

The Corporation of the City of Kawartha Lakes
Council Report

Report Number RD2020-004

Meeting Date: July 28, 2020
Title: Limited Service Agreement Update – Gillis Street
Description: Update on entering into an agreement and level of service
Ward Number: 3
Author and Title: Bryan Robinson, Director of Public Works

Recommendation(s):

That Report 2020-004, Level of Service for Gillis Street be received;

That Staff be directed to continue to work with the road representative(s) to attempt to enter into a limited service agreement; and

That should an agreement not be reached by the end of September 30, 2020 the City cease service on the private road.

**Department
Head:**

Financial/Legal/HR/Other: _____

**Chief Administrative
Officer:**

Background:

Within the townships of the prior County of Victoria, the individuals at those townships managed unassumed and private roads differently. The City of Kawartha Lakes inherited varying levels of service for road infrastructure within its boundary.

The current administration is trying to document and establish consistency related to service levels. Documentation is essential to outline exactly what services are to be provided. This is key for both residents and staff to ensure services are provided in a fair and consistent manner.

At the Council Meeting of July 16, 2019 Council adopted the following resolution:

CC2019-18.14.2.4

Memo - Level of Service for Gillis Street, Killarney Bay Road and Grove Road
Doug Elmslie, Deputy Mayor

CR2019-457

Moved By Deputy Mayor Elmslie

Seconded By Councillor Yeo

That the memorandum dated July 16, 2019 from Deputy Mayor Elmslie regarding Level of Service for Gillis Street, Killarney Bay Road, and Grove Road be received;

That Gillis Street, Killarney Bay Road and Grove Road continue to receive the level of service they have traditionally received until an agreement with the City can be enacted; and

That if an agreement is not reached by Spring 2020, the matter be referred back to Council for further direction or resolution.

Carried.

This report addresses that direction.

While attempting to work with representatives from Gillis Street, unique challenges were presented that prevented Staff from entering into an agreement for the services provided.

Gillis Street is a private road (Appendix 1 and 2 of this report) which has been receiving limited maintenance service for some time without an agreement. A large portion of the road is located on property that was originally part of a neighboring farm. However, the farm was then transferred without transferring

title to the private road. The current owner of this portion of the road is now deceased. The road also crosses several of the local resident's private lands.

Staff have been actively working with representatives from the road for several years to enter into a Limited Service Agreement to document the service provided and enable legal rights for the City and its contractors to access the road. Staff have encouraged road representatives to obtain a vesting order from the Land Registry Office, so that they can obtain title to the balance of the road. They have not done so to date.

Rationale:

The City is not legally obligated to provide service to private roads. In order to provide service, the City established a legal agreement process known as a Limited Service Agreement. The City requires a signed agreement to protect against liability as we work on private property.

During initial discussions, the owners group believed the road to be owned by the City. The City undertook the legal registry searches necessary to confirm the ownership is private. The residents now understand that road is private but believe the City, based on providing historical limited service has assumed the road.

The City has received a legal opinion from our Solicitor that the road remains private and has not been assumed.

Based on the above information and based on the direction of Council to have services remain status quo until the formal review of all roads is complete and ready for Council review, Staff and the road representatives have attempted to enter into an agreement, but are at a standstill.

The road representatives remain of the opinion that they do not want to enter into an agreement. The City is currently providing limited maintenance to the private road without legal authorization to access the lands.

Other Alternatives Considered:

Council has several options available. Staff do caution that any decision other than that recommended above could be considered precedent setting.

Alternative 1:

Noting that the road is private and the road representatives have not taken any action to enable execution of an agreement, Council could choose to cease service immediately. Staff do not recommend this alternative, to allow the road association time to secure maintenance through the commercial market.

Alternative 2:

Council could opt to direct staff to continue to provide limited maintenance to the private road without an agreement. This alternative is strongly discouraged as it places the City in a position of liability with respect to work on the road and is also precedent setting for other roads.

Alternative 3:

The residents could opt to pursue following City Policy CP2017-010 – Assumption of Private and Unassumed Roads. This would offer residents full municipal service but would require the residents to bring the road to the condition identified in the policy at their expense. This alternative has been reviewed with the residents who have expressed this is not feasible for them.

Financial/Operation Impacts:

The City is currently providing limited winter service to Gillis Street. The road is part of the secondary road winter maintenance route which was recently brought in house. The resources allocated to this road could be redeployed to other municipal services if Council chose to do so. This would improve cycle times (response timing) for the remainder of the roads on that route.

Relationship of Recommendation(s) To The 2020-2023 Strategic Plan:

This report aligns with the Strategic Plan's key initiative:

- Goal 4 – Good Government

Providing effective, efficient and timely service to our residents is essential. Council should note that this report aligns with Good Government which focuses on appropriate allocation of municipal resources and appropriate management of our assets. Although this road is not a municipal asset, any allocation of resource to this asset means that we are utilizing resources that could be redeployed to other assets.

Consultations:

City Solicitor

Attachments:

Appendix 1: Gillis Street Map



Appendix 1
RD2020-004 Gillis Stre

Appendix 2: Gillis Street Aerial



Appendix 2
RD2020-004 Gillis Stre

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Department Head: Bryan Robinson

Department File: Limited Service Agreement, Gillis Street