

Type of Decision									
Meeting Date	Tuesday, December 12, 2017				Report Date	Friday, October 27, 2017			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	x	Information Only			Type of Meeting	X	Open		Closed
<b>REPORT TITLE - The Algonquin Trail - Use Through Head, Clara &amp; Maria</b>									
Report #14/11/17/1102 - 12/12/17/1101 - Deferred from November!									

**Subject:**

Council's consideration of the long term use of the rail corridor through Head, Clara & Maria as the Algonquin Trail.

**RECOMMENDATION:**

That Council adopt the following recommendation and direct staff to forward to the appropriate persons/organizations for information and action.

**WHEREAS** the County of Renfrew has moved to lease sections of the Algonquin Trail within Head, Clara & Maria without any consultation with this lower tier municipality;

**AND WHEREAS** Council recognizes the potential of a properly planned and managed trail system within the County and is willing to consult on and come to a practical system meeting all needs;

**AND WHEREAS** use of a motorized trail through HCM is contrary to the current Zoning By-Law, and **not strictly compliant with** the current Renfrew County Official Plan or the Provincial Policy Statement as they speak to the importance and preference of active transportation including pedestrian and cycling over motorized trails;

**AND WHEREAS** municipalities have the express responsibility under the *Municipal Act* to protect their residents from public nuisance, noise, odour and dust, and to overall protect their general health and safety;

**AND WHEREAS** this Council has concern with the shared use of a trail by motorized and non-motorized users;

**THEREFORE BE IT RESOLVED THAT THE** Council of the United Townships of Head, Clara & Maria does hereby direct staff to notify the County of Renfrew that the use of the lands known as the Algonquin Trail as a motorized trail through the municipality is contrary to the local Zoning By-Law and therefore not permitted;

**AND FURTHER THAT** consultations commence between the County and the municipality to come to an agreement to develop a system of trails throughout Head, Clara & Maria which meet the needs of all residents and users being mindful of property owner rights, public safety, costs and municipal liability;

**AND FURTHER THAT** this resolution and supporting documents be forwarded to each member of the upper tier Council of the Counties of Renfrew and Lanark and Papineau Cameron Township expressing Council's concerns as well as to all lower tier municipalities in Lanark and Renfrew Counties for support.

## **BACKGROUND/EXECUTIVE SUMMARY:**

Importance of Council to express their concerns before a management plan for the use of the Algonquin Trail has been completed and adopted by the County of Renfrew, without consultation.

### ***Promise and Potential***

With proper consultation and cooperation, it is possible to compromise so that a coordinated trail system can be created and used within Head, Clara & Maria. This eventuality must include consultation and consideration of all points of view, with honest dialogue based on fact and not emotion. The rhetoric - warnings of doom, threats that Council wants to stop snowmobiling and threats of business closure if the trail is not used need to be set aside.

It is possible to create a system of trails which makes use of the vast unpopulated tracts of rail corridor with connector trails linked to by-pass sections in close proximity to residences for motorized use. This will allow for a positive rider experience, access to businesses and protection of private properties rights. There is no reason it has to be one or the other.

With a common goal of making the system work without having it thrust upon any one group of people, or municipality, is the only way that the trail system will successfully operate to the benefit of all users over the long term.

There is no reason that the sections where our seniors now walk to get their mail, whether in Stonecliffe or Mackey remain for pedestrian and cycling use only allowing them physical activity in a safe environment away from the transports and snowplows running on the highways.

The current motorized routes, be it the legacy trail or the pipeline or logging roads can continue to be used to by-pass these sections. Having County council unilaterally decide what types of uses and where specific use is allowed is not consultation, it is not consideration.

There is no reason a fair system, taking all persons' views into account cannot be worked out. There simply needs to be a will and honest straightforward conversation between policy makers.

### ***Challenges and concerns:***

1. Lack of proper consultation with lower tier Councils, residents or staff;
2. Lack of respect for concerns of lower tier councils or residents;
3. The process of a small committee making decisions and having those decisions simply rubber stamped by full County Council;
4. An upper tier dictating the use of lands within a lower tier contrary to lower tier Zoning By-Laws;
5. HCM Council's responsibility to ensure the health and safety of its residents under the Municipal Act;
6. HCM Council's option to protect its residents from public nuisance under the Municipal Act due to noise, odour and dust;
7. The short term costs of rehabilitating culverts and bridges along this section of the rail corridor;
8. The long term costs of maintenance of this trail;

