



Subject: Holloway Bay Road Ownership Status

To: Council

From: Office of the Chief Administrative Officer

Report Number: 2022-95

Meeting Date: May 24, 2022

Recommendation:

That Chief Administrative Officer Report 2022-95 be received for information.

Purpose:

This report is presented to Council as a result of the Closed Session Meeting of April 26, 2022, where Council received a legal opinion from the City Solicitor on the ownership status of Holloway Bay Road.

Background:

Holloway Bay Road has been known as the municipal boundary between the City of Port Colborne and the Town of Fort Erie. The road was considered to be a shared boundary road with the cost of maintenance divided equally between the City and the Town.

Recently, Fort Erie has asserted that the Holloway Bay Road road allowance from Michener Road to the southern end of the road lies entirely within the Town of Fort Erie.

For the balance of this report, references to "Holloway Bay Road" or "the road allowance" specifically refer to the portion between Michener Road and the southern end of the road unless otherwise stated.

Discussion:

Upon learning of the Town of Fort Erie's position that Holloway Bay Road was contained entirely within the boundaries of Fort Erie and was not, in fact, a shared road,

the City engaged Sullivan Mahoney to conduct an evaluation of Fort Erie's opinion and the materials provided by the Town.

Through conducting this evaluation and speaking to the Town of Fort Erie's Solicitor, legal counsel was able to provide a legal opinion to Council in closed session. The City's Solicitor advised Council that Fort Erie was correct in their interpretation of the ownership of the road allowance.

This interpretation comes with several implications for the City and its residents. If the Town of Fort Erie is the sole owner of the road allowance, the City will not be responsible for the ongoing maintenance of Holloway Bay Road. Likewise, the Town will be responsible for parking restrictions and the enforcement of those restrictions – these will no longer be the responsibility of the City on the west side of the road, which has been the case until now. Lastly, for the residents of Holloway Bay Road and Firelanes 27, 28, and 29, access to their homes will require them to traverse a road that is entirely within Fort Erie rather than shared between Port Colborne and Fort Erie. Despite this change, the road will remain a public right of way and access will not be changed. This should result in limited to no impact to the residents – the Town of Fort Erie is also obligated to maintain the road to the Minimum Maintenance Standard that applies to the City – the level of service should be consistent.

At the closed session meeting, the City Solicitor was directed to endeavour to make a determination on the ownership of Holloway Bay Road north of Michener Road. At the time of writing this report, no information has been received from the Solicitor.

At this time, no action is required by City Council. Staff will advise the Town of Fort Erie that the City concurs with the Town's analysis of the ownership of the Holloway Bay Road road allowance from Michener Road to the southern end of the road.

Internal Consultations:

The Chief Administrative Office and the Public Works Department have both been actively involved in this matter.

The City Solicitor has also been engaged to provide a legal opinion.

Financial Implications:

There are no financial implications arising as a result of this report. It does stand to reason that if Fort Erie is solely responsible for the maintenance and upkeep of the road and the City is not, then there will be a favourable impact on the City's future budgets.

Public Engagement:

At a closed session of Council, Staff was directed to send a letter to all Port Colborne owners of property on Holloway Bay Road south of Michener Road as well as the owners of property on Firelanes 27, 28, and 29 outlining the new ownership information on Holloway Bay Road. These letters, along with a Frequently Asked Questions page, were mailed on May 16, 2022.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Governance: Communications, Engagement, and Decision-Making
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Conclusion:

Based on the Town of Fort Erie's claim and the City's legal advice, the City has become aware that the entire road allowance of Holloway Bay Road from Michener Road to the southern end of the road is fully within the Town of Fort Erie.

No action is required by the City at this time. The only implication for residents of Port Colborne is that the road used to access homes on this section of Holloway Bay Road is within the Town of Fort Erie.

Respectfully submitted,

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Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.