



Staff Report

Operations Department

Report To: Committee of the Whole
Meeting Date: March 10, 2020
Report Number: CSOPS.20.010
Subject: Boundary Road Maintenance Agreement with Collingwood
Prepared by: Jim McCannell, Manager of Roads and Drainage

A. Recommendations

THAT Council receive Staff Report CSOPS.20.010, entitled "Boundary Road Maintenance Agreement with Collingwood";

AND THAT Council authorize the Mayor and Clerk to sign the Boundary Road Maintenance Agreement, upon the recommendation of the Director of Operations and Director of Legal Services.

B. Overview

The Town of Collingwood and the Town of The Blue Mountains have had a long-standing informal agreement for the routine maintenance and winter control maintenance of The Blue Mountains/Collingwood Townline Road to the mutual benefit of both parties. The Town of The Blue Mountains and The Town of Collingwood would like to formalize the agreement for the routine maintenance and winter control maintenance of the Townline Road for a period of ten years. The purpose of this report is to outline the proposed agreement.

C. Background

The Town of The Blue Mountains and The Town of Collingwood have had an informal agreement for the routine maintenance and winter control maintenance of The Blue Mountains/ Collingwood Townline Road since the early 1970s. The proposed Agreement divides responsibility for the routine maintenance and winter control maintenance of the Townline Road between The Town of The Blue Mountains and The Town of Collingwood for a period of ten years. This Agreement will formalize the current activities and is not intended to alter or change the scope of works performed by Municipal Staff.

Section 20(1) of the Ontario Municipal Act, allows municipalities to enter into an agreement with an adjoining municipality to jointly provide, for their joint benefit, any matter which all of them have the power to provide within their own boundaries. In the case of boundary roadways where two municipalities share joint jurisdiction, this allows municipalities to share

the responsibility in order to reduce the duplication of maintenance and repair services between adjoining municipalities.

The proposed Agreement states that:

- The Town of The Blue Mountains is to perform routine maintenance of the Townline Road (Long Point Road) outside of the winter control period being from April 16 to October 31.
- The Town of Collingwood is to perform winter control maintenance of the Townline Road (Long Point Road) during the period of November 1 to April 15.

The agreement is provided as Attachment #1. A location map is provided as Appendix 'A' of Attachment #1.

Furthermore, the proposed Agreement states that each party will be responsible for the necessary expenditures related to the works carried out on the above-mentioned roadways with no billing back and forth for costs of routine maintenance.

Finally, the proposed Agreement states that no new construction or major maintenance work (as distinguished from routine maintenance) of any kind shall be undertaken on the Townline Road without having first been approved by the Councils of both municipalities. It is anticipated that the cost for all new construction or major maintenance work shall be shared equally between municipalities.

D. Analysis

The proposed Boundary Road Agreement clearly defines each party's responsibilities for routine maintenance and winter control maintenance, for legal responsibilities, and for cost sharing of major maintenance or construction works for a period of ten years.

Consequently, the proposed agreement enables the Town to work more efficiently with adjacent municipalities to deliver cost effective and efficient services to respective residents by defining the respective responsibilities of each party and reducing the duplication of maintenance and repair services.

Therefore, Staff recommend that the proposed Boundary Road Maintenance Agreement with The Town of Collingwood be endorsed by Council. It is further recommended that the Mayor and Clerk be authorized to execute the Agreement and any related documents, upon the recommendation of the Director of Operations and the Director of Legal Services.

E. The Blue Mountains Strategic Plan

Goal #5: Ensure Our Infrastructure is Sustainable

F. Environmental Impacts

None.

G. Financial Impact

There will be no additional financial impact to the budget as the current maintenance costs have been included in past budgets. The annual maintenance cost will continue to be funded from the Roads and Drainage Operating budget.

H. In Consultation With

John Metras, Solicitor
Serena Wilgress, Manager of Purchasing and Risk Management
Shawn Everitt, CAO

I. Public Engagement

The topic of this Staff Report has not been subject to a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required. Comments regarding this report should be submitted to Manager of Roads and Drainage, Jim McCannell.

