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STAFF REPORT: ENGINEERING & PUBLIC WORKS DEPARTMENT



REPORT TO: **Committee of the Whole**
MEETING DATE: **March 17, 2014**
REPORT NO.: **EPW.14.016**
SUBJECT: **Closing of the 6/7 Sideroad, East of Gibraltar.**
PREPARED BY: **Jim McCannell, Manager of Roads & Drainage**

A. Recommendations

THAT Council receive Staff Report EPW.14.016 entitled, "Closing of the 6/7 Sideroad, East of Gibraltar";

AND THAT Council enact a By-law to close that portion of 6/7 Sideroad East identified as Parts 1 and 2, Reference Plan 16R-10430, to vehicular traffic subject to approval of the By-law by the Town solicitor;

AND THAT following enactment of the By-law, Council entertain land use agreements with parties who express an interest to use the permanently closed portion of the 6/7 Sideroad in Concession 1 for vehicular access under certain terms and conditions.

B. Background

On January 9, 2012, Council approved the following revised Recommendation contained in Staff Report EPW.11.105 from the Infrastructure and Recreation Committee meeting of December 13, 2011:

THAT Council receive Staff Report EPW.11.105, entitled "6/7 Sideroad East – Closing of Road Section";

AND THAT Council does hereby authorize Staff to initiate the process to consider closing the subject portion of 6/7 Sideroad in Concession 1;

AND THAT Council entertain land use agreements with interested parties who express an interest to use the subject portion of 6/7 Sideroad in Concession 1 for vehicular access under certain terms and conditions in the event the road is closed, CARRIED.

Following adoption of the revised Recommendation contained in Staff Report EPW.11.105, a Public Meeting was later scheduled for September 16, 2013 (Attachment 1). Notice was given by pre-paid first class mail on August 21 to the abutting municipality of the Township of Clearview, Douglas Mathews, solicitor Victor Vandergust and Mark Bourbonnais, operator of Xtreme Adventures which utilizes the subject road section as part of Hummer vehicle tours. It should be noted the Notice given to Mr. Mathews was returned. None of the others were returned to the Town.

The Notice was also posted on the Town website on August 22 and included in a Town e-mail blast on August 23. An enlarged copy of the Notice was also requested by area landowner John Duras and was mailed August 28.

Notes from the Public Meeting are as follows with one item of correspondence received following the provision of Notice from Mark Bourbonnais (Attachment 2).

Mayor Anderson read the Notice of Public Meeting regarding the closing of a portion of 6th Sideroad, noting that on Monday, September 16, 2013 at 7:00 pm the Council of the Town of The Blue Mountains will hold a public meeting regarding a proposed closing of a portion of 6th Sideroad including a deviation portion. The subject portion of 6th Sideroad runs from a point 375 metres west of The Blue Mountains – Clearview Townline to a point 1,400 metres east of the 2nd Line.

Ellen noted that it is proposed that enactment of a By-law to close the subject portion by Council would occur on a date subsequent to the public meeting.

Ellen noted that Council is required to give notice of a proposed road closing in accordance with the Town's provision of Notice Public Policy.

Ellen noted that the subject portion of 6th Sideroad receives no summer or winter maintenance. As noted in Staff Report EPW.11.105, Council may entertain land use agreements with interested parties who express an interest to use the subject portion of 6th Sideroad for vehicular access under certain terms and conditions if the portion is closed.

The Clerk then noted Notice was given in accordance with the Town's Notice Policy and in response one comment was received from Xtreme Adventures, and by owners Mark and Lana Bourbonnais and their staff.

Mayor Anderson then asked if any member of the public wished to speak regarding the proposed closing of a portion of the 6th Sideroad.

Rosemary Gosselin, resident at 29 Napier Street West, spoke questioning the benefit of the proposed closure, Director of Engineering and Public Works Reg Russwurm spoke noting the adjacent land owner would like to restrict access because the road is being damaged with ruts by some users making use of the road a challenge. The Town has been asked to stop up and close the section of road. Reg then noted the Town will enter into a land use agreement with anyone who wishes to use the road and by doing this, the Town would be in a position to ask for liability insurance from those users.

Councillor McKean then spoke expressing concern for the environment as there is a significant beaver dam in one area of the road and the impact of oil, gas, and washer fluids from people driving through the beaver dam is concerning and not a good fit.

As no other persons wished to speak, Mayor Anderson declared the public meeting to be closed.

Regarding the comments received from Xtreme Adventures, Staff believe the proposed land use agreements would continue to allow use of the permanently closed road section under certain terms and conditions. As a result, Staff recommend that Council enact a By-law to permanently close that portion of 6/7 Sideroad East identified as Parts 1 and 2, Reference Plan 16R-10430, to vehicular traffic (Attachment 3).

