

Johnson Road Petition

Planning Advisory Committee

March 9, 2021

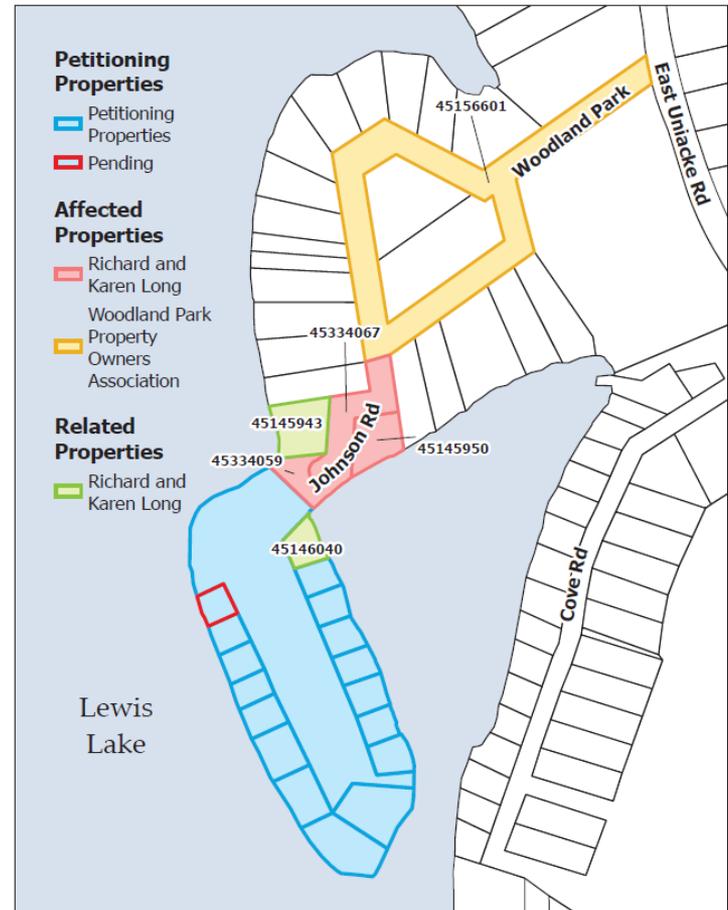
Planning & Development Department



EAST HANTS

Background

- The Municipality received a petition from the property owners of the Johnson Road peninsula, East Uniacke asking Council to grant them right-of-way access over four privately owned properties from East Uniacke Road to the peninsula pursuant to the *Private Ways Act*:
 - PID 45334059 lands of Richard and Karen Long
 - PID 45334067 lands of Richard and Karen Long
 - PID 45145950 lands of Richard and Karen Long
 - PID 45156601 lands of the Woodland Park Property Owners Association