J. Attached

1. Boundary Road Maintenance Agreement (Draft)

Respectfully submitted,

Jim McCannell,
Manager of Roads and Drainage

Shawn Carey,
Director of Operations

For more information, please contact:
Jim McCannell
managerroadsdrainage@thebluemountains.ca
519-599-3131 extension 271

BOUNDARY ROAD MAINTENANCE AGREEMENT

THIS AGREEMENT made in duplicate this _____ day of _____ 2020, for the term of 10 years

BETWEEN

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

Hereinafter referred to as “The Blue Mountains”

AND

THE CORPORATION OF THE TOWN OF COLLINGWOOD

(Hereinafter called “Collingwood”)

WHEREAS the parties to this agreement are adjoining municipalities and are desirous of entering into an agreement under the provisions of subsection 29.1 (1) of the *Municipal Act*, S.O. 2001, c.25, as amended (the “Act”), dealing with maintenance and repair of boundary highways and bridges between such municipalities;

AND WHEREAS pursuant to subsection 29.1 (2) of the *Municipal Act*, S.O. 2001, c.25, as amended (the “Act”), each municipality has jurisdiction over that part of the highway that is has agreed to keep in repair and is liable for any damages that arise from the failure to keep the highway in repair and the other municipality is relieved from all liability in respect of the repair of that part;

NOW THEREFORE in consideration of the premises, covenants and promises hereinafter expressed, the parties hereto agree each with the other as follows:

A. DEFINITIONS

1. In this Agreement:

Highway means a common or public highway, any part of which is intended for or used by the public for passage of vehicles and pedestrians and includes the areas between the lateral property lines thereof.

Joint Jurisdiction means the local municipalities on either side of a boundary line between municipalities have joint jurisdiction over any highway forming the boundary line.

Level of Service means the then current level of service as adopted by the council of the municipality for repair of a highway.

Location Map means Appendix A attached hereto.

Roadway means that part of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder.

Routine Maintenance means those activities completed in the maintenance and repair of a highway or bridge and as described as follows:

- a. *Hardtop surface maintenance* includes frost heave repair; base repair; utility cut repair; hot and cold mix patching; shoulder maintenance including crack sealing, slurry sealing and spray patching; surface sweeping; surface flushing; supply and placement of maintenance gravel and grading for surface irregularities and; routine patrolling.
- b. *Roadside* includes vegetation management including roadside mowing, weed control, tree planting and removal, tree trimming; sidewalk maintenance; debris collection including debris and leaves; curb and gutter, guiderail and fence maintenance.
- c. *Shoulder* means the area adjacent to a roadway, where there is no curb, that may be paved or unpaved but does not include a sidewalk.

- d. *Stormwater management* includes roadside ditching; entrance culvert maintenance; maintenance and cleaning of maintenance holes, storm sewers and catch basins and; video camera inspection.
- e. *Structures* includes washing and component repairs for concrete and steel culverts, bridges of all types and pedestrian bridges.
- f. *Traffic operations* includes pavement markings, illumination, signals, signs, safety devices, bike path maintenance, and railroad crossing maintenance.

Winter Control Maintenance includes snowplowing, combination plowing/ice control, ice control, de-icing, sanding, winging back, snow fencing, snow removal, standby, winter patrol, spring clean-up, sidewalk plowing and de-icing.

- 2. Where words or phrases used in this Agreement are defined in the Act, but not defined in this Agreement, the definitions of the Act shall apply to such words and phrases.

B. INTERPRETATION

Where there is any conflict between the provisions of this Agreement and the provisions of the Act, as amended, the provisions of the Act shall prevail.

C. MAINTENANCE AND REPAIR OF HIGHWAYS

- 1. The Blue Mountains hereby covenant and agrees to maintain and keep in repair, in accordance with the Town's then current Level of Service, which is hereby declared to form part of this Agreement, for the whole width thereof the highways as follows:

To perform *Routine Maintenance (inclusive of definition items A through F)* upon the *Long Point* road sections from Provincial Highway #26 north the edge of Georgian Bay

The Blue Mountains - Road Section #1422
Collingwood- Road Section #273
Road Classification for Minimum Standards of Maintenance: 5

The Blue Mountains - Road Section #1424
Collingwood- Road section #686/688
Road Classification for Minimum Standards of Maintenance: 6

