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**Subject:** Transfer of Road Jurisdiction-Regional Road 20 (Highway 20) and South Grimsby Road 10, Township of West Lincoln

**Report to:** Public Works Committee

**Report date:** Tuesday, July 11, 2023

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### Recommendations

1. That pursuant to its authority under subsection 52(4) of the *Municipal Act, 2001*, Regional Council **APPROVE** removing a portion of South Grimsby Road 10, more particularly described and designated as being Parts 10-14 on Reference Plan 30R-15936 (the “Download Lands”) and having an area of approximately 3,791 square metres more or less and shown on Appendix 1 attached hereto, to be transferred to the Township of West Lincoln (“Township”);
2. That pursuant to its authority under subsection 52(1) of the *Municipal Act, 2001*, Regional Council **APPROVE** adding the parcels of lower-tier portions of South Grimsby Road 10, more particularly described and designated as being Parts 1, 2 and 6 on Reference Plan 30R-15936 (the “Upload Lands”) and having an area of approximately 794 square metres more or less and shown on Appendix 1 attached hereto, to be transferred to Niagara Region;
3. That a copy of this report and a copy of Regional Council’s decision **BE CIRCULATED** to the Township, as the Upload Lands will now be under the jurisdiction of Niagara Region;
4. That the necessary by-laws **BE PREPARED** and **PRESENTED** to Regional Council to add the Upload Lands to the Regional Road system and remove the Download Lands from the Regional Road system; and
5. Upon passage, a copy of the by-laws **BE CIRCULATED** to the Township, as the Upload Lands will be removed from the jurisdiction of the Township.

### Key Facts

- The purpose of this report is to seek Council’s approval to upload from the Township, and vest the jurisdiction to Niagara Region, in the Upload Lands; and

download from the Region, and vest the jurisdiction to the Township, in the Download Lands.

- The *Municipal Act, 2001* (section 52) permits an upper-tier municipality to add a lower-tier highway to its highway system from any of its lower-tier municipalities and further permits an upper-tier municipality to remove a highway from its system by downloading it to a lower-tier municipality.
- The Download Lands were included in a download of sections of Regional Road 20 (Highway 20) from the Ministry of Transportation (MTO) to Niagara Region in 1998.
- South Grimsby Road 10, excluding the Download Lands, is owned by the Township and the Download Lands should have been transferred to the Township by MTO rather than to Niagara Region.

### **Financial Considerations**

The completion of the transfer of Upload Lands and Download Lands will have minimal financial implications. The survey cost has been split with the Township at a 50% cost sharing arrangement (\$3,298.73 + HST to each party) and legal and closing costs are to be paid for by each party.

Niagara Region confirmed with the Township that there are no debts associated with the Upload Lands for which Niagara Region would become obligated. The operating costs associated with the Upload Lands will be accommodated within the Niagara Region Transportation division operating budget.

### **Analysis**

The Township was approached by an abutting property owner to purchase a portion of the Download Lands. The Download Lands are located on the south side of the intersection of Regional Road 20 (Highway 20) and South Grimsby Road 10. Township staff contacted Niagara Region staff and requested assistance with the transfer as the MTO was shown as the registered owner of the Download Lands.

Upon further investigation, it was discovered that in 1998, the Download Lands were received by a transfer from MTO to Niagara Region along with other portions of Regional Road 20 (Highway 20) by Order in Council OC2269/97 registered in the Land Registry Office as Instrument LT158201 as amended by Order in Council OC2384/98 and registered in the Land Registry Office as Instrument LT169181 which includes a section of South Grimsby Road 10. Niagara Region staff attended to the registration of

an Application to Change Name on title to the Download Lands to reflect the registered owner to be Niagara Region in order to facilitate the download.

The Download Lands were included in the download to Niagara Region of this section of Regional Road 20 (Highway 20); but should have been transferred directly to the Township. The Upload Lands include daylight triangles and portions for potential future road widenings of Regional Road 20 (Highway 20). As such, the transfers of highway lands included in this report are considered by Staff to be a minor housekeeping issue to properly reflect appropriate jurisdiction.

