



Subject: Sherkston Shores Golf Cart Access

To: Council

From: Office of the Chief Administrative Officer

Report Number: 2022-144

Meeting Date: June 28, 2022

Recommendation:

That Chief Administrative Officer Report 2022-144 be received.

Purpose:

At the May 10, 2022, Council meeting, Council directed staff to obtain a legal opinion on the legal validity of Sherkston Shores' decision to prevent outside golf carts from accessing the campground property.

A representative of the City's law firm, Sullivan Mahoney, provided the legal opinion and presented it to Council in Closed Session on June 14, 2022. At that meeting, Council directed staff to bring forward a public report as a means of informing the public of the legal opinion and the results of the closed meeting.

Background:

Prior to 2018, residents of the Sherkston hamlet (the hamlet) (with homes within the L0S 1R0 postal code) were entitled to enter the Sherkston Shores campground (the park) for the use of the beach and other areas of the park on an informal basis.

In 2018, the City was involved in a land sale with Sherkston Shores. As part of that transaction, the City negotiated access for those residents through an easement that was registered on title to the campground property (Appendix A) – thus formalizing the access arrangement that had previously been informal.

Many residents of the hamlet enter the campground by using golf carts to get from their homes to the park and use golf carts within the park.

Discussion:

In April 2022, City Staff became aware that the management of Sherkston Shores had decided to restrict the use of golf carts by residents of the hamlet and permit those residents 'pedestrian access only' or access on foot rather than golf carts.

This issue was raised by a number of residents in emails and phone calls to staff, Council Members, and the Regional Councillor. The hamlet residents feel that the interpretation of Sherkston Shores management is incorrect and that the easement permits golf cart access. Some hamlet residents also feel that the use of golf carts should be permitted as a trade off for living close to the park since the park has caused unsavoury conditions in the past such as noise, litter, traffic, and excessive alcohol use. In addition to these concerns, Hamlet residents have also indicated that the decision to restrict the use of golf carts is unfair to people who have mobility limitations or other disabilities that prevent them from accessing the park on foot.

After receiving these concerns from Hamlet residents, City staff approached park management several times to see if they were willing to reconsider their decision. Park management indicated that the decision was based on safety and the decision was final.

Park management did indicate that they were eager to accommodate Hamlet residents with mobility limitations and would make arrangements to provide this accommodation when residents contacted the park directly to coordinate their access.

Subsequent to the events described above, the Regional Councillor raised this issue during the May 10th Council Meeting and Council directed staff to obtain a legal opinion to determine if the interpretation of the easement by the park was incorrect. Based on the direction of Council at the May 10, 2022, meeting, a legal opinion was requested from Sullivan Mahoney. The legal opinion was provided to Council in a closed session on June 13, 2022.

The legal opinion stated that the owner of the easement lands is entitled to prohibit the use of golf carts (and other vehicles) on the lands and is entitled to limit the use of the lands to pedestrian access only.

Council gave no further direction to staff at the closed session meeting. In the absence of direction from Council, staff will take no further action.

Internal Consultations:

City staff have discussed the issue with the City Solicitor.

Financial Implications:

There are no financial implications that result from the approval of this staff report.

Public Engagement:

Residents of the Hamlet have held an informal public meeting at a resident's home that was attended by City staff and Regional Councillor Barbara Butters. Residents have also contacted the Mayor and other Council Members and attended the May 10th Council meeting.

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:

Per staff direction at the May 10, 2022, Council meeting, staff obtained a legal opinion on the restriction of golf cart access to Sherkston Shores by residents of the Sherkston Hamlet.

The legal opinion stated that the owner of the easement lands is entitled to prohibit the use of golf carts (and other vehicles) on the lands and is entitled to limit the use of the lands to pedestrian access only.

Appendices:

- a. Appendix A – Port Colborne – Beach Access Agreement

Respectfully submitted,

Scott Luey
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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.