



Council Report

Report Number: LGL2022-012
Meeting Date: July 19, 2022
Title: Road Construction – Existing Lots of Record
Description: Management Directive, Standard Operating Policy and related amendments to Fees By-law
Author and Title: Robyn Carlson, City Solicitor

Recommendations:

That Report LGL2022-012, Road Construction – Existing Lots of Record, be received; and

That a by-law be advanced to Council to amend the Consolidated Fees By-law 2018-234 to provide cost recovery for staff time required to facilitate the development of roads on City-owned road allowances to service existing lots of record, as at Attachment C.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

The municipality currently allows the construction of new roads that will be transferred to the City once constructed to the engineering standards set out by the Engineering Department and located on that Department's webpage. This usually occurs as part of an application under the Planning Act: either it is the construction of a new road associated with a subdivision or a plan of condominium.

These applications all come into the Planning Department and the Planning Department takes the lead in circulating the proposal for comments (to the Ministry, First Nations, Conservation Authority, internal Departments at the City, such as the Engineering Department, and to the public).

The municipality in many cases requires existing lots of record to front on an open and municipally-maintained road pursuant to its zoning by-laws, in order to allow for a building permit to be issued for that lot. Where a lot of record exists, and zoning requires frontage on an improved (for vehicular travel) road, assumed for maintenance by the City, in order to obtain a building permit, the municipality is often asked by the lot owner how it can proceed to obtain a building permit.

The purpose of this Staff Report is to inform the public and Council as to how Staff will process these inquiries, and the rationale for same.

Rationale:

Currently, the City does not have a standard that it uses to justify the construction of new municipal roads. For example, a minimum of X persons / Y km road is affordable. Accordingly, the municipality currently allows development of new roads that will be transferred to the City as long as a developer can upfront the cost of construction, and as long as the developer satisfies the City that all archaeological, servicing, and environmental considerations can be addressed satisfactorily.

When road construction occurs through the Planning Act process, the proponent is exempt from the public notification and environmental and archaeological considerations of the Environmental Assessment Act process. This exemption is provided because the Planning Act process mirrors the same consideration and consultation process as set out in the Environmental Assessment Act process.

However, in the case at issue, there is no Planning Act process. Accordingly, construction of new roads must proceed through the Environmental Assessment Act process before the City can determine that the construction of the road as proposed is

in the best interests of the City, taking into consideration archaeological, financial, social and environmental considerations.

The costs and process to construct a new road are set out in detail in Attachments A and B. Accordingly, a proposed amendment to the Consolidated Fees By-law, By-law 2018-234, is proposed at Attachment C.

The costs and processes are the same as in instances that fall under the Planning Act purview, the only difference is that the City conducts an Environmental Assessment at the cost of the proponent prior to determination that the road will be built, in order to comply with the legislation and mirror the Planning Act consultation and consideration process.

Regardless of whether or not a road will be assumed by the municipality for maintenance purposes, once a road is constructed on a road allowance, the municipality is responsible to the motoring public to ensure that the road is not constructed negligently. For this reason, the Management Directive requires that the Engineering and Corporate Assets Department be satisfied with the construction of the road.

New roads will not be constructed within the Oak Ridges Moraine.

New roads will not be approved for construction within the urban settlement areas at this time: Currently, infill development in the urban settlement areas of Lindsay, Bobcaygeon, Omemee and Fenelon Falls is hampered by water and sewer servicing restrictions. The City is currently undergoing a Municipal Comprehensive Review, which should open these areas for development once servicing needs for growth to 2051 are identified in the Municipal Comprehensive Review, the Development Charges By-law is updated to collect the necessary fees to fund these costs, and the identified upgrades to water and sewer infrastructure have been constructed.

New roads in rural areas may be constructed, provided the proponent is willing to pay all the costs associated with completing the public review process under the Environmental Assessment Act and provided that the review process concludes that the new road and resulting additional development is feasible from an environmental, private servicing, and cost perspective.

Council approval for the commencement of the Environmental Assessment process is required.

The new road may be constructed by the City and at the proponent's costs. The timing of construction will be determined by the Engineering and Corporate Assets

Department, so as not to interfere with competing capital projects of priority. The road, once constructed, may be assumed by the municipality by by-law. If assumed by the municipality by by-law, the municipality is solely responsible for summer and winter maintenance post-assumption, as well as emergency and future capital works.

Alternatively, if the road is not required to be assumed by by-law post-construction, then the proponent will need to maintain it at its own expense in order to ensure continued access. The terms will be set out in a license agreement. Moreover, the proponent must obtain the consent of the City to conduct future capital works on the road, including emergency repairs. These future works are all at the cost of the proponent; not the City.

Other Alternatives Considered:

The City could identify all logical extensions of its road network through the background study to the DC By-law. Costs would then be borne by the development community as a whole.

Alignment to Strategic Priorities

This report aligns with the City's strategic priority of Good Government, through facilitating the growth of a Vibrant and Growing Economy in the City while doing so in a way that does not compromise a Healthy Environment or Good Government. The recommendations in this report are guided by the Guiding Principles of fiscal responsibility and service excellence and the corporate Value of teamwork, in that these development projects are interdepartmental.

Financial/Operation Impacts:

While development brings more tax dollars into the City, it also brings additional operational costs, where the zoning requires that the property be on a road assumed for maintenance purposes.

While the initial capital costs will be placed on the developer, the construction of the road as a capital project will still create an administrative operational pressure on the Engineering and Corporate Assets Department. The road construction will need to be prioritized in accordance with existing, scheduled competing capital priorities.

Operational pressures will be placed on Staff should the zoning for the property require road assumption. Specifically, Public Works will need to patrol the road for hazards, will need to repair the road as needed (i.e. potholes, brushing, grading/ patching), and will need to provide winter maintenance (snow plowing and sanding). Public Works will need to provide garbage pick up and Emergency Services (fire, paramedics) will need to

be able to access the property. If assumed for maintenance purposes, the road will need to be placed into the City's Roads Need Plan and managed as a City asset. Eventually, when the road deteriorates such that additional capital works are required, the City will be required to outlay these additional costs (capital replacement is a corporate reality).

Attachments:

Attachment A – Management Directive – Road Construction on Road Allowances to Service Existing Lots of Record



MD - Existing Lots
of Record.docx

Attachment B – Standard Operating Procedure – Road Construction on Road Allowances to Service Existing Lots of Record



Attachment B - SOP
Road Construction -

Attachment C – By-law to Amend the Consolidated Fees By-law to include Cost Recovery for Road Construction on City-owned Road Allowances not in conjunction with a Planning Act application



Attachment C -
Road Construction -

Consultations:

Director of Development Services
Director of Engineering and Corporate Assets
Manager of Planning
Manager, Development Engineering
Manager, Technical Services
Manager, Infrastructure Design

Department Head email: rcarlson@kawarthalakes.ca

Department Head: Robyn Carlson