Niagara Region staff is recommending that the Upload Lands be transferred to Niagara Region and Download Lands be transferred to the Township pursuant to Sections 52 and 53 of the *Municipal Act, 2001*.

- Section 52(1)(4)(5) of the *Municipal Act, 2001* provide as follows:
  - 52(1) An upper tier municipality may add a lower-tier highway, including a boundary line highway, to its highway system from any of its lower-tier municipalities.
  - 52(4) An upper-tier municipality may remove a highway, including a boundary line highway, from its system.
  - 52(5) If a highway is removed from an upper-tier highway system, it is under the jurisdiction of the lower-tier municipality in which the highway is located.

The transfer of jurisdiction also invokes Section 53 of the *Municipal Act, 2001*, which provides as follows.

- If jurisdiction over a highway is transferred from one municipality to another municipality under section 52,
  - (a) the municipality to which jurisdiction over the highway has been transferred stands in the place of the transferor under any agreement in respect of the highway, and
  - (b) if jurisdiction over the highway has been transferred from a lower-tier municipality to its upper-tier municipality, the upper-tier municipality shall pay to the lower-tier municipality, before the due date, all amounts becoming due upon any debt of the lower-tier municipality in respect of the highway.

Niagara Region staff has confirmed with the Township staff that there are no agreements in place to which section 53(a) would apply and there are no debts that would need to be paid pursuant to section 53(b).

The Township Council approved the transfer of road jurisdiction by report numbers PD-011-19 and PD-89-2021.

The Niagara Region Transportation Division has reviewed the proposed transfers of jurisdiction of the Upload Lands and Download Lands and has no objection.

### **Alternatives Reviewed**

This report is to correct title and as such no alternative was considered.

### **Relationship to Council Strategic Priorities**

Transferring and vesting to Niagara Region the Upload Lands is consistent with the implementation of transportation polices and infrastructure in accordance with Council Strategic Plan (2019-2022) – Responsible Growth and Infrastructure Planning, Objective 3.3 Maintain Existing Infrastructure.

### **Other Pertinent Reports**

None.

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#### **Prepared by:**

Alison Irven  
Real Estate Advisor  
Corporate Services

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#### **Recommended by:**

Dan Carnegie  
Commissioner of Public Works (Acting)  
Public Works Department

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#### **Submitted by:**

Ron Tripp, P.Eng.  
Chief Administrative Officer

This report was prepared in consultation with Frank Tassone, Director Transportation Services, and reviewed by Frank Fucile, Manager Real Estate, and Sterling Wood, Legal Counsel.

## **Appendices**

Appendix 1            Illustration – Approximate Location of Upload Lands and  
Download Lands

# PW 27-2023 Appendix "1"

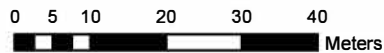


ILLUSTRATION SHOWING APPROXIMATE LOCATION OF DOWNLOAD AND UPLOAD LANDS  
SOUTH GRIMSBY ROAD 10 AT AT HIGHWAY 20-REGIONAL ROAD No. 20  
TOWNSHIP OF WEST LINCOLN

- DENOTES TERANET MAPPING
- DENOTES DOWNLOAD LANDS
- DENOTES UPLOAD LANDS

**DISCLAIMER**  
This map was compiled from various sources and is current as of 2023.  
The Region of Niagara makes no representations or warranties whatsoever, either expressed or implied,  
as to the accuracy, completeness, reliability, and currency or otherwise of the information shown on this map.  
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**CAUTION:**  
- This is not a Plan of Survey  
- The proposed widened limits have been compiled from office records and the shown measurements are approximate.  
- The final extent of the widening will be established through field survey by an Ontario Land Surveyor.



SCALE = 1:1000m



**Internal Use Only**

Transportation Services  
Surveys & Property Information  
IR-23-128 Date: 2023-05-24