

Type of Decision							
Meeting Date	Tuesday, October 16, 2018			Report Date	Monday, October 9, 2018		
Council Decision Required	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	Priority	X	High	Low
Complies with Current Policy	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	Creates New Policy	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
Aligns with Strategic Plan	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>	Priority in Asset Management Plan	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Follows Procedure By-law	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>	Follows Procurement By-Law	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Aligns with Zoning By-Law	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>	Aligns with previous Council precedent	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
As per Provincial Legislation	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>	Provincial Act or Regulation			
Direction	x	Information Only		Type of Meeting	X	Open	Closed
<b>REPORT TITLE - Harvey Creek Road Resident-Council meeting</b>							
Report #16/10/2018 - 1001							

**Subject: Council/Staff meeting with Residents re: Harvey Creek Road changes at the request of a Ratepayer**

**RECOMMENDATION:**

That Council provide staff with direction to proceed with completing work approved during the 2018 budget process.

Resolution #1

**WHEREAS** Council has heard concerns from residents directly affected by the proposed amendment to the Ottawa River access at the end of Harvey Creek Road;

**AND WHEREAS** Council has received two petitions as information as per Council policy;

**AND WHEREAS** stakeholder consultation has occurred;

**THEREFORE BE IT RESOLVED THAT** the Council of the United Townships of Head, Clara & Maria does hereby direct staff to draft a Stakeholder Consultation Policy to prevent future similar situations;

**AND FURTHER THAT** staff are directed to:

- a. \_\_\_ Proceed with amendments as originally approved;
- b. \_\_\_ Proceed with amendments to the river access via alternate route – continue up the existing trail – simply improve it to ensure that it is safe to use;
- c. \_\_\_ Terminate plans to improve access to the Ottawa River at the end of Harvey Creek Road.

## **BACKGROUND/EXECUTIVE SUMMARY:**

### GENERAL REVIEW OF THE DECISION MAKING PROCESS.

Decisions are made by municipal councils which affect ratepayers every day in large and small ways. People have differing views, different opinions on every subject including changes which directly affect them and some that don't.

Council has to ensure that they follow proper procedures when making decisions and did that when deciding during 2018 budget deliberations to make changes to Harvey Creek Road's access to the Ottawa River without contacting the individuals being directly affected as the effects of this change are considered minimal from a Planning and Land use perspective.

Council has no legal obligation to discuss proposed changes with residents in proximity to any municipal property change or any municipal project aside from those legislated. This is evident in many issues in HCM over the past months – from the increased use of the municipal park at the end of Jennings Road (and potentially increased winter use for ice fishing purposes), to the use of the rail bed as a multi-use trail; to approving severances along Chokecherry Lane. In each of these decisions, admin staff have ensured or attempted to ensure that Council has followed all legislated procedures and past practice, based on Council policy.

For land use changes, the Planning Act must be followed. Council has done this – eg. The Boudreau severance. No further consultation is required.

Would it be nice to consult with residents who will be affected each time a decision of council is to be made? Certainly. But is that reasonable and practicable? Maybe not.

Municipal decisions are quite often influenced by the NIMBY concept. NIMBY stands for “Not in my Back Yard” and is prevalent around the globe. Additional information is referenced below for your information. Councils still have to make decisions which they believe are in the best interests of the majority even when persons most directly affected might not approve.

It would be prudent for any council to consult with stakeholders when residents have significant concerns about a decision with the potential for affected property values, environmental concerns, health and safety, trespass, damage to property, increased liability and quality of life.

Knowing that there was no error in procedure or in following policy, Council may decide to review and reconsider its decision or not.

### HARVEY CREEK ROAD CONSULTATION

As per direction provided at the September 11<sup>th</sup> Council meeting – two members of Council did meet with representatives of Harvey Creek Road with the Clerk as staff. Mr. Charbonneau and Mr. Cotey made their position quite clear:

- a. We don't want a sign saying “public access”.
- b. We would just like council to leave it alone.
- c. We have enough traffic coming from the highway and making a mess already.
- d. I've had people on my property when I drove up ask me who I was.
- e. We don't want dogs – people throw bags of waste all over.
- f. We don't want garbage cans.
- g. We moved here for the peace and quiet.
- h. If you use the road allowance going west towards the river, there is nothing but rocks at the water's edge – not conducive for dog walking or wading.
- i. Any modification to that road allowance and ditch will cause my basement to flood.

There was serious concern about signage at the highway – which was never a component of this plan. Further concern was about the use of the road allowance going past and potentially flooding Mr. Charbonneau’s property if the ditch was modified.

It was determined that with consultation with staff, the issues could have been worked out quite simply; that a lot of this issue was a misunderstanding based on incorrect information.

The council members present, Councillor Rose and Chartrand, promised the individuals they met with that they would bring the issue back to council and would recommend that the project be abandoned.

Council needs to consider all of these aspects when making a final decision.

