

**City of Port Colborne
Council Meeting Addendum**

Date: Tuesday, June 13, 2023
Time: 6:30 pm
Location: Council Chambers, 3rd Floor, City Hall
66 Charlotte Street, Port Colborne

Pages

8. Staff Reports

8.1 Access to Sherkston Shores Under Easement, 2023-99

*a.	Delegation from Carol Domenicucci, resident	1
*b.	Delegation from Ingrid Copland, resident	9
*c.	Delegation from Marsha and Mike McCreadie, residents	14
*d.	Written Delegation Material from Vanessa Mckay	17

Council/Staff,

This is my experience.
Some history:

My family has been here - Ridgeway, Sherkston, Point Abino - since before Canada was Canada. Split Rock Road still has buildings of stone my family built. Family rests in local cemeteries, their stones are graced with plaques of recognition for their service in the War of 1812. The land, the lakefront that is now the Buffalo Canoe Club, was sold by my family to establish the enterprise.

My grandfather was working in the quarry when it was a working quarry. He married my grandmother back when it was a community known as Carrolltown. He worked for Empire Limestone Company - ELCO is still what locals call the one beach. Carrolltown had it's own cemetery, with well known names like Abraham Shisler resting there. My grandmother's 13 year old brother is buried there. His headstone still stands. I have multiple family connections in that cemetery, including a set of twins. My father always told me I could not be prevented from visiting our family in there.

Back in the mid 80s, the Holman family, who had operated the Sherkston property during the camping hey-days, the wild parties, the cars and music on the beach, the bonfires - they went bankrupt. I was part of that because the Holman family owned a 14' strip of land fronting my 34 acres on Wyldewood Road. That 14' strip was part of the working quarry operation from the Carrolltown days, when sand was taken from the beach. The days of when my grandfather courted my grandmother. Her maiden name was Wyldes. I was going to build our forever home on Wyldewood. That build was delayed for 2 years while the bankruptcy was settled. We built in 1986.

This is where life happened for us - we raised our children on the beach, we played cards every Friday night, my children went to church on the weekends, they had summer jobs in the park, one of my daughters met her husband working on Main Street. If you can imagine it as a small city, complete with Main Street, carnivals, friends, swimming, fireworks and a summer job, you would know what life was like for my children. We watched ownership change hands year after year, yet we were always welcomed. The frustrations LOS 1R0 endured was offset by our welcomed access. The resident pass worked - despite changes in ownership. We could "drive in" because all that was asked was proof we lived in LOS 1R0. It's called a **Resident Pass**. You got a Resident Pass by registering at the office. You brought your tax bill. Or your license. They took your picture. You kept the pass on you in the park so security knew you were not a trespasser.

In 2022, LOS 1R0 residents were abruptly prevented from entering the property of Sherkston Shores. We were told we could only "park" in employee parking, which is actually gated outside the main border and entrance, and "walk".

Some background:

In 2018, the road allowances were sold. There were no issues for 2018, 2019, 2020, or 2021.

Hindsight is 20/20. In this situation it is clear the city worked with the trailer park to put this "walk" in effect, as evidenced by James Culic's article of Aug. 2021 (attached). That was the start of where our access as we historically knew it ended.

In 2020, there were small issues with COVID and out-of-town folks who caused parking problems. The city took care of that effectively with bylaw enforcement and signage and there have been less problems since.

Parking issues, historically, had always been a problem at one road allowance - Pleasant Beach - with its restaurant and campground. Not so much Wyldewood or the other road ends.

Somewhere that led into a massive "road end study", and the Mayor states "treat them all the same". In the end it was clearly established they are each very different and need to be treated as such.

In August 2021 Councillor Wells had an issue with a golf cart accident, where he looped that into the gate at Pleasant Beach and keys for that gate.

Council then looped the keys/gate issue, into the on-going road end study. The golf cart accident had nothing to do with it, as it had occurred inside the resort.

That accident, inside the resort on private property morphed into "golf carts on roads", "locking of gates" and ultimately looped into the road end study.

Somehow that incident on private property prompted our Mayor, CAO, and Mr. Long I believe to have "conversations" with the park, that resulted in us no longer being allowed "access in perpetuity" as we have always enjoyed, in a misguided effort to keep golf carts off the road.

None of this was LOS 1R0's doing. We hadn't caused any accident.

In August 23, 2021 Mayor Steele can be quoted as saying "golf carts don't belong on the beach" and Councillor Danch as saying golf carts are silent and if one comes up and taps you its going to hurt and Councillor Bagu points to this being the problem of Sun Retreats so **get them involved**. City Hall turned this into a golf cart issue.

In April 2022, Sun Retreats restricted our access. The lock issue Harry had, because of a golf cart accident inside private property, led to this - with the full participation of the Mayor, CAO, and Mr. Long.

In May of 2022 when park season began, residents were spreading the news that we were no longer allowed onto Sherkston's beaches as we had become accustomed to. We were no longer welcome. Alarms were sent to Barb Butters, who represented us when the road allowances were sold.

She spoke to Council in May 2022, imploring Council to restore our access, because the intent of the 2018 agreement, the very legal easement, was not being honoured and in fact Sun Retreats was effectively denying us access. The easement was created to guarantee our access, our being welcomed, "in perpetuity". It does not matter who owns the land.

Our Mayor in 2018 was lawyer John Maloney. As LOS 1R0 residents, we would have expected our interests were protected. What has his comment been? Nobody has told us what his thoughts are.

Mr Luey, as CAO then, reassured residents the "intent" of the easement protected us. What really truly was unbearable to hear, was CAO Luey, in June 2022, claim he couldn't find "the intent" of the 2018 agreement, but yet in 2018 he was "happy that it happened on his watch".

What?

You told council in 2018 we were protected.

