

Full Authority
16 June 2022
Agenda Item: 10

The Gut Road Update

Background

- The Gut Road has been an ongoing issue for a number of years. At virtually any point in the past 35 years, road conditions have deteriorated (especially early in the year) following the snowmelt and spring rains) to the point where the road is very difficult to traverse if not impossible at times.
- At various times during this 35 year span, the CVCA has attempted to repair or improve the access road conditions with only limited success that would last until the next major storm.
- This approach has not solved the issue and only led to additional issues or concerns, especially regarding damage to personal vehicles and limiting access to the CVCA parking lot.
- As well, other property owners/stakeholders who depend on the road being serviceable stated their concerns about safe access, damage to vehicles and emergency vehicles would not be able to get to their residences as well.
- Public complaints have also been received by the CVCA regarding the condition of the road, especially in the last few years.
- At the suggestion of a CVCA Board Member, in 2021, a meeting was convened with the road supervisors from North Kawartha, Wollaston and Marmora and Lake to determine if there was an opportunity or desire to work collaboratively to assist the CVCA with the road maintenance issues.
- At that meeting, it was expressed by all the supervisors that the road maintenance was extensive, liability concerns with municipal staff and equipment, municipal road standards would have to be met and there would be a lack of funding support from their respective councils. Additional details can be found in the 16 September 2022 Road Maintenance report submitted to the Board.
- These concerns were later confirmed, with Wollaston Township being the only exception regarding funding. Road ownership was also called into question.

- The CVCA Board determined next steps were to clarify ownership and rights regarding the right-of-way.
- CVCA solicitors determined the road ownership does not rest with the Municipality of Marmora and Lake, rather a private individual and the CVCA's right-of-way Deed grants the CVCA (and our assigns) free and uninterrupted right-of-way.
- While the CVCA does not have a common law obligation to maintain the right-of-way as owner of the dominant tenement (the benefitting lands), the Authority does have a statutory obligation to maintain the road as an "occupier" of the land under the Occupiers' Liability Act, R.S.O. 1990, c. 0.2.
- Section 3(1) of the OLA sets out the duty of care of the occupier and states:
 - *3(1) An occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that persons entering on the premises, and the property brought on the premises by those persons are reasonably safe while on the premises.*
- Therefore, presuming the other landowners along the road have the same right-of-way deed, the CVCA has reached out to these individuals to meet and discuss a road maintenance agreement. (Please see attached map)
- Responses to the CVCA's communication has been slow (registered letters were sent to the landowners), however by early to mid-May both of the road users had replied they were willing to at least participate in a meeting to discuss the issue.
- At this time, the CVCA has identified the following stakeholders who have all agreed to participate in the meeting:
 - i. 2 property owners with right-of-ways
 - ii. 2 municipalities
 - iii. 1 Hunt Club representative
 - iv. The original property owner who granted the right-of-way has just agreed to participate.
- The CVCA is currently waiting for one of the landowners to return from vacation to set a meeting date. This individual is expected to return by the 12th of June and be available for a meeting shortly thereafter.

Next Steps

- CVCA staff will contact all stakeholders and proceed with the road meeting prior to the end of June – targeting the week of the 20th.
- Preference is to have all stakeholders for the initial meeting to discuss the following:
 1. Confirm current road status
 2. Discuss current road usage
 3. Understand responsibilities of the Occupiers Liability Act
 4. Identify and prioritize road maintenance issues for the short and long term
 5. Determine who is willing to contribute to the road maintenance
 6. Determine and agree upon stake holders level of contributions (financial or in kind contributions)
 7. Confirm current resources available and what can be accomplished
 8. Set a target to complete improvements as soon as possible
 9. Discuss entering into a road agreement
 10. Discuss consequences of not maintaining the road
- Based solely on the CVCA's current budget and contributions from Wollaston Twp., this is the best opportunity in 30+ years to pool resources and make major strides to improving the road for the long term rather than prior "bandage" attempts that had very short term effects on its condition.