



## Committee of the Whole Report

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**Report Number:** RS2021-036

**Meeting Date:** November 2, 2021

**Title:** **Proposed Surplus Declaration, Closure, and Sale of Road Allowances adjacent to 122 Miller Road and 471 Rohallion Road, Brechin**

**Description:** Proposed Sale of a Portion of Road Allowance to the Owner of 122 Miller Road, Brechin, and Proposed Donation of a Portion of Road Allowance to the Owner of 471 Rohallion Road, Brechin

**Author and Title:** Laura Carnochan, Law Clerk – Realty Services

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### Recommendations:

**That** Report RS2021-036, **Proposed Surplus Declaration, Closure, and Sale of Road Allowances adjacent to 122 Miller Road, Brechin**, be received;

**That** the subject property, being a portion of road allowance adjacent to 122 Miller Road, Brechin, and legally described as Part of the Road Allowance between Lot 5 and Lot 6, Concession 2, in the Geographic Township of Carden, City of Kawartha Lakes (Part of PIN: 63109-0101 (LT)) and Part of the Road Allowance between Concession 2 and Concession 3 abutting Lots 1 to 9, in the Geographic Township of Carden, City of Kawartha Lakes (Part of PIN: 63109-0098 (LT)) be declared surplus to municipal needs;

**That** the sale of a portion of the road allowance to the adjoining landowner (122 Miller Road, Brechin) be supported, in principle, in accordance with the provisions of By-Law 2018-020, as amended, and the Municipal Act, 2001, and subject to the parties entering into a conditional Agreement of Purchase and Sale;

**That** Council require a geotechnical report, at the cost of the purchaser, to determine the amount of aggregate located within the portion of road allowance to be sold to the owner of 122 Miller Road and the value of the land be set at the higher of \$2.00 per

**Department Head:** \_\_\_\_\_

**Financial/Legal/HR/Other:** \_\_\_\_\_

**Chief Administrative Officer:** \_\_\_\_\_

tonne of aggregate or the minimum set price of \$15.00 per linear foot of road allowance;

**That** the donation of a portion of the road allowance to the adjoining landowner (471 Rohallion Road, Brechin) be supported, in principle, in accordance with the provisions of By-Law 2018-020, as amended, and the Municipal Act, 2001, and subject to the parties entering into a conditional Agreement of Purchase and Sale;

**That**, notwithstanding Section 4.04 of By-Law 2018-020, the portion of road allowance adjacent to 471 Rohallion Road be conveyed for nominal consideration, as the property owner is a nature conservancy and therefore does not acquire a financial advantage as a result of the conveyance;

**That** staff be directed to commence the process to stop up and close the said portion of road allowance;

**That** a by-law (with any amendments deemed necessary) to close the road and authorize its disposition shall be passed if appropriate;

**That** the Mayor and Clerk be authorized to sign all documents to facilitate the road closing and conveyance of the lands; and

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

## **Background:**

The Land Management Team received a request from the owner of the property located at 122 Miller Road, Brechin (R.W. Tomlinson) to purchase the road allowance that is adjacent to their property.

The Land Management Team first reviewed this request at its meeting on September 14, 2020. At the time, the Team was not supportive of a sale of the road allowance due to the road allowance being unbroken.

The request was re-reviewed at the Land Management Team meeting of November 10, 2020 and, while its position regarding a sale of the lands remained unchanged, they were agreeable to offering a License Agreement for R.W. Tomlinson to extract aggregate from the road allowance.

At the request of Planning, the matter was again re-reviewed at the Land Management Team meeting of January 11, 2021. Planning advised that R.W. Tomlinson would prefer to purchase the road allowance as opposed to enter into a License Agreement, and further advised that the Ministry of Northern Development, Mines, Natural Resources and Forestry prefers not to have a road allowance intersecting two licensed quarry areas. Accordingly, the Land Management Team agreed to support a sale of the road allowance. The preference of the Team was to dispose of the entirety of the road allowance running between Lots 5 and 6, Concession 2, in the Geographic Township of Carden. This is not a requirement, as the City would not be left with a landlocked portion of road allowance that it could not access, however, as the remaining allowance continues to run East with several access points from the North and South. As per the City's standard practice, this would involve reaching out to any other adjacent landowners to determine if they were interested in purchasing a portion of the road allowance.

In this case The Couchiching Conservancy was the only other landowner adjacent to the road allowance requested for purchase by R.W. Tomlinson. The Land Management Team noted that they were agreeable to recommending a donation of the portion of road allowance adjacent to its property, if The Couchiching Conservancy was interested in acquiring same. Realty Services contacted The Couchiching Conservancy and they confirmed that they were interested in acquiring a portion of the road allowance. They further inquired as to whether the City would be interested in donating a further portion of road allowance legally described as Part of the Road Allowance between Concession 2 and Concession 3 abutting Lots 1 to 9, in the Geographic Township of Carden, City of Kawartha Lakes (Part of PIN: 63109-0098 (LT)).