We all knew the intent. We knew it, we enjoyed it, we felt it for 4 more years and for decades before that.

On June 28, 2022 Councillor Harry asked Council to “get it in writing” what access meant to Sherkston, as endorsed by Councillor Desmarais. CAO Luey responds by saying he “cannot find the intent” in his review of all sorts of notes. The Mayor once again wants access “clarified” and brings up golf carts.

On July 22, 2022 CAO Luey presents his report, titled very tellingly “Golf Cart Access”, when that was never the root of the issue for LOS 1R0. The issue was access. This cost the city a legal bill, for what our options were, and there was still nothing in writing. The lawyer says they can do what they are doing because golf carts are vehicles and vehicles can be restricted, because it says “pedestrian”. The word pedestrian, taken literally, was not and never was meant to be the “intent” of the easement of 2018. That is what LOS1R0 wanted to be re-examined. It never has been.

Back to 2018... in July, documents come to Council with the word pedestrian, when all that was ever protected was our right to be able to walk the beach. It never said we had to walk through the resort to get there. Historically, we never had to walk. The easement was protecting our “walking on the beach”.

From 2018.... 2019... 2020.... 2021... no changes. We had unfettered access to the resort, as Cecil Vincent had assured Council, “in perpetuity”. Those years alone, define the intent of 2018.

What happened?

The city spoke to Sun Retreats. That cost us our access we had known both historically and for 4 years after the road end sale.

Council and staff misguided efforts that began with a key issue and a golf cart mishap on private property, has cost the City legal fees, staff time, multiple reports and suffering to LOS1R0 for over a year.

None of this was the fault of LOS1R0 residents, but instead is Council’s own responsibility, for never seeing past the rhetoric and “golf cart glasses” on manner of reports and legal discussions.

The intent of the easement worked. For four years. You changed that to our detriment.

We want it back. We want to take our vehicle to the shore to walk/sit/enjoy the beach access.

That is what this has been about. The intent by Council in 2018 was to protect us. You have un-done what was working.

Driving on the beach, something we had also enjoyed, could not be protected in 2018. The historic way we accessed the shore, could not include driving on it in our own cars.

I believe that is where the word “pedestrian” was inserted by Mr. Vincent - it clearly means no cars. “Driving on the shore” - that type of access was not what was being guaranteed with the easement. Rather, we could use the two former road allowances to get TO the shore, and “walk” on that shore.

It’s as simple as that.

The word “pedestrian” was never meant to mean we had to park outside the resort gates, and walk over a km to the shore.

“Capacity” issues claimed by the park, are irrelevant, as LOS 1R0 residents are on the deed. We are part of capacity.

“Safety” issues claimed by the park are misguided. It is far more treacherous for us to be walking anywhere in there.

You sold our road allowances, which for decades we enjoyed in harmony with the owner-at-the-time. Everyone remembers being able to drive onto the beach, the parties, years of memories.

Not one of you had reached out to a resident or rep of LOS1R0 in an effort to understand our situation, except for Monique.

Ron excuses himself, even though it is a fact not every decision or discussion regarding SSR is in any way a pecuniary conflict of interest or otherwise.

LOS1R0 is woefully under-represented for years and at a disadvantage. You do need to rely on staff and CAO reports, but you cannot and should not take them at face value, because it is clear to residents there are hidden agendas and manipulated facts.

There are always 2 sides to a story, and you have been sold one side for so long you no longer can trust the source. Shame on all of you for not caring enough.

Ron claims “conflict on interest”. We are immediately at a disadvantage. What on earth would LOS1R0 do if someone made Monique think SHE is in a conflict of interest with our issue, just because she shares our Postal Code. We would have zero representation!! Maybe that is a question for the Integrity Commissioner. This Council might benefit from some conflict of interest review.

We asked Council for help. That should have been enough for Council to get on board with its citizens and help us stand up to the bully US Corporation in our backyard.

But you didn’t.

And you haven’t.

After Monique’s motion on April 25, 2023, Councillor Bruno abruptly asked for a timeline at April’s meeting so an “informed decision” could be made. “Bring it to a conclusion”. CAO Luey attempted that in his report, but it is inaccurate. I have given you my timeline from the viewpoint of a citizen of LOS 1R0 and our experience to date.

Thank you CAO Luey for this report, which we have been waiting for since May of 2022. This report, and any and all reports and discussions in between, confirm what we have known from day one.

We have been manipulated, delayed, put-off, mislead for an inexcusable amount of time.

City Hall reports repeatedly turned this into a “golf-cart issue”, even up to tonight’s report, when Councillor Aquilina specifically said to “leave golf carts out of it”. You can’t leave them out completely, because the City started this downhill slide that negatively impacts LOS1R0 residents, because of golf carts. It’s NOT about golf carts. It’s about ACCESS.

We should have had action. Immediate. Councillor Bruno said woefully we got rolled into road end studies and traffic issues and golf cart excuses. In April 25th’s meeting he said he feels sorry for us residents. We don’t appreciate being placated with insincere, and disingenuous talk.

And it turns my stomach to read the recommendation that we citizens could choose to sue for the access you failed to protect for us. That’s inexcusable and an insult.

None of this was our doing. It was Council’s doing.

In 2018, CAO Luey can be quoted as saying he was happy the sale of the road allowances was happening “on my watch”. Councillor Bea Kenny expressed foreboding “doom” at that meeting, and SHE was right. She had the wisdom and foresight to say “are you sure...?” CAO Luey reassured her, as did Cecil Vincent.

We would be protected. LOS 1R0 would be protected “on your watch”, and yet here we are, with a report where it clearly shows you failed at protecting our access.

Your legal team failed.

It has cost you staff time.

It has cost you CAO reports.

It has caused negative headlines.

It has cost you legal fees.

You paid for a road end study that pointed out the utterly clear importance of **access** for your residents!

