

## COUNCIL REPORT

M&C No.	2019-35
Report Date	March 01, 2019
Meeting Date	March 11, 2019
Service Area	Growth and Community Development Services

His Worship Mayor Don Darling and Members of Common Council

***SUBJECT: Response to Yacht Haven Lane Residents Presentation***

***OPEN OR CLOSED SESSION***

This matter is to be discussed in open session of Common Council.

***AUTHORIZATION***

Primary Author	Commissioner/Dept. Head	City Manager
<b><i>Jennifer Brown/Jeff Hussey</i></b>	<b><i>Jacqueline Hamilton/Mike Hugenholtz</i></b>	<b><i>John Collin</i></b>

***RECOMMENDATION***

That Common Council receive and file this report.

***EXECUTIVE SUMMARY***

The residents of Yacht Haven Lane appeared before Council on December 17, 2018 to request their private street be vested as public. The residents are asking for an increased level of service delivery as current services are provided for by a private trustee, Moorings of Millidgeville, which owns the Yacht Haven Lane right-of-way and several parcels of land at the entrance to the private development.

Yacht Haven Lane was intentionally developed and marketed as a private development with maintenance being the responsibility of the trustee, similar to a condominium development. The road is therefore classified in the "P2" category; P2 roads are not serviced by the City therefore it is the responsibility of the property owner to provide snow removal and surface maintenance. There is an easement in place to allow for the City to access and maintain underground infrastructure.

There are three categories for roads within the City limits, P1, P2 and, Public streets. P1 streets are private streets serviced by the City. These streets are generally part of the amalgamation agreements from 1967. These streets receive minimal surface maintenance and snow removal and curbside solid

waste collection. P2 Streets like Yacht Haven Lane, receive no maintenance services from the City. Public streets are owned and serviced by the City.

It is recommended Yacht Haven Lane maintain its P2 status as classifying it as a public street is not aligned with Council's priorities focused on fiscal responsibility. In considering this request, Council must consider the merit of other P2 streets being classified as public streets. Reclassifying Yacht Haven Lane sets an unrealistic precedent of increased service delivery throughout the City - a precedent the City is unable to meet due to the current challenging fiscal environment.

### ***PREVIOUS RESOLUTION***

On December 17, 2018, Common Council resolved that the submitted report entitled *Yacht Haven Lane* be referred to staff to come back to Common Council with a report.

### ***STRATEGIC ALIGNMENT***

This report and recommendation aligns with Council's priorities specific to valued service delivery and fiscal responsibility.

### ***REPORT***

Residents of Yacht Haven Lane appeared before Council on December 17, 2018 to request their private road be vested with the City as a public street. The residents provided a presentation which focused on the provision of snow clearing as they explained other servicing such as infrastructure and street lighting had been provided and paid for by the developer of the original subdivision.

There is an extensive history of development applications associated with the parcel of land now known as Yacht Haven Lane. In the mid- to late-1990s, the City received several iterations of subdivision plans which varied in housing type and number. On May 10, 1999 Council approved a Municipal Plan Amendment and Rezoning subject to Section 39 (now 59) conditions to accommodate a 23 unit residential subdivision, "The Moorings of Millidgeville", with a mixture of single- and two-family dwellings. The Section 59 condition most relevant to this discussion required the individual deeds for all the proposed lots and part-lots to indicate the proposed Yacht Haven Lane is a private access that will not be maintained by the City.

Previous to Council's May 10, 1999 approval, the Planning Advisory Committee approved several variances to facilitate the proposed subdivision plan at Yacht Haven Lane. The variances are detailed as follows:

- a) To permit a right-of-way width of 15 metres (50 feet) for the proposed extension of Manners Sutton Road, whereas the Subdivision By-law requires a minimum width of 20 metres (66 feet);
- b) To permit a lot depth for proposed Lot 21, ranging from 25 to 30 metres (82 to 100 feet), whereas the Subdivision By-law requires a minimum depth of 30 metres (100 feet);
- c) To permit front yards of 6 metres (20 feet) for proposed lots 1 to 12 and 22 to 23, whereas the Zoning By-law requires minimum front yards of 7.5 metres (25 feet);
- d) To permit rear yards of 6 metres for proposed Lots 3 to 12, whereas the Zoning By-law requires minimum rear yards of 7.5 metres (25 feet);
- e) To permit side yards of 1.5 metres (5 feet) or larger for proposed Lots 1 to 12 and 22 to 23, whereas the Zoning By-law requires minimum side yards of 10 percent of the lot width; and
- f) To permit lot occupancies of up to 49 percent for proposed Lots 1 to 12, whereas the Zoning By-law permits a maximum lot occupancy of 40 percent.