9. The determination by the County that any alternate route would be at the expense of the municipality.
10. The challenge with obtaining liability insurance;
11. The requirement to purchase club membership to use what was touted as “public trails” when public funds have been used to create and maintain the trails;
12. The continued existence of joint and several liability insurance under which the municipality will be named in the event of accident;
13. Successful law suit from Quebec where the complainants proved successfully that those living adjacent to trails (snowmobile only, this case did not include other off road vehicles) were negatively impacted by noise and pollution. Trail owners, clubs and governments were required to pay damages to those living in proximity for a 6 year period.
  - a. The linear trail there has subsequently been changed so that only a shorter section, away from private residences, is now used for snowmobiling in winter. Another section is dedicated to skiing.
  - b. In summer, use is limited to cycling, hiking, and inline skating. There is no motorized use in summer at all through populated areas.
14. Threat of class action lawsuit against the Counties of Renfrew, Lanark and Papineau-Cameron should the rolling out of the current plan continue without proper consideration of property owners and non-motorized users along the route.
15. The fact that a large number of residents are still not aware of what is being proposed despite the efforts of County staff.

## The Municipal Act

### 1. Public nuisances

- **128** (1) Without limiting sections 9, 10 and 11, a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances. 2001, c. 25, s. 128 (1); 2006, c. 32, Sched. A, s. 68.
- **Not subject to review**
- (2) The opinion of council under this section, if arrived at in good faith, is not subject to review by any court. 2001, c. 25, s. 128 (2).

### 2. Noise, odour, dust, etc.

- **129** Without limiting sections 9, 10 and 11, a local municipality may,
- (a) prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors; and
- (b) prohibit the matters described in clause (a) unless a permit is obtained from the municipality for those matters and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans. 2006, c. 32, Sched. A, s. 69.

## From the Provincial Policy Statement

### 1. The Role of Provincial Policy Statement, 2014

As outlined in the Provincial Policy Statement, 2014, permitted uses on rural lands may include resource-based recreational uses (e.g., recreational dwellings). Although the term “resource-based recreational uses” is not defined in the Provincial Policy Statement, 2014, resource-based recreational uses are generally related to and located in close proximity to one or more things like natural features such as lakes, rivers or forests, and other geographic features. Examples include

recreational dwellings (such as cottages and camps), country inns, hunting lodges, hiking trails, marinas and ski hills.

## **2. Part IV: Vision for Ontario's Land Use Planning System**

Efficient development patterns optimize the use of land, resources and public investment in infrastructure and public service facilities. These land use patterns promote a mix of housing, including affordable housing, employment, recreation, parks and open spaces, and transportation choices that increase the use of active transportation and transit before other modes of travel. They also support the financial well-being of the Province and municipalities over the long term, and minimize the undesirable effects of development, including impacts on air, water and other resources. Strong, liveable and healthy communities promote and enhance human health and social well-being, are economically and environmentally sound, and are resilient to climate change.

### **3. Section 1.5 Public Spaces, Recreation, Parks, Trails and Open Space**

1.5.1 Healthy, active communities should be promoted by:

- a) planning public streets, spaces and facilities to be safe, meet the needs of pedestrians, foster social interaction and facilitate active transportation and community connectivity;
- b) planning and providing for a full range and equitable distribution of publicly-accessible built and natural settings for recreation, including facilities, parklands, public spaces, open space areas, trails and linkages, and, where practical, water-based resources;
- c) providing opportunities for public access to shorelines; and
- d) recognizing provincial parks, conservation reserves, and other protected areas, and minimizing negative impacts on these areas.

4. **Active transportation:** means human-powered travel, including but not limited to, walking, cycling, inline skating and travel with the use of mobility aids, including motorized wheelchairs and other power-assisted devices moving at a comparable speed.

5. There is nothing within the PPS which speaks to motorized trails.

## **From the County of Renfrew Official Plan**

From the Current Official Plan...

Walking and Cycling are mentioned numerous times; motorized trails are not. The only reference to motorized use is in an exemption allowed in Greater Madawaska for the Calabogie Motorsport Park. This section also includes significant amendments for noise dampening buffers etc. The only reference to snowmobiling is in the County Forests.

Use of lands as snowmobile trails or other motorized trails as opposed to pedestrian and cycling paths are contrary to the Official Plan. Doing both in the same location is cause for liability concerns.

### **1. Section 13.1 Introduction**

- a. Walking and cycling are increasingly important transportation options for many of the County's residents and visitors. An additional intent of the transportation policies is to encourage and support, wherever feasible, the development of pedestrian and cycling facilities both as a means of travel and for recreation within Renfrew County.

### **2. Section 13.2 – Objectives**

- a. (5) To support and encourage the development of pedestrian and cycling facilities as a means of travel and for recreation.

