



CLEARVIEW

TOWNSHIP OF CLEARVIEW
PROPOSED IMPROVEMENTS TO 26/27 SIDEROAD

STATEMENT OF THE MAYOR

March 22, 2021

OVERVIEW

As the Mayor of the Township of Clearview, it is my privilege and duty to provide this statement of facts regarding the opposition of the Niagara Escarpment Commission (NEC) and others to our Township's efforts to make improvements to the 26/27 Sideroad. The sideroad has existed for over 100 years and is about 2.74 kms east-west, across the Niagara Escarpment, between Grey County Road 31 and Clearview Concession 10.

I am releasing this statement today to ensure that the public has all the facts and understands what is at stake at the upcoming hearing before the Niagara Escarpment Hearing Office, not just for the residents of Clearview, but for residents in the Town of The Blue Mountains, the Municipality of Grey Highlands, and other individuals and businesses that travel between Grey and Simcoe Counties.

As I discuss in greater detail below, there are four facts you should know:

1. The Township owns and maintains the Sideroad, which requires immediate improvements to ensure safe passage and the arrest of on-going damage to the environment.
2. The improvements have been subject to a Municipal Class A+ Environmental Assessment and a comprehensive Environmental Impact Study and have been endorsed by Simcoe County, Grey County and a panel of Ontario's Joint Board, however the proposed improvements are opposed by the NEC.
3. If the final decision is that Clearview's applications to the NEC fail, the Township will be faced with a decision to close 26/27 Sideroad or leave the road in an unsatisfactory condition. Together with the pending closure of former County Road 91, there will be no acceptable east-west route available between Singhampton (County Road 124) and the Clearview/Blue Mountain boundary to Grey Road 19.

4. A section of former County Road 91 is directed to be closed as a result of the decision of the Joint Board. Clearview Township Council has not voted to close former County Road 91.

BACKGROUND

By way of background, the westerly end of the 26/27 Sideroad is open year-round to serve several residences on the road, but the easterly end is not maintained through the winter months. It is a short and direct east-west route for those travelling between Simcoe County and Grey County, which is experiencing increasing traffic volumes. The current state of the Sideroad is such that there are serious erosion and sedimentation issues, which impact a stream, a wetland and fish habitat and can not be maintained to meet municipal and provincial road standards for public safety.

The Township is the owner of and public road authority for the Sideroad. Repair and maintenance of the Sideroad falls squarely under our jurisdiction and we are obligated to ensure that it is a safe road for public use that does not cause harm to the natural environment. Any work we do on it is heavily regulated by the Provincial MTO Road Standards, the Niagara Escarpment Commission, the Nottawasaga Valley Conservation Authority and the Grey Sauble Conservation Authority, to ensure it is environmentally sustainable and will not negatively impact any of the many natural features along the road.

The existing Sideroad is a gravel road with a travelled portion ranging in cross section width from four metres to five metres. The road has an inadequate granular base, as well as deficient drainage features which creates a negative impact (erosion and sedimentation) on the adjacent natural features. The Township has determined that the road must be improved, within the existing right-of-way limits, to address public safety and mitigate the impact on the adjacent environment.

The proposed improvements include widening to meet the Township's minimum standards and the ultimate paving of the road, encompassing an additional 1.21 hectares along the south portion of the right-of-way and an additional 1.16 hectares along the north portion of the right-of-way. A total of approximately 2.37 hectares must be cleared and graded. Approximately 1.67 hectares of the right-of-way will remain undisturbed. The road widening and new drainage features have been designed to protect, to the greatest extent possible, the natural features that remain in the right-of-way and those adjacent it.

The proposed widening of the Sideroad has proceeded as a Schedule A+ Municipal Class Environmental Assessment (EA) and, as such, the consideration of alternatives to the widening are not required. With respect to this road, the Township must either improve the road or face a decision to close the road. The Ministry of Environment, Conservation and Parks (MECP) concurs that the Schedule A+ Municipal Class EA selected by the Township is appropriate and this has recently been confirmed by the Minister of MECP in a letter dated May 21, 2020.

The Township commissioned a comprehensive Environmental Impact Statement (EIS), which identifies, among other matters, the quality and area of vegetation communities to be removed, including trees, and recommends mitigation and protection measures for the adjacent lands. The EIS states that erosion of the existing gravel roadbed, coupled with inadequate roadside ditches and

culverts, which results in poor stormwater conveyance, are negatively impacting the surrounding environment.

The EIS concludes that improved road design and stormwater management techniques will improve the existing water quality of the surrounding tributaries and wetlands. The design drawings contained in the EIS show the extent of grading within the right-of-way and the areas to remain undisturbed. The intent is to provide, wherever possible, an undisturbed area as a buffer to the key natural heritage features and key hydrologic features.

The Township's commitment to do this work came forward in the context of the Joint Board hearing for the Walker quarry expansion near Duntroon. The hearing began in May of 2010. The purpose of the hearing was to adjudicate an appeal of the Walker Aggregates application to expand their quarry operations to the North side of County Road 91 made in July 2006. The panel of the Joint Board composed of two members of the Ontario Municipal Board and a Vice-Chair of the Environmental Review Tribunal.

The Joint Board Hearing received the County of Simcoe engineering determination dated 2009 of the separate need to make significant road improvements to County Road 91 of increased traffic volumes; road improvements that some members of the public and NEC opposed. The County of Simcoe report included recommendations to widen the entire road surface to 4 lanes from Grey County Road 31 to Duntroon, effectively bringing the existing road to County Road Standards. The NEC as well as the County of Simcoe and the County of Grey participated in the Joint Board hearing and were represented by legal counsel.

