

2018 -08-06

Township of North Kawartha  
280 Burleigh Street  
PO Box 550  
Apsley Ont K0L1A0

Attention Clerk Connie Parent & Members of Council

**Re: Fire Route 52 Causeway / Culvert**

For the past years I have, on behalf of property owners on Fire Routes 52 and 52A, managed the road maintenance program.

Earlier today I convened an informal meeting of property owners from Lots 44 to 77 who rely on their cottage access by crossing the Causeway located on Lots #49 and #50 which has an ongoing persistent block culvert issue based on beaver activity. This issue has resulted in significant effort and cost to our road budget to avoid structural failure of the road bed.

In 2008 a portion of this causeway washed out based on a blocked culvert during the spring runoff. At that time, despite initial assurances that the Township would immediately undertake to reconstruct the roadway, eventually based on township legal opinion the Township reneged on their commitment and the affected road users very reluctantly undertook to rebuild the causeway washout at a cost approaching \$20,000.

At today's meeting, general agreement emerged that we should approach the township to again impress upon them that this portion of the road being FR 52 is municipal responsibility.

We are not party to the basis for the Township Lawyer of the day in 2008 taking the position that the Council should not undertake the washout repair. It is suspected that this opinion was based on lack of clear understanding of the issues particularly related to ownership of the road portion and location of Fire Route 52 over the affected municipally owned parcels described as Parts 49 and 50 per registered Plan R 364. Yes, a large part of Fire Route 52 is over privately owned ROW but the area of current concern is clearly owned by the Township of North Kawartha. For many years, prior to 2008, in fact North Kawartha accepted their responsibility by regularly having the Roads Department attend the site with equipment to keep the culvert cleaned out to avoid potential washout on the portion of the road owned by the Township.

The lack of understanding on the road ownership at the causeway has been evident for some time. In 2003 The Council of North Kawartha via motion #03-489 State " .. ***North Kawartha will not take ownership nor maintenance responsibility of the Culvert/causeway located on Plan 364 lot 7 Conc 15 Parts 49 and 50.***

This motion and position of Council was seriously flawed in 2 parts-The Township owns part 49 and 50 and in fact based on this motion abdicated their previous practice of accepting responsibility for maintaining a structure on municipal property.

Another indication of misunderstanding about the property ownership matter can be seen in a letter dated May 6 2018 signed by Minister of Municipal Affairs Jim Watson

Minister Watson was asked to intervene on behalf of cottages affected by the culvert washout and in his response stated ...”**Based on discussions ministry staff have had with the municipality, it is my understanding that the subject washout occurred as a result of a failed privately owned culvert on a private road.**

Obviously the municipality deliberately or accidentally misled the Minister by not divulging that yes the failed culvert is totally located on public land and in fact the failure was a direct result of the municipality’s withdrawal of traditional maintenance of the culvert on municipal lands.

So let’s clear up the myth about the land ownerships. We suggest Township staff can advise the current Council of the ownership of Part 49 and 590 Plan 364 PIN #282920086

And

And associate SRA PIN # 282920215

The provided aerial photo, taken coincidentally at the time the culvert washout occurred, illustrates the failed culvert and associated washout is located on the SRA.

Original Shore road allowance is deemed to be Public Highways and retain that status until closed by a municipality. It is highly unlikely this portion of the SRA will be closed as it would deny access to cottage owners on lots 51 to 77 inclusive.



Our group is anxious to have the current Council undertake a review of this issue in order that the affected cottagers can be relieved of ongoing culvert maintenance on property owned by the Township of North Kawartha.

We would like to have this concern of our group discussed and hopefully resolved at the next council meeting.

To contribute toward a resolution we propose

- I or a representative of our group would be pleased to attend the next Council meeting to clarify any aspects of our position.
- If you wish to have a representative of our group meet with your solicitor to clarify any details we probably can have a representative available for a meeting. It is our suspicion that the previous legal advice to Council was not based on a clear understanding of the issues other than that Fire Route 52 is a private Road ..but if fact the position of concern is on public lands owned by North Kawartha.

- If any member of Council would like to come and meet at the culvert, we would be pleased to meet prior to the next Council meeting.

Prior to the mid-September, we request that Council provide me with your formal response in order that we can share this information with the directly affected cottagers along with all cottagers within our Road Maintenance group.

Doug Leppert

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