

Type of Decision									
Meeting Date	Friday, March 24, 2017				Report Date	Friday, March 10, 2017			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	X	Information Only			Type of Meeting	X	Open		Closed

Snow on Roads and Missing Link Snowmobile Club (MLSC) - Report #24/03/17/1202

Subject:

Request for permission from the MLSC and follow up to correspondence and conversation between municipal staff and the MLSC executive.

RECOMMENDATION:

That Council consider the requests of the MLSC to work together for the health and safety of the entire community.

WHEREAS a misunderstanding between verbal approvals provided by Council in 2016 and actual practise on the part of the Missing Link Snowmobile Club (MLSC) occurred which resulted in letters sent from the Clerk to the club executive dated February 22, 2017 and March 8, 2017 requesting that they immediately stop placing snow on municipal roads;

AND WHEREAS a personal meeting between the executive and the Clerk on Thursday, March 9, 2017 occurred resulting in the club agreeing to stop placing snow on municipal roads and in turn making requests of Council hoping to allow continued use of the rail bed for snowmobiling for the 2017-2018 season;

AND WHEREAS under Ontario law, a municipality may pass a by-law regulating, governing or prohibiting operation of snow mobiles on municipal roads;

AND WHEREAS no such by-law exists in Head, Clara & Maria;

AND WHEREAS the Motorized Snow Vehicle Act allows that snowmobiles cross serviced roads at a 90 degree angle ;

THEREFORE BE IT RESOLVED THAT the Council of the United Townships of Head, Clara & Maria does hereby:

1. Authorize Motorized Snow Vehicles to share the rural and residential road known as Pine Valley Road with vehicles from the Highway to the rail bed, provided that the operator obeys provincial legislation;
2. Authorize the Missing Link Snowmobile Club to continue posting signage directing snowmobilers to travel on Pine Valley Road to link the current trail to the rail bed;

3. Allow the club groomer to cross municipal roads at a 90 degree angle, paying careful attention to remove as much snow as possible avoiding any build-up of snow on municipal roads;
4. Authorize municipal staff to remove snow placed inadvertently on trail crossings either by the groomer and/or snowmobilers at no cost to the club;
5. Expect that barriers will be placed along the trail in the approach to municipal road crossings engineered to slow snowmobile traffic prior to crossing all municipal winter maintained roads;
6. Authorize the installation of club provided "Trail Crossing Ahead" signs along municipal roads on the approach to trail crossings;
7. Prohibit the use of Yates Road for snowmobile traffic; and
8. Prohibit the Missing Link Snowmobile Club from placing snow on any municipal road.

AND FURTHER THAT Council reinforces staff position, as outlined in the letters dated February 22, 2017 and March 8, 2017 and authorizes staff in future to take such actions as necessary to ensure that council/staff position is complied with to ensure safety of the travelling public as per *the Highway Traffic Act*,

AND FURTHER THAT a copy of this resolution and supporting documentation is forwarded to the Missing Link Snowmobile Club and the Snow Country Snowmobile Association - OFSC District 6 executive for their information and dissemination to association membership.

BACKGROUND/EXECUTIVE SUMMARY:

It is the responsibility of council through staff to protect the interests of the municipality. Of utmost concern is reducing liability and mitigating consequences of any actions by completing due diligence and being careful to not place council, staff or the municipality in a position of negligence or increased liability.

Under the *Motorized Snow Vehicles Act, R.S.O. 1990* a municipality may pass a by-law "regulating, governing or prohibiting" the operation of motorized snow vehicles. So long as a by-law does not exist prohibiting such activity, under Ontario law, snowmobiles are allowed on certain municipal roads assuming they obey all other conditions of the Act. Failure to obey the Act might result in a fine from a law enforcement officer of up to \$1,000 per infraction. The practise of travelling on rural municipal roads is generally of little concern to the municipality unless such use is causing damage to roads and/or residents file complaints.

When this issue was first considered by HMC Council some years ago, it was determined that a by-law to prohibit motorized snow vehicles and/or off road vehicles from using municipal roads was not required and would be difficult to enforce.