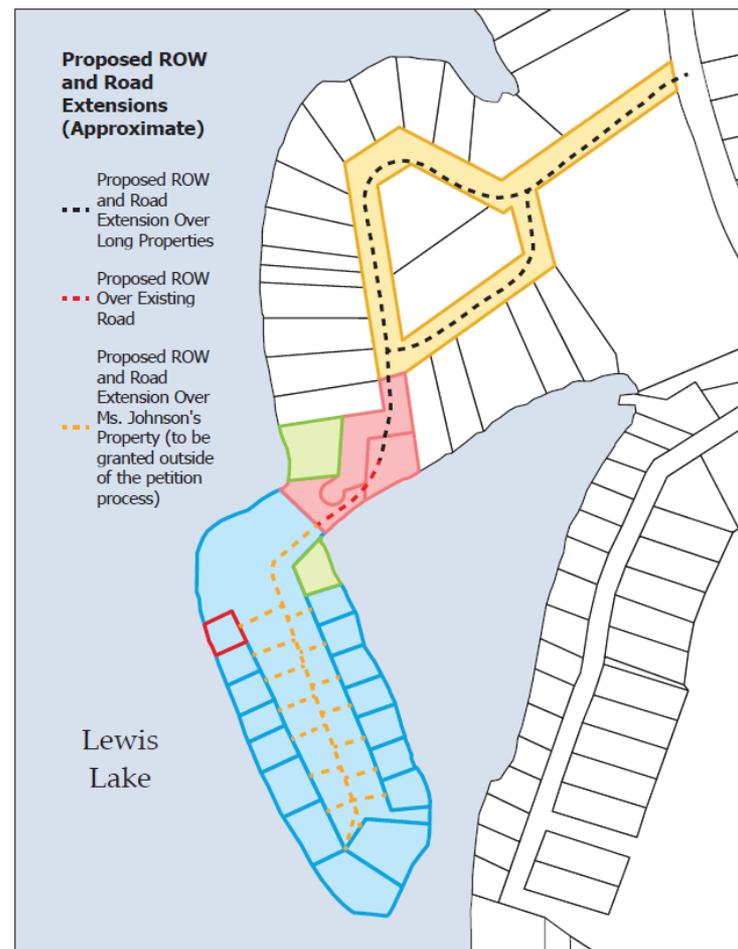


Background continued...

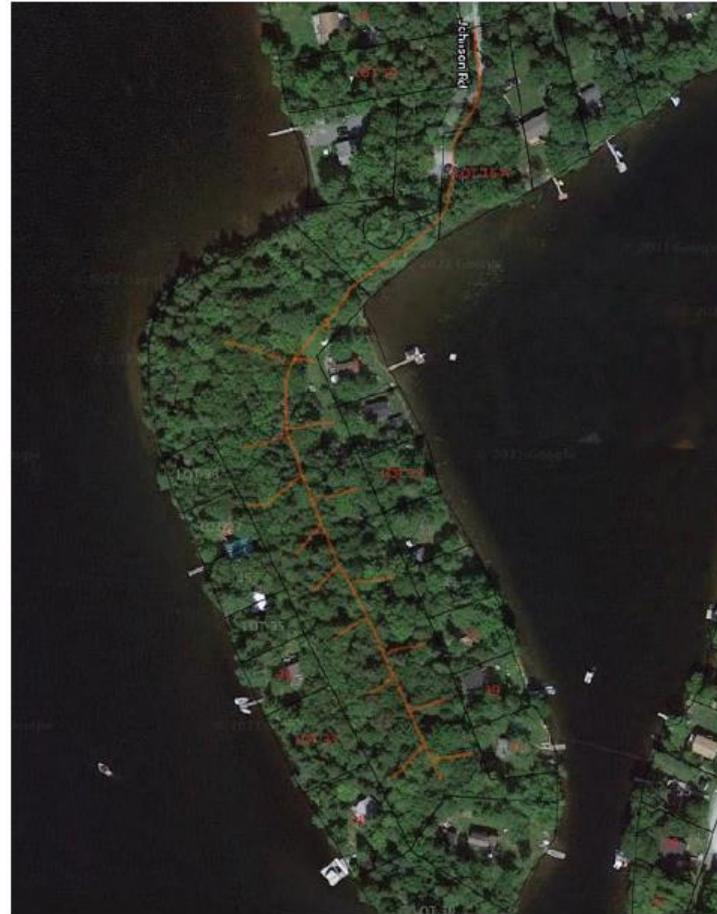
- There are 16 properties on the peninsula involved in the petition. Staff are attempting to contact one additional property owner of PID 45146206 who would otherwise be the only property on the peninsula not included in the petition. Out of 17 properties, 15 only have access via boat from the nearby Cove Road.
- Anecdotal evidence suggests PID 45145950 was historically used as a parking area by some Johnson peninsula property owners who would then walk in to their properties. Some property owners have also paid into the Woodland Park Property Owners Association for use of their road to reach said “parking area”.
- The most recent owners of PIDs 45334059, 45145950, and 45334067 (“Johnson Road”) have gated the parking area, and are only allowing access to the one property owner who has a clearly deeded right-of-way.
- The applicants are seeking a practical way to access their properties by vehicle, and are particularly concerned about emergency vehicle access. They have already approached both the Longs and the Woodland Park Property Owners Association and neither were in favour of granting this access.