None of this was our fault.

None of this was our decision.

This was all at our expense.

There is another solution. One that is progressive, environmentally-friendly and tourist-minded. The MTO has opened their successful pilot project regarding golf carts on roads in Ontario, to any municipalities that shows interest. All Council has to do is put the proper bylaws in place. No more bad feelings, no more ill will, no more money or staff time, no more legal costs. It’s a win-win. Especially when it comes to Nickel Beach.

The Mayor can be quoted in Council meetings back in 2021 as saying “golf carts don’t belong on the beach”. That isn’t lost on LOS 1R0 residents that you have caused frustration and anger too...as we watch you entertain a golf cart opportunity for Nickel Beach for 300m, to transport mostly people who don’t even call Port Colborne home!

You’ve hurt us, but when **you** need golf carts on a “road”, you magically start calling Lake Road, “parkland”. You’ve hurt us when your conversations with SSR led to our no longer

feeling welcomed in our community we have known for decades. Your conversations mean LOS 1R0 residents are forced to walk 926 or 1265m to get to our shore. And our own golf carts, for those who had them, didn't cost the city \$70 000 of non-recoverable costs.

I always looked to Council and staff to be "the answer". The Solution. There to help. Assist. Not hurt, not punish, not ignore.

We were fine, everyone was good. This was your doing, and we want you to undo it to get our access back the way we have enjoyed for decades.

If you cannot undo the damage your actions have caused, you can grant us the bylaws to make us a progressive golf-cart friendly community in partnership with Sherkston Shores via a bylaw as endorsed by the MTO. It helps Nickel Beach too, now and looking forward.

In summary, the City got over half a million dollars, on the backs of LOS 1R0, and your CAO can claim not to know what the "intent" of the 2018 agreement was, yet is spelled out in the very first paragraph of tonight's background report.

"While there were no formal agreements in place prior to 2018, this longstanding arrangement allowed local residents to pass through the resort and access the beaches alongside owners and vacationers at Sherkston Shores".

You as council would insult us if you accept the recommendation that no further action is required.

And worse, suggesting we be thrown to the bully next door legally and fend for ourselves, when this was your doing in a misguided effort to keep golf carts off the roads.

You did this to us. We want you to undo it.

You received a letter from Sun Retreats lawyer, calling it "concessions" to our access that they will let us park at the gate and provide folks with a disability a ride. How big of them. Who is in charge here? Are they bullying you now too? What would the Accessibility Directorate of Ontario have to say?

We never asked for concessions in the past, and never needed them. This again is your own doing, and at our expense.

The easement put the goodwill of 50 years in writing. Where is the goodwill now in making us walk? In denying our vehicular access into the park, they are denying the intent of the easement. If the intent of 2018 was to make us park outside the park, and walk, it would have spelled that out.

Also infuriating is watching this Council facilitate LOS1R0 to being bullied into walking over 1km to access the shore, and at the same time, entertain the notion of spending \$70 000 of un-reclaimed expense on a golf cart proposal, to transport at max, 30 Port Colborne residents to Nickel Beach, a distance of 300 meters. The other possible 170 people, wouldn't even be your own citizens. But only after you declare a road, Lake Road, parkland. Mind-blowing.

Council is tossing around short-term rental (STR) bylaw chatter because Ron Bodner lives near one that is what he calls "a bad actor". Considering we live next to and put up with probably the country's largest STR, we endure not one bad actor, but thousands - why can't we have that same energy, consideration and passion for our area?

Your actions as Council and the previous Council have negatively impacted our community of LOS 1R0. That is not your role. You should be enhancing the lives of residents. That alone speaks to the “intent” of the 2018 document. It’s purpose (Mr. Luey cannot find) was to ensure our satisfaction, not punish us. You’ve worn out and wearied residents we represent. How sad and shameful. But you need to know how hard it has been to soothe and placate and calm the intense anger there was. That should not have to be a citizen role. We shouldn’t have had to ward off violence and protests and confrontations, on your behalf.

But that’s what we did. All because we wanted you, CAO, to facilitate a face to face without legal fees required, decent conversation with the park. You failed to facilitate that and legal costs to date were not our doing, they are “on your watch”. Council/staff failed because you couldn’t reverse the actions you prompted, back in 2021, when YOU made it about golf carts.

Carol Domenicucci

Cart crackdown: Accident prompts Port Colborne to restrict golf cart beach access

New gates, locks will be used to prevent carts from reaching waterfront via city roads

By James Culic Port Colborne Leader
Thursday, August 26, 2021



Rows of golf carts are seen parked at Pleasant Beach in Port Colborne. The city wants to find a way to keep them from getting onto the local beaches. - James Culic/Metroland

A golf cart crash has triggered city hall to finally take concrete action to crack down on the scourge of carts driving around the city's roads and beaches.

Driving golf carts on city roads is illegal, but that doesn't stop hundreds of them from being used to buzz around the cottage roads along Port Colborne's lakefront. The most common use is people taking the carts from Sherkston Shores and driving down to the Pleasant Beach road end allowance.

"A large volume of golf carts are accessing the road end allowances, primarily Pleasant Beach, and there are some concerns that the volume of carts is so high because the gates are left open," explained Ward 4 Coun. Harry Wells.

Many of the city's road ends have gates near the beachfront which would prevent golf carts from getting through, but the gates are rarely closed, and even when they are, they tend to find themselves open through other means.

"We do have locks on those gates; unfortunately, there's vandalism that occurs frequently by cutting off the lock," said the city's public works director, Chris Kalimootoo.

At city hall on Aug. 23, councillors debated how best to solve the problem. Ward 1 Coun. Mark Bagu suggested going to Sherkston Shores to have them direct their seasonal cottagers to stop driving them on city property.