- a. Actual vs. perceived effects on residents.
  - a. Number of potential increased users.
  - b. Provision of proper facilities to dispose of waste from dogs.
  - c. Provision of bear proof waste and recycling receptacles with regular maintenance.
- b. Property valuation affected – perceived and real.
  - a. Access to the Ottawa River will likely increase rather than decrease property values.
- c. Larger community vs. number of residents.
  - a. Is there a need for additional access to the Ottawa River in Mackey with the boat launch and Park already there?
- d. Accuracy of information – misinformation – rumours vs. reality.
  - a. boat launches and playground equipment vs. landscaping to simplify access for residents.
  - b. Signage? There was never going to be a public access sign. That was an assumption. HCM does not even have a sign on the highway for Old Mackey Park.
- e. Precedent Setting
  - a. Changing a decision of council with no concrete new information aside from disapproval from a number of residents.
  - b. The Municipal Procedure By-law allows that Council may reconsider this issue if it so chooses. The question is, should it?
    - i. *24.7 A previously considered matter may not be reconsidered by Council more than two times in a calendar year unless new information is presented and/or without the unanimous consent of council. Decisions which contractually bind the Municipality shall not be reconsidered. The motion to reconsider may only be moved by a member on the prevailing side of the previous decision.*
- f. A statement was made at the Land Division Hearing this past week by the Chair of the Committee “*If you live at the end of a private road, you inherently take on the risks that go with it – having to deal with fellow residents to come up with a plan to manage the road access.*” The same could be said for people who live along Municipal roads with access to the Ottawa River through unopened road allowances at the end. The reasons that municipal governments, including HCM, in the past have actively retained these unopened road allowances was exactly for this purpose; to open them at the request of residents for more convenient access to the water in the future. Change and development will occur and some residents may not like any given project however; absence evidence of negative impacts, is that enough for council to make or not make a decision.

## Options/Discussion:

## **1. Option 1 – Proceed with amendments as originally approved**

### **a. Pros**

- i. Some ratepayers will be happy with council approving their request

### **b. Cons**

- i. Some ratepayers – mainly residents along Harvey Creek Road, will be upset with council approving the request from someone who doesn't live along the road.

### **c. Other**

- i. Is there a need?
- ii. Council has already discussed this issue and made a decision however; there is new information. Mr. Charbonneau has provided information about his property potentially flooding and the fact that the shore at the end of the road allowance is rocky and not conducive to use.

## **2. Option 2 – Proceed with amendments to the river access via alternate route – continue up the existing trail – simply improve it to ensure that it is safe to use**

### **a. Pros**

- i. Will provide access to residents as originally requested and approved.
- ii. Will ensure the municipality is meeting public accessibility guidelines – the trail exists – ensure that it is useable and safe.

### **b. Cons**

- i. Dissatisfied residents who live along Harvey Creek Road.

## **3. Option 3 – Terminate plans to improve access to the Ottawa River**

### **a. Pros**

- i. Ratepayers who requested the changes will not be satisfied.

### **b. Cons**

- i. Ratepayers who live along Harvey Creek Road will be satisfied that Council did not proceed.

### **c. Other**

- i. Council has set precedent with the use of the railbed through Stonecliffe. Residents who live in close proximity did make a request of Council to work with the snowmobile club to move the trail away from their homes. Council did that.
- ii. With Air Swisha – residents who did not wish to have it relocated to Stonecliffe presented to Council and Council of the day decided to not allow that project.

## **4. Option 4 – Option 1 or 2 or 3 and amend Council policy to ensure that active stakeholder consultation with affected residents occurs when more than 3 residents are or may potentially be affected by a decision of Council.**

### **a. Pros**

- i. Provides a concrete decision making tool to use in the future to ensure that decisions are being made based on fact and process and not emotion.

### **b. Cons**

- i. Time and costs involved with stakeholder consultation every time a decision of Council will affect or has the potential to affect a small number of residents.

- ii. Challenges and negates the role of Council as an elected and legislated decision making body.
- c. Other
  - i. The policy could be developed with certain triggers:
    1. a certain number of affected residents?
    2. with the cost of a specific project reaching a certain amount?
    3. The type of affect the project/change would have?
    4. Ensuring the project would need to involve one or more of the following prior to consultation: environmental concerns, taxation, costs, property values, health and safety, potential for increased trespass, damage to property and quality of life.
    5. Consist of something more than simply NIMBY.

### **Financial Considerations – Budget Impact:**

Continuing with the project would cost approximately \$2,500 as per the 2018 budget. Obviously, cancelling these changes would free up those funds for another purpose.

### **Others Consulted/Resources:**

- Mr. P. Charbonneau, Mr. P. Cotey – petitions from residents of Harvey Creek Road, Mrs. C. Sutherland
- Councillors Chartrand and Rose
- <https://www.thestar.com/news/gta/2016/01/02/youre-a-toronto-nimby-now-what.html>
- <https://en.wikipedia.org/wiki/NIMBY>
- <https://ottawasun.com/life/homes/my-nimby-experience>
- Sample Reconsideration Process Policies - various

Approved and Recommended by the Clerk

Melinda Reith,

Municipal Clerk

*Melinda Reith*