

# **Municipality of East Ferris**

## **Report to Council**

Report No.: R-2020-06

Date: October 27, 2020

Originator: Antoine C. Boucher, Director of Public Works

Subject: Request for Service Upgrades by Residents of One Mile Road

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### **RECOMMENDATIONS**

1. The Council for the Municipality of East Ferris pass a by-law assuming One Mile Road as an open but unmaintained municipal road.
  2. That Council for the Municipality of East Ferris does not extend curbside garbage and recycling services or road maintenance services to the residents of One Mile Road at this time.
  3. That Council for the Municipality of East Ferris consider the request to upgrade One Mile Road to municipal standards and authorize staff to proceed with a road design and cost estimate, and prepare a report to Council for consideration prior to adopting the 2021 capital budget.
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### **BACKGROUND**

Prior to 2015, the property known as One Mile Road was a private access road that was owned by an individual and maintained collectively by the residents that used it for access to their properties. Ownership of the property known as One Mile Road was transferred to the Municipality in 2015. However, it has never been assumed or opened as a municipal road by by-law under the Municipal Act. Therefore, One Mile Road is not legally a road. It is a piece of land that the Municipality owns which is used by residents to access their properties. From the time when ownership was transferred to the Municipality in 2015 until this year, One Mile Road has continued to be maintained privately by the residents that use it to access their properties.

On April 18, 2019, correspondence was received from Mr. Michael Pettigrew who is a resident of One Mile Road and President of the One Mile Road Association. A copy of this correspondence is attached as Appendix A. The correspondence was placed on the agenda for the regular meeting of Council on April 23<sup>rd</sup>, 2019. The purpose of Mr. Pettigrew's letter was to request that Council for the Municipality of East Ferris pass the following resolution:

*"Move that staff at East Ferris be directed to provide a report to both council and the current owners of One Mile Road of what work is required to upgrade all of One Mile Road and to also deliver the same/similar services for existing One Mile Road property owners, as are currently proposed for the delivery to the new residences to be built on One Mile Road."*

Furthermore, Mr. Glenn Brophay, a resident of One Mile Road, requested to make a delegation to Council at the regular meeting of Council on April 23<sup>rd</sup>, 2019 to speak on the same matter. Mr. Brophay made a presentation to Council regarding the history of One Mile Road and referenced the letter submitted by Mr. Pettigrew. Council referred the matter to the Public Works Committee for further review.

On May 21<sup>st</sup>, 2019, the Public Works Committee met with Mr. Pettigrew and Mr. Brophay in attendance. Regarding this matter, the minutes state the following:

*“Mr. Glenn Brophay and Mike Pettigrew attended the Public Works Committee Meeting. Discussion took place regarding Mr. Brophay’s presentation and Mr. Pettigrew’s letter that was presented at Council Meeting April 9<sup>th</sup>, 2019. Municipal Engineer advised Mr. Brophay and Mr. Pettigrew that he was in the process of working on a report regarding this matter. It was unclear if the report would be ready for Council meeting of May 28<sup>th</sup>, 2019. Clerk advised they were also welcome to contact her in order to find out.*

*Prior to the Public Works meeting, Councillor Trahan went over and had a look at One Mile Road. Antoine advised that in order to make this road to municipal standards, the road would have to be brought to a standard 2 lane road, which is presently now a one lane road. The road needs a lot of work. This road would have to be done in two phases. First phase would be costly and second phase would be a much greater amount. There was concern as well with recycling and garbage as to bringing it to the maintained road. Engineer advised that this could be looked at when the subdivision is in place.*

*Municipal Engineer advised Mr. Brophay and Mr. Pettigrew that he will prepare his report in a timely manner, but to keep in mind that the report would be only an Information Report and at this time not a recommendation to Council. There are many studies to be done prior to a recommendation to be made. Mr. Brophay and Mr. Pettigrew advised that they understood the process.”*

On June 5<sup>th</sup>, 2019, the subdivision development referred to in Mr. Pettigrew’s letter was appealed to the Local Planning Appeal Tribunal (LPAT) by a resident. Due to the appeal, Council decided to wait for the outcome of the appeal prior to considering the request made by the residents of One Mile Road; the request for road upgrades made by residents of One Mile Road was seen as being tied to the new subdivision development as the developer is responsible for bringing a section of One Mile Road up to municipal standards and it would be best to consider the request when the outcome of the appeal is known.

The hearing for the appeal was scheduled to begin in February 2020 but was cancelled by the LPAT. Due to the Covid-19 pandemic, the hearing has not been rescheduled. As of the date of this report, the appeal is still on hold.