"This is Sherkston Shores' fault," said Bagu. "So maybe we ask Sherkston to stop the carts from going from their property onto city property. They're the ones causing the problems."

Mayor Bill Steele noted that while many of the carts do originate from the nearby resort, the problem isn't exclusive to Sherkston. He said many of the seasonal cottage residents also use golf carts to get between their cottages and the beach. Regardless of where they come from, Steele said, the carts are going where they don't belong.

"We shouldn't be allowing golf carts on our road ends," said Steele, who supported a motion to have staff prepare a report on how to beef up the gates and keep carts off the beaches.

The problem lies with the fact that the city can't simply erect a permanent structure to block vehicle access to the waterfront. Some of the properties in the area have beach wells that occasionally require servicing, and other times there is construction work that needs to be done to the shoreline wall. The motion called for staff to find a way to keep access open for necessary maintenance work, while also preventing golf carts from sneaking through.

As Ward 3 Coun. Frank Danch pointed out, the golf carts pose a safety concern not just for motorists, but for cyclists and pedestrians.

"Golf carts are silent," said Danch. "They come up from behind you and you don't hear them, you're gonna get tagged and it's gonna hurt."

The report on golf carts and security gates at the beaches is expected to be back at city hall in September.

Ingrid Copland
237 Firelane 26, Sherkston, ON
LOS 1R0

Delegation letter from Ingrid Copland in response to Report Number 2023-99; Meeting Date: June 13, 2023; Subject: Access to Sherkston Shores Under Easement

From the above-mentioned report prepared from the Office of the Chief Administrative Officer it is quite clear that the City of Port Colborne entered in a formal agreement with the owners of Sun Retreats Sherkston Shores property back in 2018 without having the best interests of the residents of the LOS 1R0 area. For over the past year Marsha McCreddie (Wyldewood Road area); Carlos Dias (Empire Road area); Carol Domenicucci (Wyldewood Road area) and myself (Pleasant Beach area) were working together as the LOS 1R0 Sherkston Hamlet Representatives. We all had corresponded and met upon numerous occasions throughout the year with the City of Port Colborne CAO and council members on this topic. Our point below which was supported by numerous residents in the LOS 1R0 area (as per the LOS 1R0 Facebook page poll back in June 2022) was always **"We just want the same....not asking for anything more. Just what we've always had. Leaving access as it always has been will mean zero cost to SS and the City and animosity and complaints will be greatly reduced. Can't get any simpler than that"**

Which is why the hamlet residents asked the City last year to intercede and collaborate with SS on our behalf and ensure the purchase agreement of the road allowance sold by the City to SS that grants residents of LOS 1R0 perpetual access is enforced in perpetuity as it always has (precedence) and always intended. Over the past year the City made this a "golf cart" issue and fails to mention all types of vehicle access as we always had. Quoted from Report number 2023-99 ***"This agreement was signed in 2018 and, until recently, the organizations(s) managing the SS property have permitted local residents to enter the campground via motorized golf carts or on foot"***. Incorrectly written as stated above – we had all types of vehicle access into the park. The report further goes on to say ***"In 2022, Sherkston Shores management indicated they had reviewed the original easement and, as a way to limit the volume of traffic within the park and address safety concerns for its residents, it would begin enforcing the "pedestrian access only" restriction laid out in the original easement agreement. As a result, City staff obtained a legal opinion on the validity of the decision to allow only pedestrian access. The solicitor's opinion was that Sun Retreats Sherkston Shores' management was within their legal rights to restrict access under the easement to pedestrian use only."*** Again, it is obvious the City back in 2018 collaborated with SS to remove the access that was granted over decades to the LOS 1R0 residents.

SS Lawyer had the audacity to write a letter to the City stating ***"concessions" – If a resident of LOS 1R0 has a mobility issue, the resident may park in the aforementioned lot and call Park Security, who will transport them from their vehicle to the Beach and back to the vehicle"***

Let's all focus on this section above. I would like you all to pay attention to what I am about to write. I have a neighbor (no need to mention names) who resides on Pleasant Beach Road for the past 47 years. My neighbor throughout her life has accessed the SS shoreline via the front gate by car when cars were allowed to be on the beach. Then when they switched to golf carts, she purchased a golf cart and accessed the beach that way for over the past 10 years. No issues. Over these past years my neighbor had two children who are now 22 and 19. They also enjoyed going to the beaches of Sherkston Shores throughout their lifetime. In the past 9 months, her daughter who is 22 and resides with her mother has recently been restricted to a wheelchair for the remainder of her life. I want you to reflect on the following and in good conscience still feel that SS concession is morally acceptable. By this concession,

you are expecting my neighbor to drive her 22-year-old daughter to the parking lot at the SS front gate. Take her out of the vehicle and move her into her wheelchair. Then call security to be transported to the beach. Has SS provided a timeline when to expect to be transported to the beach? Security shows up – in what type of vehicle? Security drives her down to the beach to drop her off onto a beach blanket or on her wheelchair while everyone on the beach watches this happen. She now has to use the bathroom facilities. How does she get to the bathroom? What would normally happen is that her mother would drive her to the bathroom via golf cart like every other person on that beach does who has difficulty walking distances because there is only one bathroom available for each beach at SS. Now it is time to leave, she calls security and I am sure that my neighbor's daughter is not their priority in a park filled with 20,000 people. Again, she has to get into a security vehicle while everyone watches. Why would anyone put themselves through this? If you have a daughter or son, do you think this is acceptable? Is this what SS and the City expected? Was SS Trailer Park and the City just hoping that we won't bother coming to the beach because of these new concessions??

