

Committee of the Whole Report

Report Number: RS2021-034

Meeting Date: September 7, 2021

Title: Road Allowance Leading To Water – Marsh Creek Road, Mariposa

Description: Request Direction for Sale of Road Allowance Leading to Water – Road Allowance Between Concession B and C, Mariposa, lying east of Marsh Creek and west of Part 13 on 57R-1557, closed by A19852 (PIN 63197-0253) and Road Allowance Between Concession B and C, Part of Lot 23, Part 13 on 57R-1557, closed by A19852 (Part of PIN 63197-0228)

Author and Title: Christine Oliver, Law Clerk – Realty Services

Recommendation(s):

That Report RS2021-034, **Road Allowance Leading To Water – Marsh Creek**, be received;

That Council provide an exemption to the previous council resolution for Road Allowance Leading to Water be held in public ownership;

That Staff be directed to commence the disposition process as set out in the disposition policy;

That the property be sold for no less than the greater of the appraised value and the linear minimum value of \$15 per linear foot, as set out in the Sale of Land By-law 2018-020;

That a deeming by-law be presented to Council if necessary, to ensure that the purchased property merges with the benefitting parcel; and

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

That this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

Background:

At the Council Meeting of February 17, 2004 Council adopted the following resolution:

CHR2004-35

Moved by Councillor R. McGee, seconded by Councillor Jack,

RESOLVED THAT Report LMC2004-02, “Shoreline Road Allowances and Road Allowances Leading to Water” and a subsequent Memorandum from Richard Danziger be received;

THAT road allowances leading to water be held in public ownership;

THAT shoreline road allowances will be considered for sale as per the current policy, on an individual basis upon receipt of a written request; and

THAT staff report back to Committee on the true market value of the lands being disposed of.

Moved by Councillor Polito, seconded by Councillor Marsh,

RESOLVED THAT this matter be referred back to Committee for deliberation.

Motion to refer put and DEFEATED

The original motion was put and CARRIED CR2004-148

Council Policy CP2018-020, “Consolidated Regulation of Disposition of Municipal Real Property”, states:

- 8.01 **Request to Purchase:** Council has declared, by Resolution CR2001-1025, that unopened road allowances leading to water shall be retained by the municipality. Upon receipt of a request to purchase an unopened road allowance leading to water the applicant shall be advised that Council is not prepared to consider declaring any unopened road allowances that lead to water as surplus to municipal needs. Exceptions may be considered where alternate access to water in the immediate vicinity can be provided.

This report requests an exemption to the direction per CR2001-1025 and CR2004-148, in line with the considerations required by Council Policy CP2018-020.

Land Management Team (formerly Land Management Committee) received an application from the owner of 79 Marsh Creek Road, Mariposa, who owns property adjacent to road allowance leading to water. The road allowance leading to water is legally described as road allowance between Concession B and C, Mariposa, Lot 22, Lying east of Marsh Creek and west of Part 13 on 57R-1557, closed by A19852 (PIN 63197-0253(LT) and road allowance between Concession B and C, Lot 23, Part 13 on 57R-1557, Closed by A19852 (Part of PIN 63197-0228 (LT)) (the "Road Allowance").

The applicant requested that the property be given to her, and the City bear the costs of the transaction. The applicant stated in the application that the City previously agreed to transfer the Road Allowance to her father (the previous property owner), albeit at fair market value with costs payable by the purchaser. This sale did not conclude because the previous property owner refused to pay for the land, and the costs associated with the transfer. The previous owner's position was based on the fact that he had previously donated land to facilitate the City's acquisition of title to a road forced over his property – Marsh Creek Road, for the benefit of his property and that of his neighbours. The previous owner felt that his land donation entitled him to acquire this property for free. The City's historical records reflect the applicant's version of events.

The owner to the north of the City-Owned road allowance leading to water will continue to have access to their property from a different location on Marsh Creek Road as identified on Schedule "E" .

This matter was reviewed by the Land Management Team (formerly the Land Management Committee), which supported the transfer on the same terms as required for the previous owner.

This report provides a recommendation to Council that the land be sold for no less than the lesser of appraised value or the linear minimum rate established in By-law 2018-020; \$15 per linear foot.

A location map is attached as Appendix A, a map identifying the Road Allowance is attached as Appendix B, an aerial map identifying the Road Allowance is attached as Appendix C and the plan identifies as 57R-1557 is attached as Appendix D.

Rationale:

A section of the Road Allowance between the travelled road and the subject property has been stopped up and closed. Currently, the public does not have access to the portion of the Road Allowance being requested for disposition. If council was to support the request, Staff would recommend disposing of both pieces of vacant land being the road allowance leading to water from the west of the travelled portion of Marsh Creek Road, Mariposa. Staff recommend the disposition be for fair market value, or the set rate, which ever is greater and all costs payable by the purchaser in accordance with the disposition policy.

Other Alternatives Considered:

Council may decide not to dispose of the road allowance leading to water. Staff do not recommend this decision because the public can not access without trespassing at this time.

Alignment to Strategic Priorities

The recommendation set out in this report align with the strategic priority within the 2020-2023 Kawartha Lakes Strategic Plan is Good Government more specifically effective management of the municipal land portfolio.

Financial/Operation Impacts:

The parties would be asked to enter into a conditional agreement of purchase and sale with a non-refundable \$1,000 deposit to cover initial road closing costs. All costs of the transaction, plus \$1,500 fee to cover the City's staff time expenses will be paid for by the purchaser.

Consultations:

Land Management Team (formerly the Land Management Committee)

Land Registry Office

Mapping GIS

Records Search

Attachments:

Appendix A – Location Map



Appendix A
Location Map.pdf

Appendix B – Map



Appendix B
Map.pdf

Appendix C – Aerial Map



Appendix C
Aerial.pdf

Appendix D – 57R1557



Appendix D
57R-1557.pdf

Appendix E – Map of Marsh Creek



Appendix E - Aerial
Map of Marsh Creek

Department Head email: rcarlson@kawarthalakes.ca

Department Head: R. Carlson

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