Proposed Right-of-Way and Road Extension

- Woodland Park and part of the Longs' PIDs 45145950 and 45334067 make up the existing road way. The applicants are requesting access over these parcels, as well as the Long's PID 45334059 in order to extend the road.
- The road extension would continue over the lands of Lillian Johnson on the peninsula who has already agreed to grant each property access over her land.
- The applicants have provided a couple of scenarios for where the road extension could go which would be reviewed by a Commissioner appointed by Council.



Proposed Right-of-Way and Road Extension



Process

- Council accepts the petition and authorizes staff to enter into an agreement with the applicants for the reimbursement to the Municipality for any expenses incurred. Some of these costs may be recovered through the creation of a bylaw as defined in Section 29A(1) of the *Private Ways Act*.
- Council appoints a Commissioner* to carry out a review of the petition package to:
 - Examine the appropriateness of the proposed right-of-way
 - Lay out (survey) the right-of-way
 - Negotiate compensation from applicants to the affected property owners

**The Commissioner is only to be engaged once the agreement is in place.*
- If the determined compensation cannot be agreed upon, the affected property owners, and the Commissioner, and the Warden each assign an arbitrator to determine the amount.

Process continued...

- The Commissioner reports the results to Council, and Council accepts or rejects the recommendations, including the proposed compensation.
- If accepted, a copy of the plan setting out the private way shall be registered in the Registry of Deeds.
- The applicants and/or the affected property owners may appeal to the county court within ten days of the decision of Council.

Budget Implications

- The potential costs associated with the process, and to be paid by Council, pursuant to the *Private Ways Act* are as follows:
 - The remuneration of the Commissioner, in an amount as allowed by council.
 - If an agreement for compensation cannot be reached, all costs relating to arbitration and any expenses associated with this work.
 - Should a right-of-way be granted to the property owners on the peninsula over the aforementioned four parcels, the compensation payable to the Longs and the Woodland Park Property Owners Association.
 - If any party chooses to appeal Council's decision, any associated legal fees.

Budget Implications continued...

- Section 29 and 29A(1) of the *Private Ways Act* allows Council to create a bylaw to recover the costs specifically related to the compensation ascertained and the expenses incurred in respect thereto. These costs may be recovered from any polling district in which such private way or road is made, or in whole or in part from the applicant, as Council may direct.
- Additionally Section 47(5) of the *Municipal Government Act* authorizes Council to “carry out a contract... for which the municipality or council is authorized by an Act of Legislature to spend or borrow money”. The *Private Ways Act* authorizes council to spend money with respect to an application under the *Private Ways Act*. Therefore, Council may enter into an agreement with the applicants to recover any costs incurred throughout the petition process.

Options

- Council may choose to accept the petition; authorize staff to enter into an agreement with the applicants for reimbursement of any and all related expenses; and appoint the Municipal Solicitor, Marc Dunning of Wickwire Holm the Commissioner.
- Council may choose to accept the petition; authorize staff to enter into an agreement with the applicants for reimbursement of some related expenses, but not all; and appoint the Municipal Solicitor, Marc Dunning of Wickwire Holm the Commissioner.
- Council may choose not to grant a right-of-way access from East Uniacke Rd to the properties on the Johnson Road peninsula, East Uniacke.

Recommendation

- That Council: accept the petition from the applicants (including PID 45146206 pending approval); authorize staff to enter into an agreement with the applicants for reimbursement of any and all related expenses; and appoint the Municipal Solicitor, Marc Dunning of Wickwire Holm the Commissioner.

Recommended Motion

Planning Advisory Committee recommends that Council:

- *accept the petition for right-of-way access from East Uniacke Rd, East Uniacke to the properties on the Johnson Road peninsula as outlined as the petitioning properties on Appendix C Map of the February 25, 2021 Staff Report, including PID 45146206 pending approval; and*
- *to authorize staff to enter into an agreement with the applicants for reimbursement to the Municipality of any and all expenses incurred by the Municipality as the result of the petition.*
- *appoint the Municipal Solicitor, Marc Dunning as Commissioner pursuant to Section 17 of the Private Ways Act, to consider the petition of the Johnson Road peninsula property owners.*