Under *the Highway Traffic Act, R.S.O. 1990* no person shall deposit snow or ice on a roadway without permission in writing to do so from the road authority responsible for the maintenance of the road.

Over the 2016-2017 season, the Clerk was not aware that over the course of the winter snow was regularly being placed onto Yates Road by groomer operators from the snow

banks and also building up where the trail crossed Boat Launch Road. Once being made aware, steps were taken to immediately stop this process.

A letter was written on February 22 and delivered immediately via email to the MLSC executive, which was ignored. Grooming continued on Yates Road. A second letter was then written on March 8, again delivered via email. This too was ignored until after the meeting of March 9th where the executive represented by Todd Dowser, Chris Dowser, Brent Allen and Marlene Gibson agreed to stop placing snow on municipal roads.

Although, it seems the issue has been resolved, it is troubling that it took a full month between the time of the first letter sent to the executive and the date a promise was made to stop grooming Yates Road.

Officially, the municipality has received complaints from two parties who are concerned with the danger that snow being placed on municipal roads poses to the travelling public. The concerns also include the dangers of speed, increased opportunity for accidents, speed of machines crossing Boat Launch Road, and the habits of trail users in proximity to residences – public urination to be exact. There are also concerns with noise.

Staff concerns include: the banks being obliterated so that it is no longer clear where the road ends and the trail/ditch begins; groomed area on the east side of Yates road directing snow mobile traffic to travel in both directions on the one side of the road, disobeying normal road rules; and the speed with which machines travel on and while crossing municipal roads, being completely insensitive to other vehicular traffic.

Through the rumour mill and off the record staff have also been made aware of other concerns. The clerk has agreed to facilitate a meeting with local residents and members of the MLSC in an attempt to come up with solutions which will alleviate ratepayer concerns. Secretary Gibson is to arrange a time; staff have agreed to help share the message and provide a venue. The Clerk will attend as municipal representative but will not take any part in chairing the meeting.

It is staff position that the matter of snow being placed on municipal roads, snow banks being leveled to the shoulder so that there is no distinction between the road, the trail and the ditch is off the table at this meeting. If contraventions are noticed, staff have been authorized to follow up as explained in the letters sent.

Municipal concern cannot be with the viability of the snowmobile club, the continuance of snowmobiling in Head, Clara Maria or even at this point public complaints. Our concern is liability; personal and corporate. For those who state that not being able to use municipal roads will be the end of snowmobiling in the community, there are alternative paths for snow machine travel to provide continued use of the trails connecting to the rail bed which do not include municipal roads. There needs to be a will to make the change.

As stated in the resolution, some type of speed deterrent is recommended on the trail approach to municipal roads. The following is a photo of a type of barrier which is expected by staff leading up to municipal road crossings. Since the Act states that a snowmobile is to come to a full stop before crossing a serviced road; this should not be a challenge.



Photo of type of barriers expected. Could be created with pressure treated lumber, steel posts? Made completely of reflective material? Lit to increase awareness? Signed etc.? Options are numerous. They could be made out of material which would give/break if someone hit them? They are used in other locations for this exact purpose.

Financial Considerations/Budget Impact:

The above resolution suggests having municipal staff clear excess snow off roads placed by either the groomer or machines while crossing roads free of charge. Council might consider charging for this service.

Should there be a significant incident with the continued practise; the municipality will likely be found liable. With joint and several liability and the deep pocket syndrome, this is not a position which the municipality would like to find itself in.

Policy Impact:

Significant. It is council's legislated obligation to ensure safe travel on municipal roads.

Others Consulted:

Mayor Gibson, Other local municipalities, MIS-municipal insurer, MLSC executive.
The Motorized Snow Vehicles Act and Regulations
The Highway Traffic Act and Regulations
The Off Road Vehicles Act and Regulations

Approved and Recommended by the Clerk

Melinda Reith, Municipal Clerk

Melinda Reith