



MUNICIPALITY OF **West Elgin**

Staff Report

Report To: Council Meeting
From: Jana Nethercott, Clerk
Date: 2023-03-09
Subject: Close a Portion of O'Malley Road

Recommendation:

That West Elgin Council hereby receives the report from Jana Nethercott, Clerk Re: Close a Portion of O'Malley Road; and

That West Elgin Council hereby Stop Up and permanently Close the unopened portion of O'Malley Road Allowance from Gibb Line east to the easternly limit of property at 23855 Gibb Line (713.044 Meters in length), legally described as R.D.A.L BTN Lt. 16 & 17, Con 2 in Aldborough Township, PIN 351080202; and

That West Elgin Council hereby requests an appraisal be sought for the lands known as the unopened portion of O'Malley Road Allowance from Gibb Line east to the easternly limit of property at 23855 Gibb Line (713.044 Meters in length), legally described as R.D.A.L BTN Lt. 16 & 17, Con 2 in Aldborough Township, PIN 351080202, ;and

That West Elgin Council hereby authorizes staff to enter into negotiations for the sale of said lands to the adjacent property owner of roll number 343400011044000000; and

That West Elgin Council hereby direct staff to bring forward a by-law to permanently stop up and close the unopened portion of O'Malley Road at a future meeting of Council; and

That said by-law be registered on title at the Land Registry Office at the cost of the Requestor.

Purpose:

The purpose of this report is to stop up and permanently close a 73.044 meters section of the unopened portion of O'Malley Road Allowance from Gibb Line east to the easternly limit of the property at 23855 Gibb Line, in order to dispose of these lands to the adjoining property owner, and requestor of the road closure.

Background:

Council received a report from Robert Brown, Planner at the January 4, 2023 Council meeting indicating a request had been made to close the unopened portion of O'Malley Road Allowance from Gibb Line east to the easternly limit of property at 23855 Gibb Line, from Mr. R. Leatham. Mr. Leatham already has an established driveway and weeping bed for septic system on portions of this road allowance. Council directed staff to proceed with the Road Closing process as there are no plans to open this road allowance.

By-law 2002-40 lays out the process for Closing of a Road in West Elgin. This requires that a public meeting be held to hear from residents on the effect of permanently closing of a road. Notice was placed in the Chronicle for two weeks prior to this meeting, on February 22 and March 1, as well as placed on the Municipal Website and a physical sign placed on the road allowance to be closed, as per By-law 2002-40. This by-law also requires that the requestor pay all fees associated with the request to close the road. A \$5,000 deposit was received from the requestor to draw from for the costs associated with this closure.

The Municipality passed By-law 2019-14 on February 14, 2019 as required by Section 270 of the *Municipal Act, R.S.O 1990* which removes the requirement to formally declare surplus closed highways or road allowances and allows Council to waive the right for an appraisal for said lands. However, as the Municipality has not sold a Road Allowance in a number of years and land values have changed, an appraisal is warranted for this property.

Should Council agree to permanently close this section of O'Malley Road, the Appraised Value of the lands will be presented to Council in a Closed Session and a price for the sale of the lands determined. Once an agreement has been reached with the purchaser the By-law to Stop Up and Close the road will be presented at Council, along with a by-law to approve the purchase and sale agreement.

Policies/Legislation:

Municipal Act, R.S.O 2001

By-law 2002-40 – Road Closing Procedures

By-law 2019-14 – Sale and Disposition of Surplus Lands Policy

Respectfully submitted by,

Jana Nethercott,
Clerk