The Moorings of Millidgeville subdivision was intentionally developed on a private street. The developer had identified a gap in the housing market and was seeking to respond. The development was described in the original application as providing a “relaxed lifestyle” to seniors and empty-nesters who had “...expressed interest in living in a single storey carefree unit where snow plowing, lawn care, etc., is provided”. The subdivision design took into account the constraints of the small peninsula on which the lots were to be created. In order to accommodate the desired number of units, the developer infilled parts of the peninsula, decreased the width of the right-of-way, and reduced the width of the turning circle. The private street was therefore built below the City’s specifications at the time of the approval and remains sub-standard today.

Municipal Operations expressed concerns with each development proposal submitted at the site, including the existing Yacht Haven Lane development. City Engineers expressed the necessity for individual deeds to proposed lots identify the street as private with no maintenance provided by the City. City Engineers also opposed the decrease in the right-of-way width, preferring it be built to City Specifications as they anticipated future residents would expect the City to carry out any major maintenance once it was required. Council and the Planning Advisory Committee placed conditions on the development which aimed to align with and mitigate the concerns presented by City Engineers.

It is not recommended Yacht Haven Lane be incorporated into the City’s inventory at this time. The degree of work necessary to have the right-of-way vested with the City is substantial:

- The right-of-way is privately owned and therefore would need to be acquired through private sale or expropriation;

- A subdivision application would be required to separate the right-of-way from the remaining building lots. This subdivision would be subject to Lands for Public Purposes (LPP). An exemption to this requirement requires Council approval;
- A Section 59 Amendment would be required to remove conditions pertaining to the development being on a private street;
- All property titles would need to be amended; and
- An analysis of the existing private services (asphalt, sidewalk, curbing, and lighting) would need to be undertaken to assess their condition and suitability within the City's standards and specifications. It is possible the current private standards could not be upheld once maintenance becomes required.

Where the development was purposefully created as a private street intentionally constructed below the City's road specifications of the day, Yacht Haven Lane is best suited as a private street. The residents on this street were fully aware of the private status of the road when they bought into the development.

### ***SERVICE AND FINANCIAL OUTCOMES***

The City has 1,160 lane kilometres within the City limits to which the City provides services; this includes all the P1 roads. There are approximately 30 lane kilometres that compromises the roads in the P1 category. Additionally, there are approximately 75 lane kilometres of P2 roads the City does not service.

The P1 roads serviced by the City which receive a minimal level of service and represent 2.6% of the serviceable lane kilometres within the City limits. The annual maintenance for these P1 roads costs approximately \$280,000. Most of these roads are not built to City specifications and lack proper road construction and drainage. If the City were to take full ownership of these roads, they would need to be brought up to the City's current road specifications for a rural road. The associated cost with this increase in City maintained infrastructure is estimated to be in excess of \$10 million.

The P2 roads, within the City limits, which currently receive no City service, represent approximately 6.5% of the City's total serviced road inventory. The estimated cost associated with the City assuming responsibility for winter maintenance on the P2 roads is approximately \$375,000 per year. If summer maintenance is also included this figure rises to over \$700,000. Alternatively, the City could take on this service within existing budgets by decreasing the level of service everywhere else.

If these streets were taken on as public streets then additional costs would also apply. The estimated cost of bringing these private roads up to the City's current road specifications for a rural road could be tens of millions of dollars plus

ongoing lifecycle costs. It would take a considerable amount of analysis to improve the level of certainty of this estimate.

The 2019 General Operating Budget is currently in a structural deficit position. This year the City is relying on over \$7million in short term financial assistance from the Province to balance the books. This amount is expected to rise in 2020 before ending in 2021. Closing this gap will likely require a combination of revenue increases and significant service reductions. The 2019 *State of the Infrastructure Report* pegged the infrastructure deficit at \$433 million. A decision to expand service delivery or to take on new infrastructure at this time would ~~be~~ erode the City's position even further on both of these fronts.

#### ***INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS***

The City Solicitor was consulted on this file and has provided comment through this report.

#### ***ATTACHMENTS***

1. Aerial imagery of Yacht Haven Lane with trustee lands highlighted