On July 14<sup>th</sup>, 2020, Mr. Pettigrew and Mr. Brophay made a delegation to Council regarding extending services to One Mile Road. A copy of their presentation is attached as Appendix B. The following two resolutions were proposed by the presenters for Council to consider:

*“Move that the township plan upgrading and maintaining all of One Mile Road to municipal standards all so that final road boundaries will be established by September 15, 2020 and provision of full township services to begin no later than September 15, 2020.”*

OR

*“Move that the township confirm the existing road boundaries in front of the row of homes located between 184 and 222 One Mile Road by September 15, 2020, revise the hill located between 244 and 264 One Mile Road to meet municipal standards by September 2022 and revise the curve located adjacent to 184 One Mile Road to meet municipal standards by September 2024 and begin delivering “Alternate Services” by September 15, 2020 - these would include: road maintenance of the existing road– grading, snowplowing, ditch and culvert maintenance as of September 15, 2020 and the provision of weekly garbage and bi-weekly recycling services through the use of alternate non-standard vehicles for residents of One Mile Road to begin no later than September 15, 2020.”*

Neither resolutions were passed by Council. Council referred the presentation to the August 4<sup>th</sup>, 2020 Public Works Committee meeting. At the meeting, the Municipal Engineer advised committee members that the municipality had engaged a surveyor to survey the municipality's property known as One Mile Road. The onsite survey work was conducted during the week of October 12<sup>th</sup>, 2020. The municipality is awaiting the final detailed survey from the surveyor which is expected by the end of December 2020.

At the regular meeting of Council held on October 13<sup>th</sup>, 2020, Council passed Resolution #2020-223:

*“WHEREAS the Municipality of East Ferris’ Official Plan states that unless it is clearly in the public interest for the Municipality, it is not intended that existing private roads will be assumed by the Municipality and no responsibility for access, snow removal, maintenance or use by school buses is acknowledged. Where, however, the Municipality chooses to assume a private road, the road must first be improved to the standards for Municipal roads. Roads on lands under plan of subdivision may be assumed by the Municipality provided the standards for road construction have been satisfactorily met;*

*AND WHEREAS the standards for new road construction include a minimum of 20 metres (66 feet) right-of-way, engineered design and layout, appropriate drainage and construction;*

*AND WHEREAS the Municipality’s Official Plan states that no construction, alteration or maintenance of the Municipal roadway shall be permitted without the expressed permission of the Municipality;*

*AND WHEREAS the Municipality of East Ferris has three roads (Birch Hill, Gauthier and Ashwood) that form part of its Municipal Road Inventory that are not up to municipal standards, are being maintained by residents, and for which no expressed permissions of use have been authorized;*

*AND WHEREAS the Municipality of East Ferris owns a parcel of land that was transferred to the Municipality in 2015 which was and continues to be used as a road (One Mile Road) and maintained by residents, and for which no expressed permissions of use have been authorized;*

*NOW IT IS HEREBY RESOLVED THAT staff be directed to examine the options to move forward and suggest a plan of action with proposed timelines. Note in passing this Motion, Council understands the financial implications and therefore directs staff to identify only immediate priorities. A longer term horizon as well as a staged approach is encouraged where future action is deemed appropriate and necessary.”*

## **ANALYSIS/OPTIONS**

### **REQUEST TO UPGRADING ONE MILE ROAD TO MUNICIPAL STANDARDS**

In the Municipality of East Ferris, responsibility for road maintenance falls within three categories with the exception of provincial highways:

1. Roads owned and maintained by residents (private roads),
2. Municipally owned and municipally maintained roads, and
3. Municipally owned but not municipally maintained roads – roads are maintained by residents.

Roads included in categories 2 and 3 have been accepted in the municipal road inventory; therefore, One Mile Road does not fall within any of the categories. One Mile Road was transferred to the Municipality in 2015 as a piece of land known as One Mile Road but was never assumed by by-law or accepted into the municipal road inventory. On October 13<sup>th</sup>, 2015, Council passed Resolution #2015-276:

*“WHEREAS the owner of the property known as Part of Lot 13, Concession 15, Part 1 and 2 on Plan 36R-3447, One Mile Road, situated in the Municipality of East Ferris, I the District of Nipissing has offered the transfer of this property to the municipality in fee simple;*

*BE IT HEREBY RESOLVED that Council accepts the property known as One Mile Road to be transferred into the Municipality’s name;*

*AND that this said property remain as a privately maintain road in the Municipality of East Ferris.”*

Whether or not Council intended to assume One Mile Road into the Municipality’s road inventory isn’t clear from this resolution. However, it is clear that no by-law has ever been passed to formally assume One Mile Road. It is also clear from the statement in the resolution that residents are to continue maintaining the road, that the municipality did not intend on maintaining the road itself. Therefore, even if One Mile Road had been assumed by by-law, it would fall within category 3 mentioned above – municipally owned but not municipally maintained roads.

