



2024 Budget Request

Request: Shoreline Road Allowance

Department: Office of the CAO

Request ID: CAO2024BUDGET-C-02

Financial Ask: \$100,000

Funding Source: Capital – Working Capital

This document and its attachments are public and available in an accessible format upon request.

Background and Strategic Priority

In 1995 the predecessors to the Township of Georgian Bluffs were named, alongside other municipalities, the County, Province, and Federal Governments in a land claim lawsuit by Saugeen Ojibway Nation in respect to whether Treaty Rights had been upheld and honored. In 2023, following an initial court decision and appeal court decisions, the courts have found that the municipalities should be removed from the legal action.

The impact of the lawsuit drew into question the legal basis under which the municipality stewards certain lands that are not developed for public use; road allowances that are not opened, and the shoreline road allowance.

Given the lack of certainty around the legal basis for Township involvement in these lands, no active management has been undertaken on these lands for the past 20 years.

There are approximately 1,000 private properties (almost 25% of all private residences in the Township) that abut either directly, or separated by a roadway, a shoreline in Georgian Bluffs. Approximately 800 properties are on Georgian Bay, and a further 200 abut the shoreline allowance around inland waters within the Township.



The shore road allowance was established by crown survey and are lands that were reserved for public purposes. The shore road allowance was established to provide for public access to and use of the shoreline and to ensure that in the event of an emergency, support could be provided to all water users without infringing on private property. The shore road allowance is both a right of use of the land that surpasses many others and is most often supported by 'ownership' of the land over which the allowance passes.

Over the past 20 years, much has changed in the Township, particularly in respect of near shore development. In addition, the legal context of the shoreline is complex. The land claim has driven work to understand the extent of the shoreline allowance across much of the Township, though not all, but further work is required to understand what the 'ownership' of these lands entails, and what owners of these lands (public or private) can and cannot do on these lands. Further, near shore property owners have asserted claims and rights to the shoreline, and past municipal governments have potentially extended rights (which they may or may not have had the legal authority to do), to the shoreline to private owners. There has been much development on the shoreline road allowance over past years changing the nature and use of the shoreline in places. In places, private property owners may have legally secured 'ownership' or some form of right to or easement over the lands, and the consistency of the uninterrupted, continuous right of use that is the shoreline road allowance is also not clear.

For several reasons, community and Council have become increasingly interested in the shoreline road allowance, but with the uncertainty associated with the land claim, unable to undertake action. With the conclusion of the municipality's role in the land claim, the Township can begin to address its role within the shoreline road allowance.

Analysis

There has been significant interest in the shoreline road allowance. For some residents, it is seeking to secure rights to the shoreline adjacent to their properties, either to support long term use or to seek legal ownership and manage the land as a private property. Other near shore residents might be interested in securing the shoreline road allowance to support development of their residential properties. For others, undertaking shoreline defensive works, or adding docks or other waterside amenities, might be desirable.

For many community members, the shoreline represents one the more significant environmental features of the Township; seeking to ensure the long term and natural protection of the shoreline is of critical importance. This importance is magnified with the potentially dramatic changes that could be experienced along the shoreline through the impacts of Climate Change over coming decades.



For some, access to the shoreline is important for public recreational value, connecting with the water and providing for common, community access to the waters of Georgian Bay. Regardless of the outcome of the land claim, access to the shore and waters of Georgian Bay are a vitally important traditional right for Indigenous community members and a key element supporting cultural traditions.

Over recent months, the role of the municipality in providing stewardship of the shoreline has been a prominent discussion. The Township has not recently been providing permission for activities on the shoreline during the land claim, however, historic permissions may exist, and there has been much development occurring that may not have required Township permission. The Township appreciates that many near shore properties rely on the shoreline allowance for residential purposes – many of the Georgian Bay near shore properties rely on seasonal or year round shore wells for their drinking water, and many have seasonal docks approved under provincial guidelines that are on and secured to the shoreline road allowance.

Council has expressed a keen desire to see policy developed around the use and management of the shoreline, policy which would guide decisions around the future of the shoreline in the Township. However, given the significant history of the shoreline allowance, an essential first step is understanding the current legal context and status of 'ownership' as the basis for policy development.

This work is specialist in nature and relies on both land registry and land title searches and an understanding of what these mean, and legal advice as to, what the municipality can, and cannot do in respect to the shoreline allowance. Staff propose to phase this work over a number of phases:

1. Phase 1: Background analysis of original Crown patent and surveys. Identifying the legal authority that the Township may or may not have to the shoreline allowance.
2. Phase 2: Identifying where the shoreline allowance exists in an uninterrupted form.
3. Phase 3: The above phases of works will, by default highlight areas where something has occurred that may question the legal authority over shoreline allowance lands; Phase 3 will seek to identify the nature and implication of this change, and how this may or may not impact the Townships ability to exert control or influence over the shoreline.

Phase 3 is likely to most time-consuming work as it will involve extensive land registry and land titles searches. This phase of work will be broken down into approximately 12 priority areas around Georgian Bay, and then 7 priority areas around inland lakes and waters. Phase 3 will seek to group near shore and shoreline properties into classes where similar legal status applies to groups of properties.



Ultimately, this work will provide advice on the legal status and extent of the Townships influence over the shoreline around Georgian Bay and other areas of shoreline allowance around the inland lakes.

Once staff start to gain an understanding of this, staff will be able to start the development of policy, process and bylaw/s that may then be implemented on the shoreline over coming years. Without the required background work, staff will not be able to bring forward a policy approach that can be consistently applied and understood and would ultimately be applying a policy that is subject to challenge.

Staff believe that Phases 1 and 2 can likely be completed in early 2024 and work will start on Phase 3 in the first half of 2024. The scale of work in Phase 3 is dependant on the previous Phases and as such the length of time, and potential cost for this work is not fully understood. However, staff are confident that significant progress through Phase 3, if not completion, is attainable in 2024.

Further, staff do not believe that work on Phase 3 would need to be completed before policy can be developed and that Phase 3 and the policy development work can and will overlap.

Financial Impact

Noting that staff do not yet have a comprehensive understanding of the extent of work associated with Phase 3, staff are suggesting an initial budget of \$100,000 in 2024 should be established. It is anticipated that this will support Phases 1 and 2 and provide extensive support for Phase 3. It may be sufficient to complete Phase 3, but staff will not be able to confirm this until mid to late 2024.

The policy development aspects, establish process and bylaws will be completed internally by staff.



Report Approval Details

Document Title:	2024 Budget Request Shoreline Road Allowance.docx
Attachments:	
Final Approval Date:	Nov 14, 2023

This report and all of its attachments were approved and signed as outlined below:

Samantha Buchanan, Treasurer

Niall Loble, Director of Community Services