A very important question to consider is has the City and SS lawyer checked whether this concession mentioned above is **compliant with the Canada Accessible Transportation for Persons with Disabilities Regulations SOR/2019-244 (published by the Minister of Justice)?** I can tell you that I have read the regulations and can say this is not in compliance with the regulations. E.g. personnel training for the assistance of persons with disabilities, physical assistance training, handling mobility aids, the requirements and appropriate methods for transporting, training is required to be completed prior to transporting a disabled person etc. etc. etc..... Is Sherkston Shores willing to spend the resources at this time to accommodate these concessions?

Before you make any decision on moving forward with your report and agreeing to the concessions offered from SS Trailer Park Lawyer please consider the above and the impact this has on all LOS 1R0 residents and especially those with disabilities. My suggestion for you would be to ask SS if they are aware of the Canadian regulations mentioned above and what their plans are for following them. Please ask for the process in writing.

Further comments regarding report 2023-99

Page 3 –

Current staff believe that the original intent to maintain beach access for residents in the Sherkston hamlet was captured accurately in the original easement agreement as negotiated.

My response – Barbara Butters support has always been that she was involved with the agreement and it meant unfettered access. Barbara Butters had said this to SS management (Derek Stevenson, Rob McDonald) at the meeting on August 25, 2022. Carol, Marsha and I attended this meeting. Scott Luey, Harry Wells, Barbara Butters, Gary Long were in attendance. Again, if the city believes it was captured accurately, then you caused this issue for the LOS 1R0 residents.

Page 3 –

It is possible that at the time this easement was negotiated, staff was not aware that the beach was being accessed using motorized vehicles. In any event, the final wording of the easement refers to pedestrian access, however golf cart access was allowed to persist until 2022.

My response – what kind of answer is that? “it is possible that at the time of.....” How can you say this when many of you from the city frequent Sherkston Shores with your families. You have all admitted to

that. All of you know exactly what is going on in that park. Just to clarify, again you focus on golf carts, we were allowed all vehicle access into the park including cars, motorcycles etc. There is parking available very close to Wyldewood Beach.

Page 4 –

Changes in Sun Retreats practices under the easement – Many residents have pointed out to City Council and staff that the issue before Council is not a ‘golf cart’ issue but rather it is an ‘access’ issue. Sun Retreats management has advised City staff that they have not restricted access to individuals under the easement and that the only change since 2018 has been the restriction of external golf carts.

My response – Wrong! We have been restricted of all types of vehicles not just golf carts. My question to you and legal is since over the past few decades LOS 1R0 residents has been allowed to access the Lake Erie shoreline and cemetery by either walking or driving, does this not fall under “Adverse Possession”?

Page 4 –

However, Sherkston Shores management cited exponential growth in attendance at the resort which has resulted in safety concerns and long lines to access the resort. In turn these issues have adversely affected people’s enjoyment of the facilities and put a considerable strain on their infrastructure.

My response – who do you think is the blame for this? The city permitted the expansion of the below snapshot. Why is LOS 1R0 penalized for this expansion? We have always been in the deed. We should have been considered first when allowing them to expand.



This large expansion circled above occurred approximately over the past 4 years (allowed by the city). Why would the city allow this expansion? The issue in this resort is overcrowding from all of the additional areas of mobile home units and not the few LOS 1R0 residents that enter the park. In the circled expanded area in the picture above there are approximately 231 newly added mobile park home units. Let’s do the math. Each homeowner is entitled to 8 homeowner picture passes, plus can purchase 4 additional at an extra cost (potential total of 12 people per unit). Numbers I calculated is 8 homeowner picture passes x 231 units is an additional **1,848** people in the park + 2 golf carts per unit = is a potential for **462** additional golf carts. Also, you should add in their vehicles too. Estimating another **462** (based on 2 cars per unit). The amount above is not including the additional homeowner

picture passes nor the invited guests that can access the park with the homeowner's password. Last year they were allowed 8 guests a day and it has been recently changed to 4 a day due to the recent stabbing issue. The expansion is not stopping as per my numbers above. There is more greenspace that will be bulldozed in the same area and not to mention the plan for re-developing the Pleasant Beach campground that Sherkston Shores has purchased. I would suggest you stop the further expansion until you get a plan from the park in regards to all of the issues this will affect to those living outside of the park. When Bill Steele comments that what happens in the park is Sherkston Shores issue is not what I see. The city of Port Colborne are the people to blame for allowing this expansion to happen. SS and the City caused their own safety issue, not us.

This expansion has caused further traffic issues outside of the park which has made many outside residents very angry and upset. Sherkston Shores recent correspondence (see below) to their homeowners in response to traffic issues -

Traffic 🚗🚗

Throughout the season team will be monitoring traffic coming into the resort. When lineups pass certain points team will be mobilized and measures will be taken to help reduce the lineups as quickly and safely as possible.

If you see a line up on Empire Rd as you are coming off of Highway 3... follow these steps for quick(er) and convenient resort access.

1. Turn L onto Sherkston Rd
2. Turn R onto Pleasant Beach Rd
3. Turn R onto Beach Rd
4. Access the resort via Quarry Meadows 🍷
5. If you skipped step 1 and find yourself in a line up further down Empire Rd, regretting your decision... Make a left onto Beach Rd and see step 4 above 😊

Remember! If you access the resort via Quarry Meadows, you must have your picture pass with you. The automatic gates at Quarry Meadows are still a work in progress, so this entrance will only be available should there be traffic congestion on Empire Road.

First, they are admitting above that traffic can be backed up as far as Hwy 3 "If you see a line up on Empire Rd as you are coming off of Highway 3"... Then they say to now use other roads to enter the park. Why was this not communicated to the residents in this area where traffic will now affect Sherkston Road, Pleasant Beach Road and Beach Road. You probably think this is another issue but this all ties into together. It is the least they can do by providing us with vehicle access for the issues we have to deal with from this trailer park. My suggestion is you speak to them again and have them reconsider our access. We will not be silenced.