#### **Options:**

1. Do nothing – This option would maintain status quo and residents are responsible for maintaining One Mile Road.
2. Pass a by-law assuming One Mile Road as an open but unmaintained road – This option would maintain status quo for practical purposes but would change the legal status of One Mile Road from a piece of property owned by the Municipality to a municipal road.
3. Close One Mile Road – This option would require that the Municipality formally pass a by-law closing the straight portion of One Mile Road and blocking access rendering the lots on Trout Lake water access only.
4. Upgrade One Mile Road to Municipal Standards – This option has a couple of possibilities for funding the work:
  - a. Fund the work through local improvement by imposing special charges on the lots that abut the road;
  - b. Fund the work through the Municipality’s capital budget; or

- c. Some combination of (a) and (b).

## **REQUEST TO PROVIDE ALTERNATE SERVICES**

Residents on roads that are owned and maintained by residents (private roads – category 1 mentioned above) do not receive curbside garbage and recycling services and residents are responsible for bringing their waste and recyclables to the nearest maintained road intersection. Furthermore, residents are responsible for all road maintenance including snow plowing.

Residents on roads that are municipally owned and municipally maintained (category 2 mentioned above) receive curbside garbage and recycling services and all road maintenance is provided by the municipality.

Residents on roads that are municipally owned but not municipally maintained do not receive curbside garbage and recycling services and residents are responsible for bringing their waste and recyclables to the nearest maintained road intersection. Furthermore, residents are responsible for all road maintenance including snow plowing.

### **Options:**

1. Do nothing – This option would maintain status quo and residents are responsible for bringing garbage and recycling to the nearest maintained road intersection, and road maintenance.
2. Provide curbside garbage and recycling services – This option would require the municipality to source an alternate piece of equipment for collection (e.g. pickup truck and trailer) as the current equipment being used by our contractor cannot be used due to the condition of the road. This option has a couple of possibilities for funding the services:
  - a. Perform the work on a contract basis and invoice the residents for the service.  
This option would require entering into an agreement with the residents; or
  - b. Fund the services through the Municipality's operating budget.
3. Provide road maintenance services – This option would require the municipality to utilize an alternate piece of equipment for snow plowing as a tandem/plow truck cannot be used due to the condition of the road. This option has a couple of possibilities for funding the services:
  - a. Perform the work on a contract basis and invoice the residents for the service.  
This option would require entering into an agreement with the residents; or
  - b. Fund the services through the Municipality's operating budget.
4. Some combination of 2 and 3.

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## **RECOMMENDATION**

Staff recommend changing the legal status of One Mile Road by passing a by-law assuming it as an open and unmaintained municipal road.

Generally, roads that are municipally owned but not municipally maintained do not receive curbside garbage and recycling services or road maintenance including snow plowing. If the Municipality passes the recommended by-law, then One Mile Road falls within category 3 for

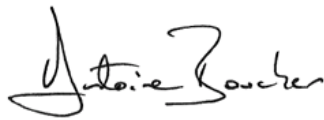
responsibility of maintenance - municipally owned but not municipally maintained. If this is the case, then providing road maintenance and curbside garbage and collection services to residents of One Mile Road would go against our current practice. There are three other roads that fall within the same category: Birch Hill Road, Gauthier Road, and Ashwood Avenue.

The decision comes down to whether Council wants to consider upgrading One Mile Road to Municipal Standards which would then dictate the level or services. A further decision would need to be made to decide how to fund the work.

For the request to provide "alternate services", at this time, it is recommended that we not extend curbside garbage and recycling services or road maintenance services to the residents of One Mile Road. For the request to upgrade One Mile Road to municipal standards, should Council wish to consider this request, we are recommending that Council authorize staff to proceed with a road design and cost estimate and prepare a report to Council for consideration prior to adopting the 2021 capital budget.

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Respectfully submitted,



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Antoine C. Boucher, P. Eng.  
Director of Public Works

I concur with this report and recommendation.



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Jason H. Trottier, HBBA, CPA, CMA  
CAO/Treasurer