

Grand River Conservation Authority

Report number: GM-11-21-87

Date: November 26, 2021

To: Members of the Grand River Conservation Authority

Subject: Snowmobiling Agreements on GRCA Lands

Recommendation:

THAT the Grand River Conservation Authority enter into a license agreement with the Lake Conestoga Snowmobilers Inc. for the use of a seasonal cottage, auxiliary structures and to establish a snowmobile trail network, provided mutually agreeable revisions to the licensing agreement are made.

Summary:

The Grand River Conservation Authority (GRCA) has had long-standing agreements with 6 snowmobile clubs to permit snowmobiling on certain GRCA-owned lands. In 2019, the Clubs requested revisions to these agreements which would substantially increase the GRCA's obligations, liability and risk as a private landowner compared to how the previous agreements were written. On August 28, 2020, Report Number GM-08-20-52 was presented to the General Membership of the GRCA providing a summary of options explored to facilitate snowmobile use on GRCA properties. Further to a review of these options, a mutually agreeable solution was not reached. Discussions have continued, and a solution is proposed that includes modified agreement language, a reduced trail network and risk mitigation measures to be implemented by the GRCA.

Report:

Background

For many years, snowmobiling has been a permitted recreational activity through licence agreements with the following Snowmobile Clubs: District 9 (Conestogo, Arthur Snowblazers and the Fergus, Elora, Belwood snowmobile clubs); District 5 (Elmira Snowmobile Club); and District 4 (Orangeville & District Snowmobile Association and the Hillsburgh Snow Roamers).

The Snowmobile Clubs together with their dedicated volunteers provided an outdoor recreation experience on approximately 62 kilometres of trail across 34 GRCA properties. The annual fee per Club ranged from approximately \$200 to \$400. The majority of the trails were located on passive lands, meaning the properties are non-revenue generating and are not staffed. The use of a GRCA-owned seasonal cottage at Conestogo Lake for a Clubhouse was included in one of the agreements.

In the summer of 2019, the Clubs were informed that their insurance does not provide coverage for the Clubs' obligations as outlined in the agreements. The Clubs subsequently requested revisions to the agreements. These revisions would substantially increase the GRCA's obligations, liability and risk as a private landowner compared to how the previous agreements were written. Consideration of the requested revisions could not be completed in time for the 2019/2020 snowmobile season and the trails were re-routed off of GRCA property.

On August 28, 2020, Report Number GM-08-20-52 was presented to the General Membership of the GRCA providing a summary of options explored to facilitate snowmobile use on GRCA properties. Staff indicated that if the Clubs were able to consider modifications to their requested

revisions and obtain additional insurance, staff would further consider permitting a reduced trail network. Additional insurance was not an option for the Clubs, and modifications to the agreement were not agreed upon. Accordingly, snowmobiling was not permitted for the 2020/2021 season.

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GRCA staff committed to continuing discussions through 2021. The key matter is the allocation of risk and liability through insurance, indemnification, and maintenance and operations obligations in the licensing agreement. Legal counsel has been sought as well as input from GRCA's insurer. GRCA staff recommend that some risk and liability exposure be accepted in order to permit snowmobiling on a greatly reduced trail network, provided proposed modifications to the licensing agreement are accepted.

The Clubs provided the sections of snowmobile trail that are the most critical to their interconnected trail system, with a request that these sections be for snowmobile use only. It is not feasible nor desired to exclude other users that are currently permitted such as hikers, cross-country skiers, hunters, agricultural leasee, etc. depending on the property. A review of the requested network was undertaken, and it is recommended that only trails that are not open to the general public and have limited other permitted users be considered for snowmobile use. Of the reduced snowmobile trail sections under review, only approximately 13 kilometres near Conestogo Lake operated by the Lake Conestoga Snowmobilers Inc. meet these conditions.

With respect to the licensing agreement, some modifications to the Club's requested revisions must be made in order for GRCA acceptance, such as limiting the exclusion of their insurance coverage to willful misconduct or gross negligence of the GRCA, rather than any and all negligence of the GRCA. Furthermore, staff will require that the GRCA be added as an additional named insured, with cross liability, rather than a named insured with cross liability. An indemnification clause will also be required.

To further minimize the GRCA's overall risk, measures will need to be identified and incorporated into a program. A risk assessment will be undertaken and recommendations implemented, such as inspections and additional signage. With a very limited trail network on GRCA properties, the additional expenses related to staffing, signage and equipment needs is reduced. That said, there would be expenses and staff time incurred without further compensation by the Clubs, and there is a potential for increased costs for insurance premiums in the event of a claim or if a claim exceeds coverage.

Staff recommend that Lake Conestoga Snowmobilers Inc. be permitted to establish a snowmobile trail network on GRCA-owned lands (see Figure 1), provided mutually agreeable revisions to the licensing agreement are made. It is also recommended that the use of a seasonal cottage and auxiliary structures be permitted to be utilized as a clubhouse.

Financial Implications:

If a reduced trail network proceeds, the snowmobile agreement would generate approximately \$400 per year in unrestricted revenue.

Costs associated with risk mitigation measures are anticipated to be within current budgets.

Other Department Considerations:

Conservation Area staff, Arboriculture and Central Services staff assistance may be required to assist with risk mitigation measures.

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Figure 1 – Proposed Snowmobile Trail – Lake Conestoga Snowmobilers Inc.

