

THE CORPORATION OF THE TOWNSHIP OF JAMES

BY-LAW 2020-08

WHEREAS Section 26 paragraph 1 of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that all highways that existed on December 31, 2002 are highways for the purposes of applicable law;

AND WHEREAS Section 31 of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that municipal councils may pass by-laws for establishing highways within the municipality;

AND WHEREAS Section 425 of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality is guilty of an offence;

AND WHEREAS the road known locally as Ball Park Road, and sometimes referred to as Lake Street, shown on the map attached as Schedule "A" and highlighted in yellow to this by-law is an open and public highway that has never been stopped up according to law;

AND WHEREAS Ball Park Road has been in open public use as a highway for many decades and for a period of time before 1970;

AND WHEREAS Ball Park Road existed as a highway on December 31, 2002;

AND WHEREAS the public, including the owners of land over which Ball Park Road passes, have generally, openly and notoriously accepted the use of Ball Park Road by the public and by such land owners for the entire time for which records and evidence is available to the Township of James and to the public at large;

AND WHEREAS the owners of land over which Ball Park Road passes have through their actions, use, behavior, permission and acceptance of use of Ball Park Road by the public demonstrated an intention to dedicate the lands for public use no later than 1970;

AND WHEREAS the Township of James and the Crown in Right of the Province of Ontario has over time maintained Ball Park Road as a public highway and has spent significant public funds on the highway, including the regular maintenance and repair of the highway;

AND WHEREAS the public through the expenditure of significant public funds has accepted Ball Park Road as an open public highway;

AND WHEREAS public documents, including the Official Plan for the Corporation of the Township of James, identifies Ball Park Road as an open and public highway;

AND WHEREAS some landowners have recently started to obstruct Ball Park Road by the placement of barricades and other obstructions in a manner that interferes with public use of and passage on Ball Park Road;

AND WHEREAS it is in the best interests of the Township of James that in order to maintain the integrity of public use and passage on Ball Park Road and maintain public safety that Ball Park Road be confirmed by by-law as an open and public highway forthwith to ensure a proper public record exists;

NOW THEREFORE, notwithstanding the provisions of Bylaw 03-01 requiring public notice for the passing of a Bylaw, in the foregoing circumstances Council of The Corporation of the Township of James hereby waives the requirement for such notice and hereby enacts as follows:

1. The portion of Ball Park Road shown on Schedule "A" to this By-law be and the same is hereby confirmed as a public highway within the limits of its current public and common usage (provided that such confirmation as a public highway of any part of Ball Park Road located on any Crown owned lands shall be subject to the approval of the Crown, to the extent such approval may be so required).
2. That Council authorize the expenditure of public funds to survey Ball Park Road in any area deemed necessary and in circumstances as may be directed by the Director of Public Works or his or her delegate to further confirm the location of Ball Park Road and to register the same in Land Titles the name of the Township of James, but in no case is the existence of Ball Park Road as a highway contingent on the creation of a survey or the completion of such registration.
3. Staff is authorized to remove any obstructions placed on the highway and to request assistance from any peace officer in the Province of Ontario to keep the peace.

4. Any person found contravening this by-law by obstructing Ball Park Road is guilty of an offence subject to the following penalties:
 - a. The maximum fine that may be imposed upon conviction is \$100,000 and the minimum fine shall be no less than \$500;
 - b. In the case of a continuing offence, for each day or part of a day that the offence continues, the minimum fine shall be \$500 per day while the offence continues, and the maximum fine shall not exceed \$10,000 per day;
 - c. In no case will any fine imposed under this section be less than \$500.
5. In imposing an appropriate monetary fine, in addition to any other aggravating circumstances known to law, each of the following singularly or collectively in whole or in part shall be deemed to be substantial aggravating circumstances to be applied in establishing the appropriate penalty:
 - a. An order was provided to the person who obstructed the highway to discontinue the offence in accordance with Section 444 of the *Municipal Act, 2001*, S.O. 2001, c. 25 and, despite the Order, the activity continued;
 - b. A landowner with property located on or accessed by the highway was prevented from accessing their property;
 - c. A landowner with property accessed by the highway was denied access to essential services which had the effect or the potential to put their property or life in peril;
 - d. Construction machinery was used to make removal of barriers inordinately difficult; and
 - e. An obstruction was placed in such a manner, or damage was caused to the public highway in such a manner, that actually causes, may cause or has caused a danger to the public;