Page 4 –

Estimated number of users – In April 2023, City staff approached management at Sherkston Shores to request data related to the number of users accessing the resort under the easement. They were unable to provide a number due to the fact that the park had not opened for the season yet. Staff had extracted data from the parcel fabric of the city. There are approximately 605 properties in the LOS 1R0 service delivery area for Canada Post. Many of those properties are vacant residential lots, agricultural, or other non-residential uses. Staff estimate there are approximately 400 properties with residents who would be entitled to access under the easement agreement. This does not imply that all property owners would seek access to the beach through the easement agreement. Staff have no knowledge of the actual number of current or past users and Sherkston Shores management has not provided that information in 2023.

My response – As per the meeting on August 25, 2022 with SS Management, three LOS 1R0 representatives and City council and staff, Sherkston Shores agreed to provide the amount of LOS 1R0 residents who had registered in the park for 2022. SS agreed to meet with us again and said they would

provide the numbers November, 2022. This meeting never took place. SS has these numbers because when you register you provide a copy of your land taxes or other utility bill and they make a copy of it. They also issue picture passes with your address on it. I believe the reason they never provided these numbers is because the numbers are very few and they can't really justify that the LOS 1R0 residents impact on their overcrowding in the park. From who I have seen over the years in this park who are LOS 1R0 residents I believe at the most it would be 40 people.

Page 6 –

Financial Implications: There are no financial implications from receiving this report. If Council chooses to proceed with legal action against Sun Retreats Sherkston Shores, the City will incur legal fees and staff time will be attributed to the issue.

My response – Please consider this carefully. By my impression of this report it sounds like you are very much on the side of Sherkston Shores. As you mention in this report LOS 1R0 residents are approximately 400 properties. On average 400 properties x \$4,000 a year in land taxes alone is \$1,600,000 generated to the city by us. Plus, we spend further money year-round in the city by supporting businesses. Sherkston Shores campers are only in our city approximately 4 months out of the year. We are hoping you will support your LOS 1R0 residents in this issue and do what is best for them.

Page 6 –

Public Engagement: Some residents of the Sherkston hamlet have grouped together to pursue this issue with City Councilors and staff. There are three residents that have emerged as the leaders of this group. Councilor Aquilina and staff have communicated with these group leaders a number of times over the last few months and in the course of preparing this report.

My response – Yes there are three LOS 1R0 representatives (Carol, Marsha and myself) who have been involved with this since May of 2022. We have sent in numerous emails in regards to our access over the last year on behalf of the LOS 1R0 residents. I still can't believe it has taken this long since we have been watching how quickly the city has dealt with the Nickel Beach Fowler Toad issue and how quickly it was decided to spend \$1 million of tax payers' dollars to build parking lots on land not even owned by the city. I agree that Councilor Aquilina has communicated with us over the last few months, however, in regards to this report, there has not been recent communication. Out of the three representatives, I received a 5-minute phone call from Scott Luey prior to him leaving on vacation to clarify some points he wanted to make in his report. I made it very clear to him this is not just a golf cart issue but for some reason this has been everyone's focus.

Again, I hope everyone takes the time to read this and considers all of the feedback received from LOS 1R0 residents.

Sincerely,

Ingrid Copland

From: [REDACTED]
Sent: Tuesday, June 13, 2023 11:15:50 AM
To: Deputy Clerk <deputyclerk@portcolborne.ca>
Subject: Delegation letter for Tonight's Council Meeting

Written submission for delegation and request to speak and answer questions alongside Ingrid Copland and Carol Domenicucci

Written Delegation re:
Report # 2023-99 Access to Sherkston Shores Under Easement
related to Report # 2022-99 Review of Road Allowances as Informal Beach Accesses
related to Report # 2018-95 Stopping Off and Closing Off Parts of Empire and Michael Road and Sale to Sun Communities

Hello again, it's the McCreadie family. Writing another delegation letter in hopes of reaching you and your conscience. We've written many times trying to help council understand and to offer solutions.

It's been a long haul and a lot of frustration and exhaustion for our family and hamlet residents who've asked over and over that our City representatives intercede and collaborate with Sun Retreats Sherkston Shores on our behalf to ensure the 2018 purchase agreement of the road allowances sold from the City to Sun Retreats Sherkston Shores continues to grant residents of LOS 1R0 our perpetual access as it always has been (precedence) and was always intended. We have repeated over and over...we are not asking for more just what we've always had for all these decades.

The trailer park covers a vast area, with long stretches to traverse to the shoreline road allowances which creates a mobility and accessibility challenge for both trailer owners in the park and LOS 1R0 residents alike. A challenge that is simply remedied by continuing the use of the same mobility device options that trailer owners have. Thus easing the financial burden Sherkston Shores would be responsible for by creating alternate accessibility modes and services that is compliant with the terms of the Accessible Canada Act and Accessible Transportation for Persons with Disabilities Regulations SOR/2019-244 as well as Accessibility for Ontarians with Disabilities Act (AODA). That clearly states to NOT create barriers which is precisely what Sun Retreats Sherkston Shores is doing.

As per CAO Scott Luey's report 2022-99 which states "Management at Sun Retreats Sherkston Shores have recently informed the City that they are currently prepared to allow residents of the LOS 1R0 postal code to park in their staff parking area and walk into the resort to access the beach. They have also offered to transport any individuals with mobility issues from the staff parking area to the beach using their security vehicles".