- a. During each Routine Maintenance period, the Blue Mountains will also perform and be responsible for Routine Patrolling.
 - b. All of the foregoing will be completed in accordance with the then current level of service standard and in the same manner as The Blue Mountains provides the foregoing routine maintenance activities on the same class of road under its jurisdiction.
 - c. The Blue Mountains will be responsible for rectifying any damages which the parties agree was caused by the operations of its equipment during the Regular Maintenance Period. This includes but is not limited to the replacement of signs, guide rails or other Town infrastructure at The Blue Mountains' expense. The Blue Mountains shall give notice of the occurrence of such damage to Collingwood and where The Blue Mountains agrees that it caused such damage it shall have the option of repairing such damage or paying Collingwood for the cost of such repairs.
- 2. Collingwood hereby covenants and agrees to maintain and keep in repair, in accordance with the Town of Collingwood's then current Level of Service, which is hereby declared to form part of this Agreement, for the whole width thereof the highways as follows:

To perform *Winter Control Maintenance* upon the *Long Point* road sections from Provincial Highway #26 north the edge of Georgian Bay

The Blue Mountains - Road Section #1422
Collingwood – Road Section #273
Road Classification for Minimum Standards of Maintenance: 5

The Blue Mountains - Road Section #1424
Collingwood- Road Section #686/688
Road Classification for Minimum Standards of Maintenance: 6

- a. During each Winter Control Period throughout the term of the Agreement, Collingwood shall be responsible for winter control maintenance activities which shall mean:
 - i. patrolling with respect to winter maintenance;
 - ii. removing snow from the roadway (which for the purposes of this agreement mean one lane in each direction);
 - iii. application of materials to counteract icy roadways; and,
 - iv. removal of snowbanks on portions of the traveled highway beyond the roadway (i.e. the shoulders) and around traffic control devices (i.e. stop and yield signs) as required.
- b. All of the foregoing will be completed in accordance with the then current level of service standard and in the same manner as Collingwood provides the foregoing winter control maintenance activities on the same class of road under its jurisdiction.
- c. The obligations set out above shall not include any obligation or responsibility to make capital improvements to the road. Furthermore, The Blue Mountains acknowledges and agrees that the physical condition of the subject road may affect the manner in which winter control maintenance services are delivered by Collingwood. The parties agree to conduct a mutual inspection of the condition of the roadway prior to August 31st each year and to make a record of the existing conditions.
- d. Collingwood will be responsible for rectifying any damages which the parties agree was caused by the operations of its equipment during the Winter Control Period. This includes but is not limited to the replacement of signs, guide rails or other Municipal infrastructure at Collingwood's expense. Collingwood shall give notice of the occurrence of such damage to The Blue Mountains and where Collingwood agrees that it caused such damage it shall have the option of repairing such damage or paying The Blue Mountains for the cost of such repairs.

D. MAINTENANCE AND REPAIR OF BRIDGES

1. The Blue Mountains and Collingwood hereby mutually acknowledge and agree that at the time of this agreement there are no bridges along the boundary.

E. PERMITS

1. Each party will be responsible for the issuance of roadway related applications and permits as follows;

Oversize Load Permits – May be issued by either party and upon issuance a copy will the approved permit will be forwarded to the non-issuing municipality for information and record purposes.

Road Occupancy Permits - May be issued by either party and upon issuance a copy will the approved permit will be forwarded to the non-issuing municipality for information and record purposes.

Entrance Permit – Will be issued by the municipality in which the property resides.

F. GENERAL

1. Each party will be responsible for the necessary expenditures related to the works carried out on all highways listed in this agreement and in accordance with paragraph 2 of the General section of this agreement with no billing back and forth for costs of routine maintenance or winter maintenance.
2. No new construction or major maintenance work (as distinguished from routine maintenance) of any kind on highways and bridges shall commence or be charged by one party to this agreement to the other unless such construction or major maintenance work has first been approved by the Councils of both municipalities.
3. It is anticipated that the cost for all new construction or major maintenance work shall be shared 50/50 between the municipalities.
4. Indemnification
 - a. Collingwood agrees to defend, indemnify and save and hold harmless The Blue Mountains from all claims, lawsuits, losses, expenses and costs, or any other liability imposed by statute or common law in any way connected to or in any way arising out of any actual or alleged breach, default or neglect of duty in respect of the winter control

maintenance and routine maintenance of the roads referred to in this agreement as being the responsibility of Collingwood.