READ A FIRST AND SECOND TIME on the 10th day of September, 2020

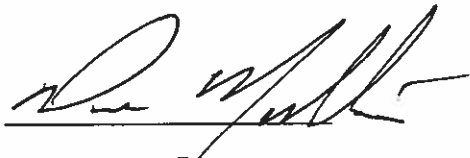


Dave Mullin, Reeve

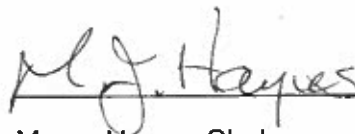


Myrna Hayes, Clerk

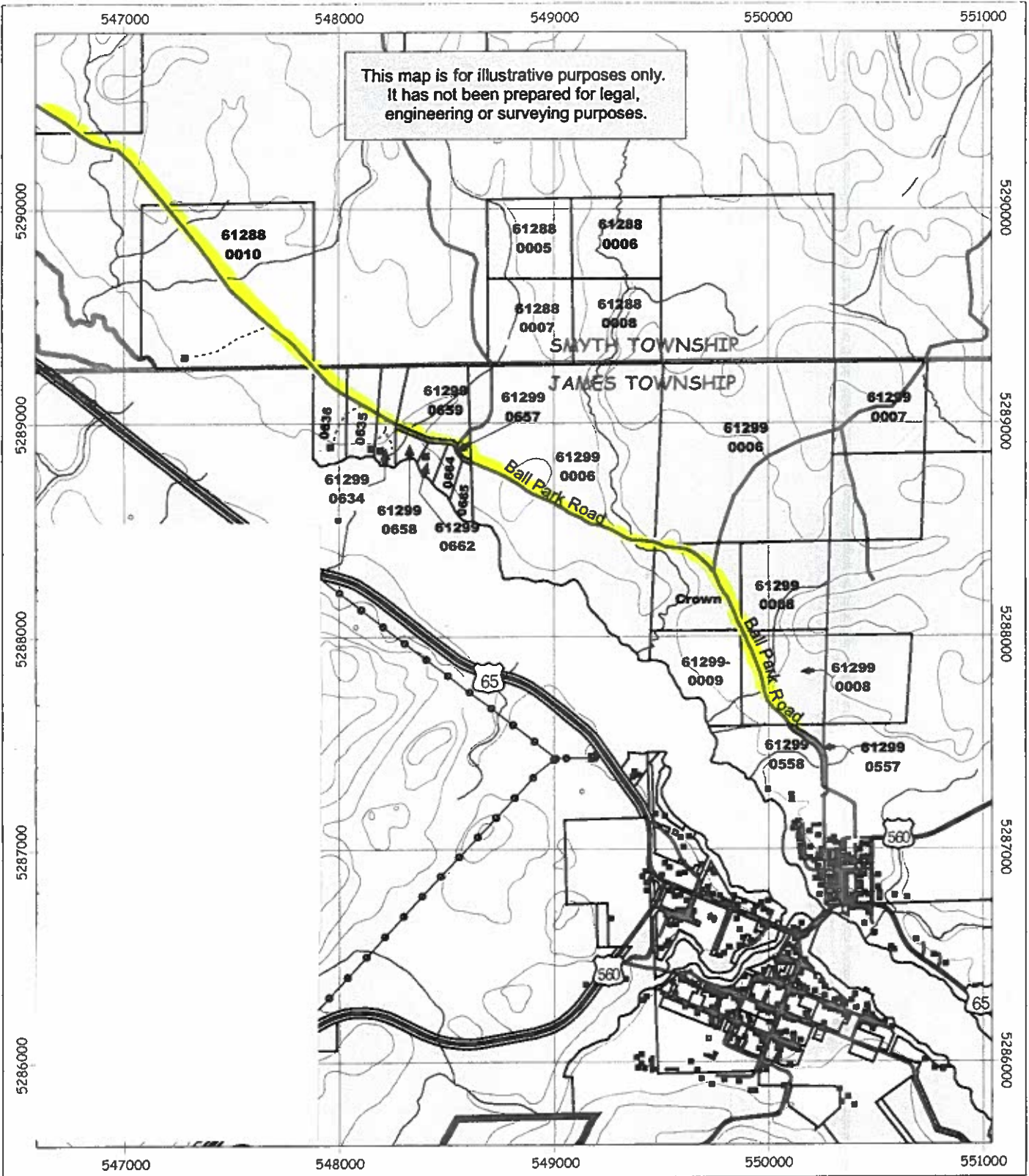
READ A THIRD TIME and finally passed on the 10th day of September, 2020



Dave Mullin, Reeve



Myrna Hayes, Clerk



Aitchison Consulting Services
ACS



**Twp of James
 Ball Park Road**

Patent Land
 61299-0000 PIN #s

Produced by Aitchison Consulting Services. For more information or additional copies call (705) 563-8999.

Scale
 1:25,000



All UTM Coordinates are in Nad 83, Zone 17N