To come to realize that our City CAO, Mayor and members of this Council could believe that this offer is in any way humanitarian, dignified or compliant to any person that has

any form of disability or mobility issues sets off massive alarm bells. There are so many scenarios that Sun Retreats Sherkston Shores would never be able to safely provide for nor afford their compliance with, to support with dignity any persons ability or disability. And yes, families with loved ones with disabilities understand that extremes are not expected however basic human needs are. To name just a few of the thousands of possibilities - like going to the washroom when one needs to without having to call and make arrangements and quite possibly waiting longer than is healthy to do so. Or a persons safety if an emergency on the road allowance beach area occurs and evacuation is necessary. Or an emergency at home occurs and this person needs to get home quickly. Many scenarios that a person with a disability or mobility issue would be at the mercy of SRSS security to assist them if they aren't too busy and if a compliant vehicle and trained employee was available as staff in these roles would require training for communicating and supporting the needs of people with disabilities or mobility issues whether visible or not. Again, it would be necessary that SRSS would need to be in compliance to provide the shuttle and service they are so-called offering as a concession.

The world, country, province and hopefully our city is getting more progressive understanding the needs of our most vulnerable citizens with disabilities and /or mobility issues. At the end of the day if Council agrees that SRSS's offering of shuttles in a non compliant security vehicle with an untrained employee is well enough then it's clear you don't get it and you don't have someone in your life with a disability or mobility issue that you love and care for and we hope and pray your family won't have to one day. Because this City and this council will send an alarming and clear message that a resident Port Colborne with a disability or mobility issue is not understood or supported and these residents will have to fight even harder for their basic human rights and dignity and painfully experience or witness your loved ones humiliation and discrimination.

The citizens of L0S 1R0 trusted our City representatives to protect our rights and access and it's been painfully clear that we are not protected. It is understood that some of you felt that selling the road allowances was a positive, to add to the coffers that helps the entirety of the city. That is great. But what about the people of L0S 1R0? How did you protect our deeded rights in perpetuity? Our community whom for decades complied with whatever the trailer park required year after year to continue to have our deeded access. Does precedence not hold any weight with council members understanding of that in a legal sense if not consciously?

We have suggested and offered the simplest and cheapest solutions many times through our letters of delegation and emails and they have not been successfully negotiated, or corrected by our city representatives through to SRSS. The citizens are not responsible for any punitive actions taken regarding their access. They are the victims of a very poorly negotiated and managed agreement that they misleadingly entrusted to their city representatives to negotiate for them and now to correct for them. We are your citizens of all abilities, and if our council representatives do not right this wrong, which is blatantly clear to everyone, and do not restore our access as it has

always been, then let it be known that an entire community of abled and disabled citizens of the City of Port Colborne have been sold out by our City to a corporation! As Vance Badawey, past Port Colborne Mayor, said in a meeting we had with him “as Mayor I would never even entertain the idea of selling those road allowances to Sherkston Shores - I and council then knew it was a very bad idea and it would never have happened”.

Always,
Marsha and Mike McCreadie & Family
“Create a Great Day”

Written Delegation re:

Report # 2023-99 Access to Sherkston Shores Under Easement

related to Report # 2022-99 Review of Road Allowances as Informal Beach Accesses
related to Report # 2018-95 Stopping Off and Closing Off Parts of Empire and Michael Road
and Sale to Sun Communities

To Whom it May Concern,

Introduction

My name is Vanessa McKay. I was raised in the hamlet of Sherkston from birth until age 22 and currently reside in St. Catharines, employed by the Regional Municipality of Niagara. My parents are residents of Port Colborne and have been for their entire lives (37 years in Sherkston). I have family in the Shisler cemetery. I hope to make Sherkston my home again one day when I inherit my family's land on Wyldewood Road, which is why I write today as decisions made in 2018 and onward will have an impact on future generations, including my children.

Issue

CAO Luey's report #2023-99 'Access to Sherkston Shores under Easement' says the options are to accept the current easement in place, have the city challenge the current easement re: "pedestrian" use (which will fail) or leave citizens to challenge the current easement (which will fail for them, if it will fail for the City). **The problem is that the easement was executed poorly.** "Pedestrian" access at that time would have meant not driving on the beach. The City is fully aware that parking cars on the beach is a major concern along Port Colborne's stretch of Lake Erie and that this was past practice in Port Colborne including at Sherkston Shores.

The selling of the land was supposed to be conditional on protecting citizen access to the beach in perpetuity via an easement. The easement should have allowed for forever access to the beach in the same manner as if the city still owned the road ends; they should have never been sold but they were sold on the condition that residents of LOS 1R0 would have the same access they always had, which was public access to a road allowance. Moreover, the road allowance ended directly at the lake. By definition, a public road allowance would not have allowed a private company to gate off the road allowance for their entrance several hundred feet away from the water. The distance from the main entrance to Empire beach is 1265m; to Wyldewood beach, 929m. Furthermore, public access to any road allowance should have been for the entire public, not just LOS 1R0. The condition on the sale was limited to LOS 1R0 residents, but should have been even wider to the greater public.

The poor execution of the easement is a City mistake. Sun Retreats honoured the original intent for four years. The change in interpretation that started in 2022 is Sun Retreats taking full advantage of this mistake and failing to honour the original intention.

Whether the arrangement prior to 2018 was formalized or not, it was an arrangement and it benefited Sherkston Shores, not the residents. Historically, Sherkston Shores took over the road ends with no ownership and remedied that by providing the same access the public would have had on the public's road allowance. **Prior to 2018, Sherkston Shores facilitated the access to the lake because they had no right to take it over in the first place.** The City likely accepted this arrangement only because it mitigated the problem of public rights. Sun Retreats would be hard-pressed to explain why they have blocked it with a gate for decades to their own financial gain otherwise. Gating off public land by a private company would never happen today.

This arrangement, whether formalized or not, was the basis for the City even contemplating the sale of the road allowances and the City specified those public rights should be protected in perpetuity as a condition of the sale. **The wording of the current easement is problematic. Not having a formalized, written agreement in the past is problematic. The City is responsible for both of these errors. The public is asking for the City to own these errors and rectify the situation.**

The City should not recommend placing City errors on residents, particularly when it is suggested a lawsuit re: the current wording around “pedestrian” use will not be successful. Why isn't the city revisiting this easement altogether? Sun Retreats claim to be making a “concession” to allow residents to even park at the staff parking lot (which is more than 1km away from the beach, only 63 spaces and meant to include internal staff also). This concession falls significantly short of the historical access residents were promised. Failing to honour the original intent of the agreement is not a concession.

