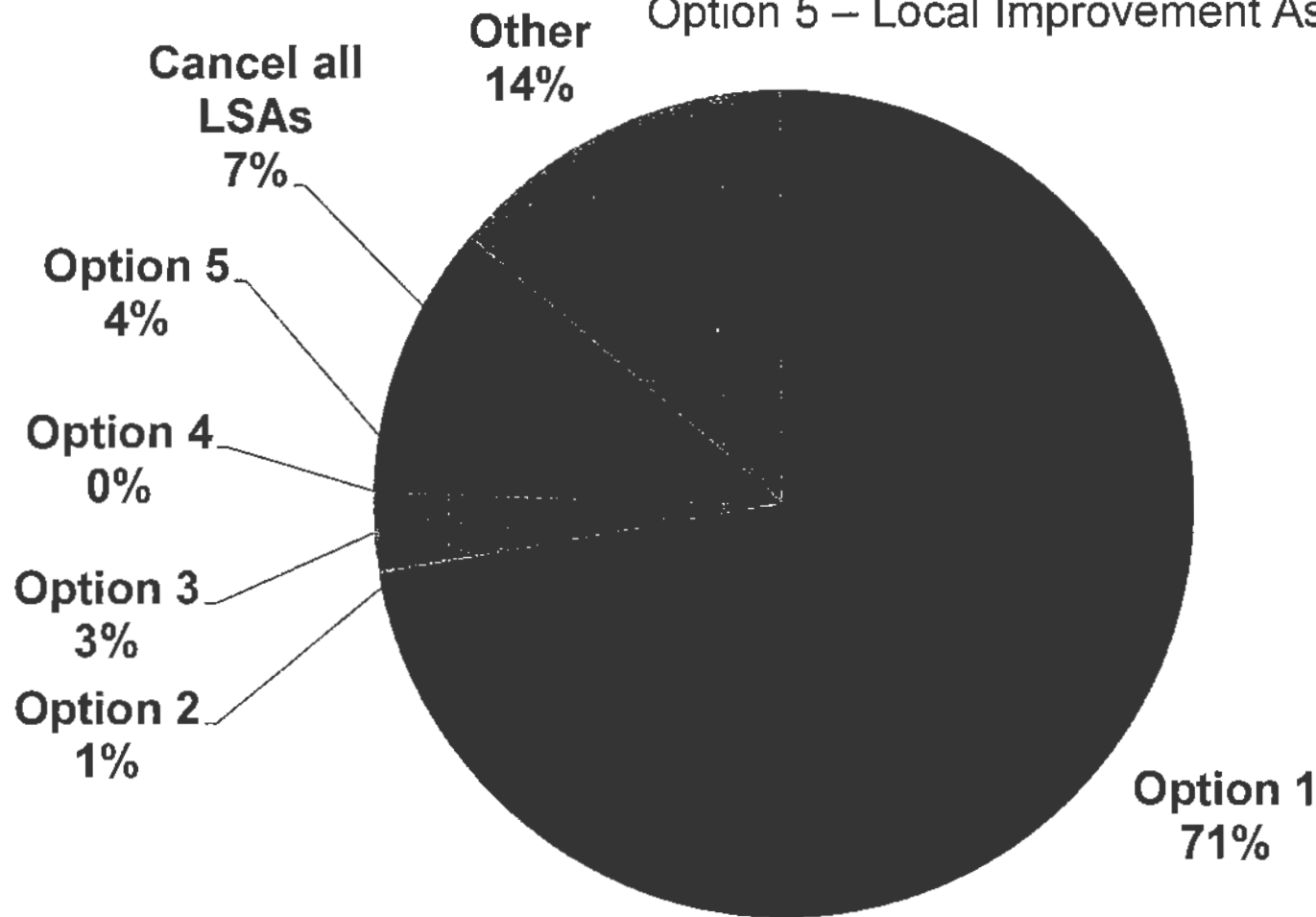
Lives on
Non-LSA
Road
27%



Lives on
LSA Road
73%

Options

- Option 1 – Status Quo
- Option 2 – Fee for Service All
- Option 3 – Fee for Service Private, LOS Unassumed
- Option 4 – Cancel Private, LOS for Unassumed
- Option 5 – Local Improvement Assume Roads



Feedback

- Of the 69 people who live on LSA roads, 60 of them prefer Option 1 – Status Quo
- All 6 who responded “Cancel All LSAs” do not live on an LSA road

Comments Received

- “We are getting short changed since the volume of tax we pay and it all seems to go to Lindsay”
- “Cottagers as a class pay higher taxes than most of the City’s other ratepayers”
- “Capping LSAs at the current inventory would be extremely unfair”
- “If LSAs are cancelled then what will our taxes cover besides garbage pick up?”

Comments Received

- “If the CKL takes away our gravel service, it will leave garbage pickup as the only direct service that we receive”
- “LSA represent mostly waterfront residences (with the only service being garbage pickup) and that these residences pay a great deal more taxes than non-waterfront on assumed gravel roads
- “The cost associated with unassumed and private road maintenance is so trivial I can’t see why the City is even reviewing it”

Comments Received

- “Given the high taxes paid to the city, the CKL should enhance LSAs on unassumed roads, not try to reduce the current level of service”
- “As a tax payer and gravel contractor I feel that people having their private roads graveled and graded is the same as having my private driveway maintained”

Comments Received

- “Why is CKL working on private roads?”
- “I strongly disagree with my taxes being spent on the upkeep of private and unassumed roads”
- “There are many public roads in the City which are in dire need of the money and attention being spent on unassumed roads”

Preferred Recommendations

Unassumed Roads

- Develop a Seasonal Level of Service Policy that includes a list of seasonally maintained roads
- Must meet road standards in LSA checklist
- No winter service
- No capital repairs, brushing, ditching, culverts
- Signage to be placed – Use at Own Risk
- Will need agreements for work being done on the road allowance by road association
- Work with associations who prefer Local Improvement Charge and assumption (Option 5)

Preferred Recommendations

Private Roads

- Discontinue service on all private roads
- Potential phase out period
- Still have alternative for road assumption

Next Steps

- Continue confirmation of road segments
- Refinement of potential cost implications for assumed roads (unable to quantify private)
- Update Assumption Policy
- Report to Council Q1 2017 with recommendations on Limited Service Agreements