



The Corporation of the Town of Tecumseh

Planning & Building Services

To: Mayor and Members of Council

From: Brian Hillman, Director Planning & Building Services

Date to Council: December 10, 2019

Report Number: PBS-2019-40

Subject: Tecumseh Vista Trail
Five-Year Extension of Trail Easement Agreement
OUR FILE: T05 TECV

Recommendations

It is recommended:

That by-laws authorizing the Mayor and the Clerk to execute Amending Lease Agreements between The Corporation of the Town of Tecumseh and 2041235 Ontario Ltd. (Valente) and Mr. Clement / Mr. Eugene Lachance to extend the easement agreements for a further five-year term each, satisfactory in form to the Town's Solicitor, which allows for the Town's continued use of a 12.19 metre wide easement on lands located immediately east of the Tecumseh Vista Academy school site (Concession 3, S, PT LT 147 and 148), for the purpose of a walking path providing access to the Tecumseh Vista Academy school located on the south side of Shields Street to the existing trail system in McAuliffe Park, **be prepared**, subject to the Owners executing the Amending Easement Agreements;

And further that all costs associated with the preparation and registration of the agreement, along with the monetary compensation to the Owners for crop yield losses **be allocated** from the Infrastructure Reserve Fund.

Background

In 2013, Council endorsed the construction of a trail extending approximately 480 metres (1,575 feet) from the easterly limit of the trail that runs along the frontage of Tecumseh Vista Academy school (within the Shields Street right-of-way) to the trail system in McAuliffe Park (see Attachment 1). Funding for the trail was allocated equally between the Town's Special

Projects Reserve, the Greater Essex County District School Board and the County Wide Active Transportation System (CWATS) Municipal Partnership Program.

The trail was installed to offer a safe means of access for students walking and biking to and from Tecumseh Vista Academy, along with integrating the existing McAuliffe Park trail to the western portions of the Tecumseh Hamlet urban area.

In order to facilitate the construction/installation of the trail, Council entered into an easement agreement with each of the Owners of the two vacant parcels of land that the trail traverses. The Owners of these properties, 2041235 Ontario Limited (Valente) and Mr. Clement Lachance and Mr. Eugene Lachance (Lachance) consented to the terms of the easement agreement which includes:

- an easement width of 12.19 metres (40 feet);
- a term of five years for the easement agreement, after which any extension to the agreement would be renewed by way of a subsequent amending agreement;
- that farm access to the Owners lands be provided to the north and south across the walking path at a point located at the common lot line between the two properties so that there is no need for cross-access agreements between the two Owners;
- indemnification of the Owners, by the Town, such that they are held harmless should any claims arise surrounding the use of the trail. The Town's insurer is required to carry a \$3,000,000 provision naming the Owners as additional insureds as it relates to the easement;
- compensation for loss of crop yields for the five-year period in the form of a one-time, upfront, lump sum payment of \$3,976 to each landlord. This amount was determined with the assistance of the Town's Drainage Superintendent as monetary valuations of this nature are commonly done for Drainage Reports when assessing agricultural lands affected by municipal drain improvements. It should be noted that if the agreement is amended to provide for a five-year extension, an additional lump sum crop yield compensation will be required similar to the compensation that occurred five years ago;
- that legal costs incurred by the Owners be paid by the Town to a maximum of \$1,000 per Owner.

Comments

The original Lachance easement agreement was registered on title on November 18, 2014, with the expiry date being November 18, 2019. The original Valente easement agreement was registered on November 21, 2014, with the expiry date being November 21, 2019.

Town Administration has discussed with the Owners the need to extend the easement agreement for another five-year period (to expire in 2025). Town Administration supports the extension of the easement agreement in order to continue the existence of the trail linkage and

provide an important active transportation link to the school. The Owners have advised that they are amenable to another five-year extension with the same terms, with the exception that there will be an additional compensation for loss of crop yields in the form of a one-time, upfront, lump sum payment of \$7,208.47 to each Owner. As was the case previously, this amount was determined with the assistance of the Town's Drainage Superintendent.

Based on the foregoing, Wolf Hooker Law Firm (Town Solicitor) has drafted the attached sample Amending Easement Agreement (see Attachment 2) which facilitates the extension of each of the easement agreements for an additional five years. It is currently under review by the Valente's solicitor. No significant changes are anticipated. Final signed versions of the Amending Easement Agreements will be attached to the By-law authorizing execution at a future meeting. The items established in the original agreement, as noted above, continue to be in effect in the Amending Easement Agreements, with the exception of a new clause to address the loss of crop yields compensation for the five-year extension. Town Administration has reviewed the proposed Easement Amending Agreement and is prepared to recommend approval.

Consultations

Corporate Services & Clerk
Financial Services
Public Works & Environmental Services
Town Solicitor

Financial Implications

As in the original easement agreement, compensation for crop yields will be provided to each Owner by the Town. The total cost of this compensation \$14,416.94 to be divided equally between each Owner, for a total of \$7,208.47 per Owner.

In addition, all legal costs associated with the preparation and registration of the agreement will be incurred by the Town and are anticipated to be not greater than \$1,000. Legal costs incurred by the Owners are also to be paid by the Town to a maximum of \$1,000 per Owner.

Administration recommends funds to cover these expenses be taken from the Infrastructure Reserve Fund.

Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
<input checked="" type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input checked="" type="checkbox"/>	Ensure that Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
<input checked="" type="checkbox"/>	Integrate the principles of health and wellness into all of Tecumseh's plans and priorities.
<input checked="" type="checkbox"/>	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
<input checked="" type="checkbox"/>	Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

Communications

Not applicable

Website

Social Media

News Release

Local Newspaper

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

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Reviewed by:

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Reviewed by:

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Reviewed by:

Tom Kitsos, CPA, CMA, BComm
Director Financial Services & Chief Financial Officer

Reviewed by:

Brian Hillman, MA, MCIP, RPP
Director Planning & Building Services

Recommended by:

Phil Bartnik, P.Eng.
Director Public Works & Environmental Services and
Acting Chief Administrative Officer

Attachment Number	Attachment Name
1	Trail Location Map
2	Sample Amending Easement Agreement

