

Staff Report

Report To: City Council

Report From: Pam Coulter, Director Community Services
Mike Crone, Director (A) Public Works & Engineering

Meeting Date: November 7, 2022

Report Code: OP-22-051

Subject: Request from Ben and Susan Miller respecting Title Matters
– Parts 10, 11, 12 and 14 on Plan 16R-7407

Recommendations:

THAT in consideration of Staff Report OP-22-051, respecting a request from Ben and Susan Miller (through The Ross Firm) to address title matters, City Council directs staff to:

1. Bring forward a by-law to authorize the Mayor and Clerk to execute all documents necessary to:
 - a. Transfer ownership of the subject lands, described as Parts 10, 11, 12 and 14 on Plan 16R-7407, in their current state to the Millers; and
 - b. Register a release of the easement on the subject lands; and
2. Obtain a release from the Millers, as offered by their legal counsel, accepting the lands in their current condition, and holding the City harmless.

Highlights:

- The request by Ben and Susan Miller regards an easement relating to abandoned City water system infrastructure, commonly referred to as the Inglis Falls Slow Sand Filters.
- This has been an outstanding property issue for several years.

- In June 2000, a deed was registered from the City to the City as “fee simple,” which is a full ownership interest rather than a right-of-way.
- The subject lands are no longer required to secure water servicing for the City of Owen Sound.

Strategic Plan Alignment:

This report supports the delivery of Core Service.

Previous Report/Authority:

Closed Report CS-14-144 - Request from Horton & Horton on behalf of Jim Weaver - Silver Creek Farms

Closed Report OP-22-049 respecting the current request by the Millers.

Background:

The lands subject of the Miller’s request, described as Parts 10, 11, 12, and 14 on Plan 16R-7407, historically provided a means of conveying water from the Inglis Falls Slow Sand Filters to residents in the City of Owen Sound. The lands were originally expropriated in By-law 1360, registered in July of 1909, to provide a right-of-way to lay a 12-inch water main. Only a right-of-way was expropriated, not full ownership of the subject lands.

In 1999, this water source and the entire spring water system were isolated as a drinking water source for the City of Owen Sound. At the time, statements were made that the system could be used in case of an emergency should the City’s surface water source be compromised.

In 2000, a deed was registered that mistakenly indicated that the City’s interest in the subject lands was full ownership rather than a right-of-way.

In 2014, Council denied a request to address title matters related to the subject lands (November 2014 Report CS-14-144- Request from Horton & Horton on behalf of Jim Weaver- Silver Creek Farms). At that time, it was believed that the City needed to retain the 12” water main and the water source it conveyed as a backup water supply for the City.

Prior to and since the 2014 request, measures have been taken to abandon the Inglis Falls Slow Sand Filters water source fully. The total abandonment

of this water source was completed during the relatively recent reconstruction of the Inglis Falls Roadway. The balance of the spring water system, although out of service and likely never to be a water source as it is a groundwater source subject to surface influences, would still offer a potential water source for future developments. The City owns the lands that the balance of the spring system is situated on.

Analysis:

Staff are of the opinion that, as the City's ownership of the subject lands is founded on a registration error, the ownership should revert to the Millers.

Further, staff have also determined that the 12" water main can never be returned to service. The water main has been abandoned, essentially "cut and capped" at both ends. Due to its age and the fact that it has been abandoned for an extended period, current water regulations would not allow this water main to be placed back into service. Furthermore, the original water source, the Inglis Falls Slow Sand Filters, cannot be considered a viable water source.

Based on this information, staff recommend that the easement on the subject lands be released, provided a release from the Millers is received accepting the lands in their current condition and holding the City harmless.

Financial Implications:

Any costs related to the transfer and release will be borne by the utility-funded water budget. The costs will have a negligible impact on the water rates.

Communication Strategy:

The Miller's legal counsel will be apprised of Council's decision, and the City's solicitor will be asked to undertake the transfer and release, which shall be registered on title to the land and act as notice to the public.

Consultation:

Manager of Public Works, Water Distribution Superintendent, External Legal Counsel

Attachments:

Copy of Plan 16R-7407 showing the subject lands.

Recommended by:

Pam Coulter, Director of Community Services

Mike Crone, Director (A) Public Works & Engineering

Submission approved by:

Tim Simmonds, City Manager

For more information on this report, please contact Pam Coulter, Director of Community Services at pcoulter@owensound.ca or 519-376-4440 ext. 1252.