How did the City allow for this easement to be put in place so poorly in the first place?

Historical Context

In June 2018 when Council was presented with the idea of selling the road end allowances to Sun Retreats, residents expressed their concern about continued beach access as they have always enjoyed. Residents were reassured. The report filed with the July 2018 meeting minutes was commented on by multiple people. Councillor Bea Kenny expressed concern about guaranteeing access. Councillor Barb Butters was happy to have an agreement settled that protected residents and solidified Sherkston Shores' way of 'giving back to that community' for the disturbances they put up with. CAO Scott Luey assured there was no rush to formalize the agreement (which was done in one month) and he is happy it is happening on his watch. Here we are 5 years later and all of those fears expressed are a reality. It has only come to light in 2022 as Sun Retreats started to restrict the access as residents had known it.

The Planning and Development Department, Planning Division Report 2018-95 outlines point ii. on page 32 “LOS 1R0 residents' access to Sherkston's **beaches** is granted by pedestrian traffic only during Sherkston Shores Resort's beach date/hours of operations”. It wasn't access to Sherkston Shores, but to their beaches, to the lake. Pedestrian traffic, as opposed to vehicular traffic, made sense at the time, as vehicles were not permitted on the beach as they had been in the past.

This is how my family enjoyed Sherkston's beaches in 2012 (right). My parents got to watch their grandbabies grow up on Lake Erie. In my arms is my 3 month old niece and we were allowed a free carload to Sherkston's beaches.



*This image (left), taken in 2014, shows only golf carts on the beach. Residents could still park our vehicles at the **parking near the shore.***

Accessibility

CAO Luey's report highlights Sun Retreats second "concession" of having Park Security transport anyone with mobility issues. Surely there are more pressing security matters to attend to than taxiing residents, as has been heavily reported in the news. Potential "access" issues that need attention:

1. Is there signage at the lot advertising how those with mobility issues can reach security for assistance in accessing the beach?
2. What is the maximum wait time acceptable after making the call before security will arrive?
3. What happens when security doesn't arrive?
4. What are the plans and policies in place for training the security staff for how to assist a person with mobility issues in getting into the vehicle and on the beach?
5. When will the mobility security vehicles for wheelchair access arrive? What is the plan for enabling access until then?
6. What insurance will security carry for a person injured or property damaged while providing transportation, when that was previously a resident's responsibility?
7. How will security accommodate car seats safely for infants/children?
8. What is the plan for when there is more than one transport requested at the same time?

The City would be responsible for working with Sun Retreats to ensure residents' access, inclusive of mobility limitations, by having a process and policy put in place with the management of Sun Retreats - a meeting which is difficult to obtain by the sounds of it. Sherkston Shores has already demonstrated they won't stick to informal agreements and their letter states they reserve the right to revoke their "concessions" at any time. Did the City put an easement in place that does not allow for the accessibility needs of their residents? Or is it more likely that "pedestrian" access was always about cars on the beach? The City would never have assumed everyone can walk from the gate. The City is very attentive to mobility issues and the AODA. Does the City need to redo the easement to get it right?

Additional Concerns

The CAO's report touches on the park's concern regarding exponential growth, safety concerns and long lines, and their visitors having had an adverse impact of their "enjoyment" of the park due to these issues. Sherkston Shores is citing capacity concerns as a reason to restrict residents who are supposed to have guaranteed access. If the park is having "capacity" issues, limiting a small number of residents isn't going to solve those. Anecdotally the resident numbers are low. Perhaps that is why Sun Retreats refuses to provide that data. Capacity issues is an excuse. And if they are so successful as to be having capacity issues, why can't they remedy the parking and access issues for everyone?

Could Council use their expropriation powers to reverse the sale and redo the easement properly?

Council Follow-up

Residents are frustrated as Council directed CAO Luey to meet with residents and Sun Retreats management together and it never happened. Here we are, a year later with the same unresolve.

Your recent survey of residents re: road end allowances shared in 2022 highlighted the loud and clear message from your residents' voices about the importance of continued access to the beach portion of road ends and the improved quality of life our Great Lake offers. The lake is the greatest asset Port Colborne has and most people will never be able to afford beachfront. Access on a public road allowance is and has always been incredibly valuable to people. The City is failing to recognize the immense value to the public of these small slivers of

land because private ownership is so normalized. **This is why it matters that Council uphold the condition of the sale. Sherkston is reneging on the condition of the sale. Council has to do something about that.**

Sun Retreats, an American-owned company, bought the road ends from the City in an attempt to solidify their private use of public land; the City made a mere \$525 000 and benefited from reduced responsibility and the local residents got a reduced quality of life. Please fix this.

Residents are trusting you to look out for them, take responsibility for Council's actions from 2018 and represent your constituents by:

- **Voting to reject tonight's report #2023-99 Access to Sherkston Shores Under Easement**
- **Amending the wording of the easement. Failing that,**
- **Utilizing your powers as a Council of a municipality to expropriate the land back from Sun Retreats. Redo the easement properly, the way it was intended.**
- **Advocating for LOS 1R0 to park in the parking areas as close to the shore as possible, as we had always done, in the interim.**

What LOS 1R0 residents want - and future generations - is to access Sherkston's **beaches** at the shoreline as we always have. The easement was created for that purpose, it wasn't created to make something happen that never historically happened (i.e. walk from the gate), it was created to continue the goodwill that had been in existence for decades.

Thank you for your consideration.