- b. The Blue Mountains agrees to defend, indemnify and save and hold harmless Collingwood from all claims, lawsuits, losses, expenses and costs, or any other liability imposed by statute or common law in any way connected to or in any way arising out of any actual or alleged breach, default or neglect of duty in respect of the Summer maintenance and routine maintenance of the roads referred to in this agreement as being the responsibility of The Blue Mountains.

5. Insurance

- a. Each party shall, at its own expense, obtain and keep in force during the term of this Agreement, liability insurance satisfactory to the other party, including the following terms and minimum coverage and underwritten by an insurer licensed to conduct business in the Province of Ontario:
 - Municipal General Liability insurance on an occurrence basis for an amount of not less than Fifteen Million Dollars (\$15,000,000);
 - inclusion of the other party as an Additional Insured with respect to the operations covered under this Agreement of the named insured;
 - Cross Liability and Severability of Interest clauses;
 - non-owned automobile coverage with a limit of at least Ten Million Dollars (\$10,000,000) including contractual non-owned coverage;
 - Products and completed operation coverage with an aggregate limit of not less than Fifteen Million Dollars (\$15,000,000);
 - Automobile liability insurance for an amount not less than Ten Million Dollars (\$10,000,000) on forms meeting statutory requirements covering all licensed vehicles used in any manner in connection with the performance of the terms of this Agreement; and
 - a thirty-day written notice of cancellation, termination or material change.
- b. Each party shall provide the other party proof of insurance, each year, in the form of an insurance certificate.
- c. Both parties agree to immediately notify the other party of any occurrence, incident or event which may reasonably be expected to expose either party to material liability of any kind in relation to the Road.

6. Notice of Claim

In the event that either party receives a Statement of Claim, notice of claim or other information regarding a pending or possible claim by a third party with respect to liability for failure to keep the Road in repair or for damages or injuries sustained relating thereto such party shall immediately notify and provide to the other party such claim or notice of claim.

7. This agreement comes into force on the day of its signing by both parties hereto, authorised by by-law, and shall continue in force for a period of ten (10) years therefrom and may be renewed at the end of such terms by a further by-law of both parties to this agreement.
8. No amendment or variation to this Agreement or any of the terms hereof shall be binding upon the parties hereto, unless the same is in writing and authorized by further by-law of both parties to this Agreement and signed by all parties hereto.

9. Force Majeure

- a. Neither Collingwood nor The Blue Mountains shall be held responsible for any damage or delays as a result of war, invasions, insurrection, demonstrations, or as a result of decisions by civilian or military authorities, fire, flood, human health emergency, strikes and generally as a result of any event that is beyond Collingwood or The Blue Mountains' reasonable control.
- b. Collingwood and The Blue Mountains agree that in the event of a disaster or Force Majeure the parties will co-operate, and each party will make all reasonable efforts to provide temporary replacement service until permanent service is completely restored.

10. Governing Law

This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of Ontario with respect to any matter arising under or related to this Agreement.

11. Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.

12. Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the maintenance of the boundary Road and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to winter maintenance for the Roads, except as provided in this Agreement.

13. Waiver and Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by the party to be bound. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver of any provision of this Agreement constitute a continuing waiver, even if similar in nature, unless otherwise expressly provided.

14. Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. Neither party may assign all or any part of this Agreement without the written approval of the other party.

15. Notice

Any notice required to be given by Collingwood to The Blue Mountains shall be in writing and shall be sufficiently delivered if given to the Town Clerk by personal delivery or prepaid post, c/o Town Clerk, to:

Town of The Blue Mountains
32 Mill Street
PO Box 310
Thornbury, ON N0H 2P0

Any notice required to be given by The Blue Mountains to Collingwood shall be in writing and shall be sufficiently delivered if given to the Clerk by personal delivery or prepaid post, c/o Clerk, to:

Town of Collingwood
P.O. Box 157, 97 Hurontario Street
Collingwood, Ontario L9Y 3Z5

Notice delivered by mail shall be deemed to have been received on the fifth (5th) business day following the date of such mailing.

IN WITNESS WHEREOF the Corporate Seals of each of the parties hereto have been affixed duly attested to by the respective officers authorised in that behalf.

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS:

Alar Soever, Mayor

Corrina Giles, Town Clerk

THE CORPORATION OF THE TOWNSHIP OF COLLINGWOOD

Brian Saunderson, Mayor

Sara Almas, Town Clerk

APPENDIX A

BOUNDARY ROAD MAP

Longpoint Road, Boundary Agreement