The Walker applications were approved in a final Joint Board Order, issued on July 17, 2014. One of the amendments to the Walker Quarry Site Plan approved by the Joint Board expansion of the quarry included the statement that: "improvements to former County Road 91 and Sideroad 26/27 as contemplated by the Road Settlement Agreements be undertaken to the satisfaction of the Township of Clearview." The Road Settlement Agreements involved the Township, Walker, the County of Simcoe and the County of Grey.

The upshot of this comprehensive, lengthy and very public Hearing process was that: 1) the County of Simcoe would transfer ownership of County Road 91 to the Township; 2) the Township would close a part of County Road 91 straddling the Duntroon Quarry and transfer it to Walker Aggregates; and 3) the Township would improve Sideroad 26/27 to municipal standards. 4) The remaining travelled portion of former County Road 91 would be improved to Municipal Standards and the north portion of Clearview Concession 10 would be improved. The Joint Board confirmed that these changes to the road network were required to address traffic and public safety issues, and that changing the road network was the preferred alternative when compared to upgrading County Road 91 to County standards as submitted in the 2009 Simcoe County engineering report.

It is extremely important for the public to understand that, at the time the Joint Board was hearing the appeal and when it rendered its decision, the Township had the authority to make the 26/27 road improvements within an existing road allowance without having to obtain a Development Permit from the Niagara Escarpment Commission. In other words, the Township had complete control of the process and the work to be carried out within a road allowance that was under its jurisdiction, subject to acquiring typical engineering and environmental approvals and authorizations from other agencies.

The NEC was not happy with the Joint Board's decision and made an application for judicial review to the Divisional Court. The Divisional Court dismissed the NEC's application and upheld the Joint Board's decision.

After the decision of the Joint Board, and without notice to the Township of Clearview or any other municipality within the NECP, on January 1, 2013, the Province was persuaded to amend Ontario Regulation 828/90 so that a development permit from the NEC was required for the proposed work. An NEC development permit had never been required of Municipal Road Authorities to do works on publicly held road allowances prior to this.

As a result of the amendment, Clearview Township was not then able to meet the terms of the Joint Board decisions without obtaining a new approval from the NEC for works that have been and continue to be deemed required for road safety and to mitigate environmental concerns. Further changes to the Niagara Escarpment Plan (the "NEP") in 2017 meant that the Township was required to seek an amendment to the NEP effectively creating more studies, hearings, and legal appearances in a process of meeting the terms of the Joint Board order.

Despite a positive report from the NEC staff in November 2015 supporting the works to the 26/27 Sideroad and the issuance of the Municipal Road Development Permit, the NEC commissioners refused to issue a Development Permit to the Township. The matter was appealed to the Niagara Escarpment Hearing Office (the "NEHO") in December, 2015. Subsequent to the Township appeal, the NEC updated the permit infrastructure in Escarpment Natural Areas, whereas the previous plan only permitted "essential infrastructure". The Township was left with no other option than to make an application to amend the NEP Plan to remove the 26/27 Sideroad from the NEP effectively negating the need for a Development Permit and applied to do so in February 2018.

Objections to the Township's application to amend the NEP Plan have triggered a referral to the NEHO. The County of Grey, the Town of the Blue Mountains and the Municipality of Grey Highlands are each concerned about regional transportation issues. All are now opposed to the approvals sought by Clearview. Clearview Township is also concerned about regional transportation issues however, our actions have over these many years been in the public interest to keep traffic moving on our area roads while sustaining an environmentally safe condition.

GOING FORWARD

Apart from the practical implications, the predicament the Township finds itself in raises a serious concern about the ability of all local municipalities to improve roads under their jurisdiction to ensure the provision of a safe and environmentally sustainable road network. In the face of a regulatory process that is susceptible to arbitrary change in approval requirements as a result of political lobbying, it becomes impossible for a local municipality to make decisions and act with certainty. There exists now a loss of respect for the authority of Local Government to act responsibly while faced with agreements and changing Provincial Commission approvals that were not applicable at the time of the Joint Board hearings. The question arises as to "Who is the Road Authority, the Municipalities, or is it the NEC?" To-date, the Township has spent more than \$750,000.00 attempting to secure the necessary approvals from the NEC, and now faces expenditures of another estimated \$250,000.00, just to continue its participation in the NEHO appeal.

The NEHO, now scheduled for November of this year, will only make a recommendation to the NEC, which will, in turn, make a recommendation to the Minister of the Environment Conservation and Parks as to whether the development permit and the plan amendment should be approved. If the final decision is that Clearview's applications fail, the Township will be faced with a decision to close 26/27 Sideroad or leave the road in an unsatisfactory condition. Together with the closure of former County Road 91, as part of the Joint Board decision, there will be no acceptable east-west route available between Singhampton (County Road 124) and the Clearview/Blue Mountain boundary to Grey Road 19.

While the Township is committed to do what it must to ensure its roads are safe and environmentally sustainable, at the same time, this simple road improvement exercise has obviously become a lightning rod for lingering resentment over the Joint Board's approval of the Walker quarry expansion in June 2012 and a platform for some of our neighbouring municipalities to advance their concerns about much bigger regional transportation problems.

The truth is, however, that even if they are successful and the Township is prevented from fixing the 26/27 Sideroad, this will not reverse the approval of the Walker quarry expansion and will handicap, not advance, the prospects of a solution to our very real regional transportation issues.

I trust that this statement will help the public to understand our reasons for implementing and continuing the process of the improvements to Clearview Sideroad 26/27 and, perhaps, invite a dialogue with the NEC, our municipal neighbours, and any interested persons.

Yours very truly,



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