



## Staff Memo

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**Report To:** South Huron Council  
**From:** **Dan Best, Chief Administrative Officer/Deputy Clerk**  
**Date:** August 10 2020  
**Report:** CAO 16.2020  
**Subject:** Waterworks Road

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### **Recommendations:**

**That** the memo of D. Best, Chief Administrative Officer dated August 10, 2020 respecting Waterworks Road be received; and

**That** Council authorize staff to examine options respecting the future of Waterworks Road with the Municipality of Bluewater.

### **Purpose:**

Authorization and direction.

### **Background and Analysis:**

#### **Waterworks Road**

Waterworks Road is a boundary line highway in accordance with the Municipal Act, 2001 between the Municipality of South Huron and Municipality of Bluewater.

#### **Relevant Legislation**

Section 3 of the *Municipal Act, 2001* prescribes roads as a sphere of jurisdiction for Municipalities. For the purposes of this memo, the specific areas of focus will be on legislation pertaining to boundary lines. The following is derived directly from *Municipal Act, 2001*.

## By-laws

27 (1) Except as otherwise provided in this Act, a municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway. 2001, c. 25, s. 27 (1).

## Joint jurisdiction

(2) If a highway is under the joint jurisdiction of two or more municipalities, a by-law in respect of the highway must be passed by all of the municipalities having jurisdiction over the highway. 2001, c. 25, s. 27 (2).

## Jurisdiction

28 (1) Except as otherwise provided in this Act or under section 8 of the Public Transportation and Highway Improvement Act or in a by-law passed under this Act, a municipality has jurisdiction or joint jurisdiction, as the case may be, over the following highways:

1. All highways over which it had jurisdiction or joint jurisdiction on December 31, 2002.
2. All highways established by by-law of the municipality on or after January 1, 2003.
3. All highways transferred to the municipality under this Act, the Public Transportation and Highway Improvement Act or any other Act. 2001, c. 25, s. 28 (1).

## Local municipalities

(2) Except as otherwise provided in this Act or under section 8 of the Public Transportation and Highway Improvement Act, a local municipality has jurisdiction over,

- (a) all road allowances located in the municipality that were made by the Crown surveyors; and
- (b) all road allowances, highways, streets and lanes shown on a registered plan of subdivision. 2001, c. 25, s. 28 (2).

## Boundary lines

29 (1) Subject to section 28 and to a by-law passed under section 52, the local municipalities on either side of a boundary line between municipalities have joint jurisdiction over any highways forming the boundary line. 2001, c. 25, s. 29 (1).

## Joint jurisdiction, bridges

(2) Subject to section 28 and to a by-law passed under section 52, if a bridge joins a highway under the jurisdiction of any municipality to a highway under the jurisdiction of another municipality, the bridge is under the joint jurisdiction of the municipalities. 2001, c. 25, s. 29 (2).

## Deviation of boundary lines

(3) If, because of physical difficulties or obstructions, a highway does not follow a boundary line throughout but deviates so that parts of it lie wholly within one of the

boundary municipalities, the highway shall be deemed to be the boundary line between the two municipalities for the purposes of determining jurisdiction over the highway. 2001, c. 25, s. 29 (3).

(4), (5) Repealed: 2002, c. 17, Sched. A, s. 8.

### Agreement

29.1 (1) If municipalities having joint jurisdiction over a boundary line highway enter into an agreement under which each municipality agrees to keep any part of the highway in repair for its whole width and to indemnify the other municipality from any loss or damage arising from the lack of repair for that part, the agreement and a copy of the by-law authorizing the agreement may be registered in the proper land registry office for the area in which the highway is located. 2002, c. 17, Sched. A, s. 9.

### Effect

(2) If municipalities enter into an agreement under subsection (1), each municipality has jurisdiction over that part of the highway that it has agreed to keep in repair and is liable for any damages that arise from failure to keep the highway in repair and the other municipality is relieved from all liability in respect of the repair of that part. 2002, c. 17, Sched. A, s. 9.

## **Challenges Regarding Waterworks Road**

Waterworks road is bounded by the Lake Huron & Elgin Area Primary Water Supply Systems to the south; Highway 21 to the north and Highland One development to the north.

With COVID-19, there have been a number of challenges that have occurred regarding Waterworks Rd that one could argue were pre-existing but exacerbated this year. Specifically, the challenges that have occurred are the following:

- Parking infractions on the South Huron side. This could be argued that South Huron may/may not have authority to enforce if legislation to implement was not followed in the absence of an agreement.
- Both municipalities have undertaken a search to determine if a boundary agreement exists. No such agreement has been found to date.
- Vehicular parking on Highway 21 resulting in safety concerns for traffic and pedestrian movement at an intersection that is very challenging without vehicle loading on the shoulders.
- Road access allowing for impacts to the enjoyment and quality of life of residents of Highland One

- Concerns related to security of the Lake Huron & Elgin Area Primary Water Supply Systems

### **Opportunities**

The opportunity before the municipalities of South Huron and Bluewater is to assess the future of the road and the implications for key stakeholders (Highland One and LHEPWSS) as part of the assessment. In addition, with the potential upgrades of Highway 21/Dashwood Road, there's an opportunity to coordinate with MTO and Huron County to ensure a safer intersection that benefits everyone.

The recent closure of the road under the Highway Traffic Act (HTA) has created the opportunity for dialogue with the Municipality of Bluewater regarding Waterworks Road. The opportunity to bring LHEPWSS into discussions re: operations, security and future plans has been critical in the conversation.

It should be noted that LHEPWSS is looking at shoreline erosion control construction project this fall for the water treatment plant property. Construction is anticipated between September 1st and 31st, subject to approvals. The beach area of the water system's property will not be accessible by the public during this time, and may require the erection of temporary construction fencing at the dead-end of Waterworks Road to control access and ensure public safety.

At this time, the request of Council is to explore options related to Waterworks Road. Bluewater staff will be seeking the same approval from their Council. Some of the options to be examined would be:

- Potential closure of the road either in whole or in part.
- Deeming the road surplus and transferring ownership to one or more key stakeholders
- The development of a boundary road agreement if keeping the road as a public road in whole or in part.

These are but a few preliminary options. A process or terms of reference would need to be agreed upon by the municipalities that would include public engagement as a pre-requisite, timelines and workplan. The goal would be to complete this project for May 2021.

**Financial Impact:**

There are no financial implications as a result of the actions outlined in this memo

**Legal Impact:**

There are no legal implications as a result of the actions outlined in this memo

**Staffing Impact:**

There are no staffing implications as a result of the actions outlined in this memo

**Consultation:**

Laurie Spence Bannerman, Bluewater CAO  
Andrew Henry, Director, Regional Water, LHEPWSS

Respectfully submitted,

**Dan Best, Chief Administrative Officer/Deputy Clerk**