



Committee of the Whole Report

Report Number:	CA2022-006
Meeting Date:	June 7, 2022
Title:	Cost-Shared Upgrade of Kagawong Road
Description:	This report presents Council with recommendations regarding a community-led initiative to have Kagawong Road upgraded from a gravel to highfloat surface pursuant to the intent of Council Resolution CR2016-897.
Author and Title:	Adam Found, Manager of Corporate Assets

Recommendation(s):

That Report CA2022-006, **Cost-Shared Upgrade of Kagawong Road**, be received;

That Council Resolution CR2016-897 be rescinded;

That a project to upgrade Kagawong Road from a gravel to highfloat surface be added to the 2022 Tax-Supported Capital Budget with a budget of \$440,000 financed 50% by the Capital Contingency Reserve and 50% by funds to be received from a community trust fund established by project proponents whereby the project proceeds conditional upon the City Treasurer confirming receipt of the requisite funds from the community trust fund;

That staff be authorized to procure the project through revisions to purchase orders issued under existing contracts, namely those associated with tenders numbered 2021-33-CQ, 2022-18-CQ and 2021-32-CQ;

That the project be closed if the City Treasurer does not receive from the community trust fund the requisite funds in the form of a bank draft by December 9, 2022;

That, upon completion and closure of the project, any surplus in the project be returned on a proportionate basis to the community trust fund without interest; 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 its meeting of October 18, 2016, Council adopted the following resolution:

CR2016-897

That the request from residents of Elysian Fields and Camp Street to cost share the high float of Kagawong Road on a 50% residents and 50% City basis to an upset limit of \$160,000 for each contributor, with the resident's share being collected as a Local Improvement Charge, be approved as a pilot project; and

That this approval is subject to the receipt of a valid Local Improvement Petition from the residents.

The rationale for the cost-sharing directed by this resolution is that Kagawong Road carries insufficient traffic volume to warrant upgrade to a highfloat surface. Average annual daily traffic (AADT) for Kagawong Road is estimated by Technical Services Division to be only 105 vehicles, whereas the threshold AADT for the Low-Volume Gravel Roads Conversion capital program is 200 vehicles. Even if that disparity is set aside, the above resolution is in fact inoperable given the inflation of costs since 2016, the absence of a specified funding source for the City's contribution, and a demonstrated inability of proponents to meet the requirements of O.Reg. 586/06 (Local Improvement Charges) for the upgrade of Kagawong Road. As a result, this report presents Council with recommendations on how to better implement the intent of CR2016-897 assuming Council still wishes to pursue the object of that resolution.

Rationale:

In 2017-2018, proponents set out to obtain the petition required to initiate a local improvement charge for the upgrade of Kagawong Road in accordance with CR2016-897. With diversity in interest across benefitting properties and turnover in proponent leadership, these efforts ultimately proved unsuccessful. The only petition for the local improvement charge received by the Clerk's Office failed to secure concurrence of 2/3 of the benefitting properties, one of two sufficiency conditions prescribed by O.Reg. 586/06. Generally speaking, property owners on Elysian Fields and Camp Street were supportive while those on Kagawong Road were unsupportive or their position was not ascertained by lead proponents. As a result, prospects for a sufficient petition turned low and proponents' thrust seemingly waned.

Interest was renewed in late 2019 after local property owner Mike Janke assumed leadership of the group of proponents. Mr. Janke reached out to the Manager of Corporate Assets for guidance on alternatives to attaining the object of CR2016-897.

The Manager of Corporate Assets responded by recommending that a community trust fund be established by and on behalf of proponents as a substitute for a local improvement charge. Based on consultations with the City Solicitor and City Treasurer in late 2019, staff envision the following regarding such a trust:

- (i) The trust's costs, management and issuance of receipts for income tax and other purposes would be entirely the business and responsibility of its trustees and beneficiaries. The City would have no role in the formation, operation or dissolution of the trust and would therefore face no risks associated with the trust.
- (ii) Contributions by proponents to the community trust fund would be made voluntarily under the terms of the trust. The City would have no role in assessing the fairness of the distribution of contributions made to it by proponents or benefitting properties.
- (iii) The trust would be the City's single point of contact for the purpose of transacting with proponents. Once the requisite funds are raised, there would ideally be only one transaction by way of a bank draft to transfer funds to the City so as to provide for financial assurance and administrative ease. Likewise, there would then ideally be only one transaction to return a prorated share of any surplus in the project to the trust.
- (iv) The City would proceed with the upgrade of Kagawong Road only once the requisite funds are transferred to the City from the trust, whereby the project would automatically close in the event that the transfer does not occur in a timely fashion. Any surplus remaining in the project after its completion would be returned on a prorated basis to the trust to be disposed of according to the terms of the trust.

Not only does the community trust fund approach avoid the complications and administrative burden of a local improvement charge, it shelters the City from any risks associated with proponents' fundraising activities and is supported by Mr. Janke as the lead representative of the proponents. In the view of staff, this is the most efficient and effective approach to attaining the object of CR2016-897, provided that Council remains so committed. A sunset provision has been included in this report's recommendations to ensure that the financial commitment associated with the prospective partnership between the City and project proponents is not held over the City indefinitely, as was the case with CR2016-897. Mr. Janke has verbally provided assurances that at least \$170,000 has already been committed by proponents to the community trust fund, leaving a balance of about \$50,000 to be raised yet.

Other Alternatives Considered:

Given the complications and administrative burden of a local improvement charge, the inflation of costs since 2016 and the absence in CR2016-897 of a sunset provision and

identified City funding source, CR2016-897 is not only cumbersome but is in fact inoperable. Therefore, in the event that Council no longer wishes to pursue the object of CR2016-897, staff recommends that Council merely receive this report and rescind CR2016-897. In that case, the balance of the recommendations of this report would not be adopted. Council could then provide further direction to staff regarding Kagawong Road if Council so desires.

Alignment to Strategic Priorities

The recommendations of this report support responsible financial and asset management, and hence align with the strategic priority of “Good Government” identified in the City’s 2020-2023 Strategic Plan.

Financial/Operation Impacts:

Even if Council approves the recommendations of this report, the upgrade of Kagawong Road is unlikely to proceed in 2022 given staff and contractor resource constraints and that the 2022 construction season is already well underway. In all likelihood, the project would proceed in 2023 if approved. Hence, the recommendations of this report increase the financial commitment made by the City in 2016 through CR2016-897 to account for seven (instead of six) years of cost inflation. The 2016 commitment was \$160,000 in 2016 dollars with an unspecified funding source whereas the revised commitment would be \$220,000 in 2023 dollars drawn from the Capital Contingency Reserve. Staff expects the project to end with a surplus regardless of whether it proceeds in 2022 or 2023.

Consultations:

Manager of Technical Services

City Solicitor

City Treasurer

Deputy City Clerk

Department Head email: jrojas@kawarthalakes.ca

Department Head: Juan Rojas, Director of Engineering and Corporate Assets