C. The Blue Mountains' Strategic Plan

The enactment of the proposed By-law furthers the Town's Strategic Goal No. 2, "Addressing the Town's municipal infrastructure needs" and furthers the Town's Strategic Goal No. 3 "Preserving and enhancing natural and environmental features and cultural heritage of the community".

D. Environmental Impacts

Formally closing the subject road section will result in less vehicular activity than at present and therefore less impact on a sensitive area would be realized.

E. Financial Impact

The costs associated with the preparation and erection of signage is less than \$1000.

These costs will be absorbed in the 2014 Roads and Drainage Operations Budget.

F. In Consultation With

John Metras, the Town's Solicitor.

G. Attached

1. Public Meeting Notice, held on September 16, 2013.
2. Correspondence received from Xtreme Adventures, dated September 10, 2013.
3. Draft By-law to close that portion of 6/7 Sideroad East identified as Parts 1 and 2, Reference Plan 16R-10430, to vehicular traffic

Respectfully submitted,

Jim McCannell

Jim McCannell
Manager of Roads and Drainage Division
Engineering and Public Works
Office: 519-599-3131 Ext 271
Fax: 519-599-3664
jmccannell@thebluemountains.ca

Reg Russwurm

Reg Russwurm
Director of Engineering and Public Works

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NOTICE OF PUBLIC MEETING REGARDING THE CLOSING OF A PORTION OF 6TH SIDEROAD

Take notice that on **Monday, September 16, 2013, 7:00 pm**, the Council of The Corporation of the Town of The Blue Mountains will hold a public meeting regarding a proposed closing of a portion of 6th Sideroad including a deviation portion. The subject portion of 6th Sideroad runs from a point 375 metres west of The Blue Mountains – Clearview Townline to a point 1,400 metres east of the 2nd Line. The subject portion of 6th Sideroad with the deviation portion is shown on the map below in red.

It is proposed that enactment of a By-law to close the subject portion by Council would occur on a date subsequent to the public meeting.

Council is required to give notice of a proposed road closing in accordance with the Town's Provision of Notice Public Policy.

The subject portion of 6th Sideroad receives no summer or winter maintenance. As noted in Staff Report EPW.11.105, Council may entertain land use agreements with interested parties who express an interest to use the subject portion of 6th Sideroad for vehicular access under certain terms and conditions if the portion is closed.

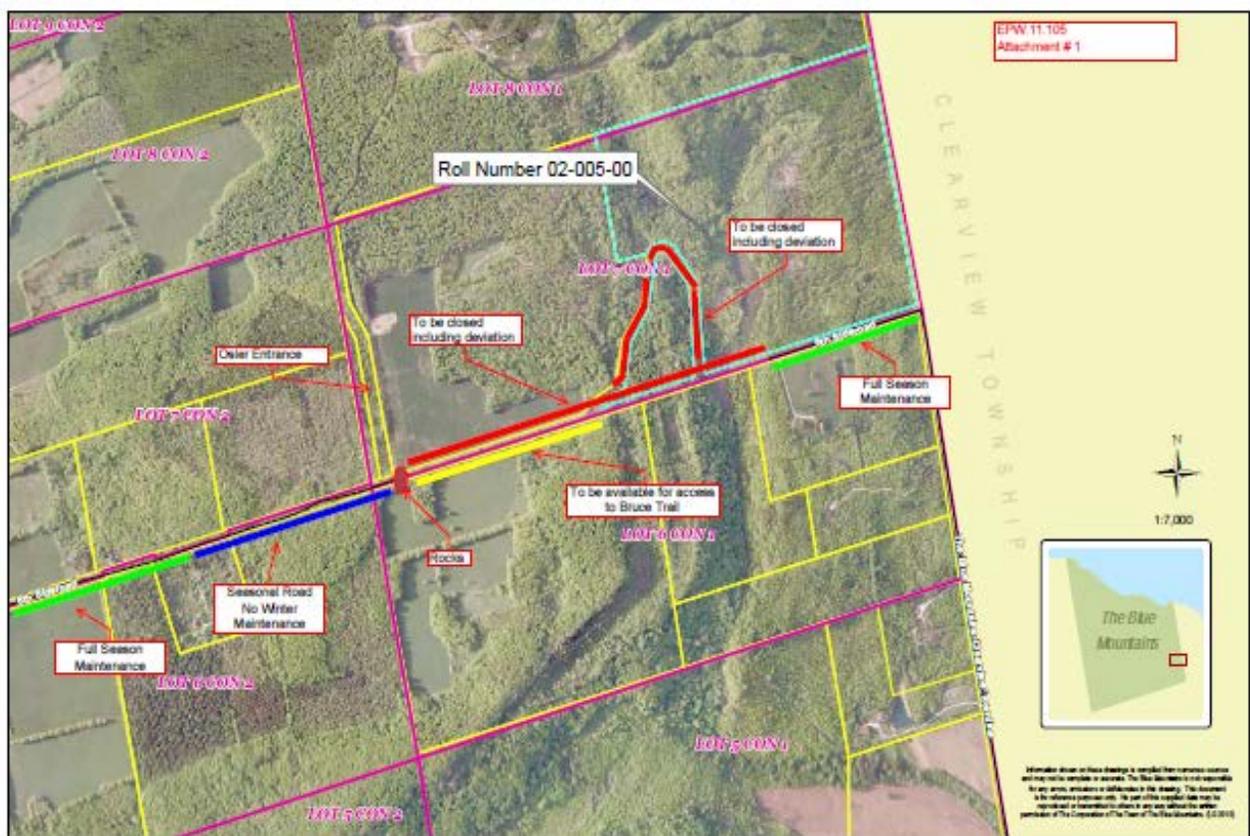
All interested parties are invited to attend the public meeting:

