

# Report to Municipal Council



<b>Meeting Date:</b> August 14, 2024	<b>Report Date:</b> August 7, 2024
<b>Reason Before Council:</b> Policy Direction / Approval	<b>Priority:</b> Normal
<b>Department:</b> Transportation / Public Works	<b>Type of Meeting:</b> Regular Meeting

**Report Title:** Island Road West – Land Ownership and Maintenance

## **Recommended Resolution:**

Recommendation to resolve an ongoing issue with writing off taxes on a private property and to resolve a taxpayer's request for some maintenance on a section of road, by offering to the current owners of the land underneath the section of Island Road West to propose a transfer of land to the Municipality.

## **Options:**

1. Do nothing and continue to write off taxes.
2. If we continue our position not to maintain private roads, in all fairness we cannot provide maintenance to that section of road going south +/- 100m.
3. A survey may be required to locate the extent of the property, more or less to find out if the road is on the land itself.
4. If yes to #3, I would suggest that all survey and legal costs be borne by the Municipality as there are no known obligations by the current landowners to do anything (other than to wait for tax sale with again no cost to them as the only security is the land which is 100% underneath the road)
5. Alternatively, provide a maintenance grant for private roads (should have minimum criteria such as minimum # of properties).
  - Grant or flat donation per assessment (sample Grant Policy attached)
  - Limited service provided
  - Any other offer of maintenance to private roads would complicate requests from other landowners. Continue the current policy of road must be brought up to standard before maintenance is provided.



## Analysis & Background:

- There is a section of Island Road West that is privately owned but is strictly land underneath the road.
- We have been writing off the taxes for this lot per past direction of Council. If taxes are not waived, there would be no obligation / pressure for the landowners to pay as the only result would be tax sales which in this case the land has no value to anyone but the Municipality as the section of land is underneath the road. If we go tax sales, the only result would be additional legal costs to run the tax sales >\$3500 + Legal + Survey
- If we do acquire this section of road, it also includes a section that runs to the south, which property owners recently requested maintenance.
- The estimated cost to settle this issue is estimated at:
  - Legal transfer cost could be up to \$5,000, additional survey cost may be required if property pins are not readily located.
- Any “new” roads that the municipality wishes to bring into the road system, the municipality must be the owner of the land beneath the road per the *Municipal Act*.
- Any new section of road would then be incorporated into the road’s classification By-Law.
- We cannot determine if that specific section of Island Road West received municipal maintenance prior to January 1, 2003 and it was not included in the Resolution for Amalgamation.

### *Municipal Act 2003 as amended: Person in possession*

67 (1) If, before January 1, 2003, a person in possession of an original road allowance or a predecessor in title of that person opened a highway in the place of the original road allowance on that person’s land without receiving compensation for the land and the person is in possession of all or part of the original road allowance, that person is entitled to the soil and freehold of the allowance or part of it and to a conveyance of the original road allowance or part of it. 2001, c. 25, s. 67 (1).

### *Multiple persons in possession*

(2) If more than one person is in possession of the road allowance, each person is entitled to the soil and freehold of and a conveyance of that part of the allowance abutting their land to the middle line of the allowance. 2001, c. 25, s. 67 (2).

### *Condition*

(3) This section only applies if the highway has been established by by-law of the municipality or otherwise assumed for public use by the municipality and if, in the



opinion of the council of the municipality, the original road allowance is not needed by the municipality. 2001, c. 25, s. 67 (3).

List of private roads (actively used by multiple property owners and known to us). Please note that there many more “Private Roads” that are shared driveways especially near waterfront areas. The question is whether the “roads” are driveways or used by the public.

<b>Private Road Name</b>	<b># Properties</b>	<b>Total Assessment</b>
Beaver Rd - 2.5km	3 (+ unknown water access)	\$820,000
Cloutier Rd (before bridge) - 175m	5	\$912,000
Cloutier Rd (past bridge) - 600m	25	\$5,297,000
Dumart Rd - 500m	0 (access to 9 properties on a municipal road)	\$2,230,000
Hickman Rd (private section) - 700m	8	\$1,717,000
Houle Rd - 700m	8	\$1,880,000
Island Rd West (private section) - 75m	5	\$1,002,000
Laporte Rd - 80m	3	\$735,000
Musky Island Rd (south lane) - 1.5km	4	\$970,000
Pinecove Rd - 3km	22	\$4,154,000

From the above, this represents +/- \$20M is assessment.  
Total assessment \$19.7M, total tax \$282K, portion for PW \$69k

**Attachments:**

- Registry Office Map
- Google Map
- Sample Grant Policy
- By-Law 2000-36 – regarding road maintenance at amalgamation

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