### 3. Section 13.3 - Policies

- a. (7) The development of recreational trails that allow for pedestrians and/or cycling will be encouraged and supported.
- b. (8) The following uses may be permitted in any land use **designation subject to the provisions of the local zoning by-law:...**

### 4. Section 5.3 Rural Policies

- a. (5) Recreational or open space uses (such as golf courses, ski trails, whitewater rafting) or tourism-related development such as theme parks and residential uses related to the foregoing are permitted and may be expanded, provided the following criteria are met:
  - (a) the impact on other recreational uses along a river corridor are considered; \*(Minister's Modification No. 27)\*
  - (b) the reasonably anticipated effects of development on rural and recreational characteristics and on natural features and functions are assessed \*in accordance with the terms of Section 2.2 (24) of this Plan, where appropriate,\* and are acceptable;
  - (c) the aesthetic appearance of the proposed development is assessed and acceptable; \*(Minister's Modification No. 28)\*
  - (d) the long-term suitability of the site for communal services or individual on-site systems to accommodate proposed uses is demonstrated \*through appropriate site servicing studies;\*
  - (e) the long-term public costs of infrastructure, public services and public service facilities are assessed and are acceptable;
  - (f) the land is rezoned to a separate classification in the local zoning by-law;
  - (g) the rezoning application should be accompanied by a site plan depicting all buildings, structures, works and facilities, landscaping and buffering proposed for the subject lands, as well as all natural features, including all watercourses, slopes, etc.;
  - (h) the relevant policies of the General Policies for Development Section of this Plan are adhered to; \*(Minister's Modification No. 29)\*
  - (i) development shall not negatively impact upon significant natural heritage features, such as significant wildlife habitat, and fish and fish habitat, through activities such as dredging or filling, the removal of shoreline vegetation or the construction of buildings and structures;\*\*
  - (j) development shall satisfy the requirements of any relevant federal and provincial legislation, and regulations and policies made thereunder, e.g., the Canada Fisheries Act, the Federal Fish Habitat Policy, the Endangered Species Act, Public Lands Act, etc \*; and\* \*
  - (k) The approval of a significant freehold residential development that is proposed in association with or as a part of a recreation and/or open space use and that requires full or communal services will require an amendment to this Plan.\*

From the Draft 2016 County of Renfrew Official Plan – not yet approved

#### 1. Section 13.3 Transportation has added...

- b. The County will continue to work on developing of a regional trail network to help create a recreational use that will travel through the County of Renfrew and act as a regional tourist destination. County Council recognizes that **trails can provide significant health**, transportation, environmental, and economic benefits.
- c. The goal is to establish a well-connected system of trails throughout the County that will provide residents and visitors **the opportunity to engage in active healthy lifestyles**, to travel to key destinations, and experience the vistas provided by the County`s natural features and cultural resources.
- d. The County will make every effort to acquire abandoned rail corridors such as the CP (from Arnprior to Head, Clara, Maria) and CN (Quebec to Algonquin Park) for trail purposes. Together, with the existing K&P trail, these corridors are intended to form the backbone of a linked regional system of trails. (**Clerk`s note\*\*\*nowhere is the term motorized used. This draft has not yet been approved by the Minister.**)
- e. Lower-tier municipalities, private trail operators and other trail groups are encouraged to connect with County trails to establish linkages between trail systems, hamlets/villages, and tourism destinations, with the goal of developing a user-friendly network.
- f. The County will continue to work towards a Trail`s Master Plan. **The public shall be consulted on trail development and the implementation of routes and facilities.**

**2. Section 14.4 has added...**

- a. (3) A proposed plan of subdivision or a plan of condominium should be designed to ensure that, where appropriate, it is supportive of active transportation strategies such as the provision of convenient and direct access to adjacent uses through integrated pedestrian sidewalks, walkways, trails and cycling paths.

## Options/Discussion:

### Others Consulted:

- Municipal Solicitor
- County Official Plan
- Provincial Policy Statement under the Planning Act
- Municipal Zoning By-Law 2004-12
- Editorial – the NRT – November 1, 2017
- Successful Law Suit – Quebec - COALITION FOR THE PROTECTION OF THE ENVIRONMENT LINEAR PARK "NORTHERN NORTH TRAIN", complainant -and- GERARD EMOND, ALINE THIBAUT-ÉMOND, Designated persons c. LAURENTIDES REGIONAL COUNTY MUNICIPALITY, DIABLE AND RED SNOWMOBILE CLUB INC., MOTELLE-NEIGE CLUB OF LABELLE INC., TIG INSURANCE COMPANY, GROUPE COMMERCE INSURANCE COMPANY, LOMBARD INSURANCE COMPANY
- Email from Matthew and Ashley Andrews

Approved and Recommended by the Clerk

Melinda Reith,

Municipal Clerk

*Melinda Reith*