Date: **Monday, September 16, 2013**
Time: **7:00 p.m.**
Location: **Town Hall, Council Chambers**
32 Mill Street, Thornbury, ON

Any person may attend the public meeting and make written or verbal representation either in support of or in opposition to the proposed closing and sale. Written submissions are invited and should be directed to the Town Clerk no later than 12:00 pm (noon) on Wednesday, September 11, 2013. Written comments received and submissions made at the public meeting will be considered by Council prior to any consideration to close the subject portion.

Inquiries should be directed to Stephen Keast, Administrative Assistant, (519) 599-3131 ext. 279 or skeast@thebluemountains.ca

Dated August 23, 2013, Corrina Giles, Clerk, Town of The Blue Mountains
519 599 3131 ext 232 cjgiles@thebluemountains.ca



Under the authority of the *Municipal Act, 2001* and in accordance with Ontario's *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), The Corporation of the Town of The Blue Mountains wishes to inform the public that all information including opinions, presentations, reports and documentation provided for or at a Public Meeting, Public Consultation, or other Public Process are considered part of the public record. This information may be posted on the Town's website and/or made available to the public upon request.

clerk

Sept. 10, 2013

Xtreme Adventures
333 Hickory Street,
Collingwood,
Ontario
L9Y 3G4
705-446-1475

Town Clerk,
Regarding a proposed closing of 6th Side road including a deviation portion as well as the possible sale of this property.

For close to nine years now we at Xtreme Adventures have been in the Adventure business. We have been utilizing the 6th side road road allowance that is subject for proposed closure during this time and have been the sole provider of Hummer tours for Blue Mountain taking literally thousands of people from all over the world through these Mountain trails.

The enactment of a By-law to close the subject portion by council would eliminate a large section of one of the most scenic portions of our tour; a favourite with customers. If and when this change takes place we are requesting permission by permit or otherwise to continue this portion of our tour as the loss of this area could seriously jeopardize our livelihood and deprive future customers and return visitors of one of the best parts of the tour.

Although many of our guests are tourists we have also been privileged to drive "Make a wish", many who are physically handicapped, as well as E3 guests and their staff through this most interesting section of the Blue Mountains. Most of these people would not otherwise have had access to view the back country of our extremely scenic area.

Locally; teams, reunions, family gatherings and children's birthday parties have all enjoyed, and I'm sure would like to continue to enjoy, this very beautiful portion of their Blue Mountain tour.

We, therefore, personally and as a company are opposed to the closure and especially opposed to the possibility of selling of this section of road which would deprive generations to come of enjoying its scenic beauty.

Respectfully submitted by Xtreme Adventures and staff
and by owners Mark and Lana Bourbonnais

THE CORPORATION OF THE TOWN OF
THE BLUE MOUNTAINS

By-law No. 2014 –

Being a By-law to permanently close a portion of a public highway

WHEREAS sections 11 and 34 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, enables the council of a municipality to pass by-laws to permanently close public highways or portions thereof;

AND WHEREAS it is deemed expedient to permanently close a portion of the Original Road Allowance between Lots 6 and 7 and the existing Township Deviation Road established in part of Lot 7 Concession 1 which are described as Parts 1 and 2 on Plan 16R-10430;

AND WHEREAS notice of Council intent to consider the subject By-law was given in accordance with Corporate Policy POL.COR.07.03, Provision of Notice and Manner of Giving Notice to the Public;

NOW THEREFORE the Council of The Corporation of the Town of The Blue Mountains hereby enacts as follows:

1. THAT a portion of the Original Road Allowance between Lots 6 and 7 and the existing Township Deviation Road established in part of Lot 7 Concession 1 which are described as Parts 1 and 2 on Plan 16R-10430 are hereby permanently closed.
2. THAT this By-law shall not take effect until a certified copy is registered in the proper Land Registry Office.

Enacted and passed this day of , 2014

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Ellen Anderson, Mayor

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Corrina Giles, Clerk