The Land Management Team reviewed this additional request at its meeting of July 12, 2021 and had no concerns with the request.

Public Notice advertising the potential surplus declaration and sale of the subject shoreline road allowance was completed by newspaper circulation in the Kawartha Lakes This week on the 9<sup>th</sup>, 16<sup>th</sup>, and 23<sup>rd</sup> days of September, 2021. During this three-week advertising period, notice was also posted on the City's website. Realty Services did not receive any public comments or concerns with regards to the proposed closure and sale of the subject road allowance.

The purpose of this report is to advise Council that the Land Management Team recommends that the subject property be declared surplus to municipal needs and that approval be given, in principle, for the closure and conveyance of the requested portions of the road allowance to the adjoining landowners.

Appendix A is a general location map, Appendix B is an aerial map, Appendix C is a map, and Appendix D is a map which shows the resultant road allowance network following the disposition of the subject portions of road allowance. The portion of road allowance to be sold to R.W. Tomlinson is shown in red and the portion to be conveyed to Couchiching Conservancy is shown in purple on Appendices B-D.

### **Rationale:**

The Land Management Team has determined that this portion of road allowance is not required for municipal purposes, as there are a number of swampy areas which would make development of a road unlikely.

The subject road allowance does not lead to water, it borders private property, and therefore, the stop up, closure, and sale would not contravene Section 8.01 of By-Law 2018-020, as amended, which reads:

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.

Both interested parties own property which borders the subject portion of road allowance. As a result, pursuant to the City's By-Law to Regulate the Disposition of

Municipal Real Property (By-Law 2018-020, as amended) that portion of the road allowance can be conveyed to the adjoining landowners.

As per Section 4.03 of By-Law 2018-020, as amended, Council may set a price for the land to be disposed of. By-Law 2018-020, as amended, further states that Council may set a price without requiring an appraisal, as long as the minimum price set out in Schedule C of By-Law 2018-020, in this case being \$15.00 per linear foot of interior road allowance, is recovered. As R.W. Tomlinson is intending to merge the portion of road allowance with their adjacent property and extract any aggregate located within the road allowance, the Land Management Team recommends determining how much aggregate is located within the road allowance and valuing the land accordingly, in order to take into the profit that the purchaser will receive from extracting and selling the aggregate.

While Section 4.04 sets out that minimum prices must be achieved in order to forgo obtaining an appraisal, as Couchiching Conservancy is a nature conservancy group which does not stand to obtain a financial advantage from acquiring the portion of road allowance adjacent to its property, the Land Management Team felt that a donation (or conveyance for nominal consideration) would be most appropriate.

### **Other Alternatives Considered:**

Council may decide not to sell the road allowance and derive no financial benefit whatsoever. That would be inconsistent with past practice and is not recommended in this circumstance.

Council could decide not to require geotechnical report for the portion to be sold to 122 Miller Road, Brechin and dispose of the subject portion of road allowance for the minimum price of \$15.00 per linear foot of road allowance. Should Council decide to proceed to dispose of the property using the price of \$15.00 per linear foot, consideration for the subject portion of road allowance is calculated as approximately \$49,500.00. This is not recommended in this circumstance, given that the purchaser stands to gain financial benefit by adding the subject portion of road allowance to their adjacent property and extracting any available aggregate. Requiring a geotechnical report to determine the approximate amount of aggregate within the road allowance and valuing the land accordingly creates a transaction that, while still advantageous to the purchaser, is more beneficial to the general taxpayer.

### **Alignment to Strategic Priorities:**

The recommendations set out in this Report align with the following strategic priority:

- Good Government
  - Effective management of the municipal building and land portfolio

## **Financial/Operation Impacts:**

Both parties will be asked to enter into a conditional Agreement of Purchase and Sale with a non-refundable \$1,000.00 deposit to cover initial road closing costs. All costs of the transaction, plus a \$1,500.00 fee to cover the City's staff time expenses will be paid for by the purchaser (R.W. Tomlinson) and Couchiching Conservancy. Some costs, such as the advertising and Reference Plan, will be split between the two parties. The City's legal fees and the legal fees of each party will be borne by each party as a closing cost.

If Council sets the price of land at the higher of the appraised value or the minimum set price of \$15.00 per linear foot of road allowance adjacent to a lake, the City will receive a minimum net revenue of approximately \$49,500.00, which will be placed in the Property Development Reserve.

## **Consultations:**

Land Management Team

## **Attachments:**

### Appendix A – General Location Map



Appendix A -  
General Location Map

### Appendix B – Aerial Map



Appendix B - Aerial  
Map.pdf

### Appendix C – Map



Appendix C -  
Map.pdf

Appendix D – Map (Resultant Road Allowance Network)



Appendix D - Map  
(Resultant Road Allc

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