



# ROTHESAY

## PUBLIC HEARING AGENDA

Town Hall  
Tuesday, November 12, 2019  
7:00 p.m.



### By-law 1-19-01

#### A By-law of the Municipality of Rothesay To Direct the Undertaking of Hard Surfacing of the Roadway Known as Mulberry Lane as a Local Improvement

**1. Introduction Mayor Grant**

**2. Documentation**

15 August 2019 First Notice sent to affected property owners  
19 September 2019 Public Hearing Notice sent to affected property owners  
19 September 2019 Public Hearing Notice posted to website

7 November 2019 Memorandum from Town Clerk Banks  
Aerial photo  
DRAFT By-law 1-19-01

**Appearances:** Director of Operations Brett McLean, PEng

**Comments:** 9 September 2019 Letter from 6 Mulberry Lane (*response to 1<sup>st</sup> Notice*)  
21 October 2019 Letter from 9 Mulberry Lane  
22 October 2019 Letter from 11 Mulberry Lane  
23 October 2019 Letter from 8 Mulberry Lane (*rec'd 1 Nov 2019*)

**3. Adjournment**



15 August 2019

**NOTICE**

Rothesay  
1 Mulberry Lane  
Rothesay, NB  
E2E 5L5

70 Hampton Road  
Rothesay, NB  
Canada E2E 5L5

T: 506-848-6600  
F: 506-848-6677

Rothesay@rothesay.ca  
www.rothesay.ca

Dear Rothesay:

**RE:** Civic Address: 1 Mulberry Lane  
The Undertaking of a Work as a Local Improvement – Mulberry Lane

Rothesay Council, pursuant to its authority under the provisions of the *Local Governance Act*, SNB 2017 c. 18 and Rothesay By-law 1-19, "A By-law Describing the Procedure for Directing the Undertaking of a Work as a Local Improvement" hereby provides **NOTICE** of its intent to undertake a work as a local improvement for Mulberry Lane, to be paid by special assessment against affected properties.

The work to be done is as follows:

*The acquisition of the road right of way and the hard surfacing of the roadway known as Mulberry Lane in Rothesay, together with required appurtenances thereto.*

*The improvement is abutted by the properties having civic numbers 1 to 9 Mulberry Lane inclusive, 11 Mulberry Lane and 40 Cameron Road.*

The estimated total cost of the work is \$71,750.00. The **estimated** costs to be charged against each affected property is \$350.00 (annually for twenty years) or an **estimated** one time payment of \$5,520.00. The final cost will be determined on completion of the work and it is this cost that will be used to calculate the actual charges to the benefitting properties, in accordance with the By-law.

For your information and review, enclosed is a copy of the draft By-law 1-19-01 which was given 1<sup>st</sup> Reading by Title at the August 13<sup>th</sup> Council meeting.

You may file a written objection to the local improvement with the Clerk's office, 70 Hampton Road, Rothesay, NB E2E 5L5 within thirty (30) days after receiving this notice. If an objection is received, Council will schedule a public hearing and you will receive notification of the date of the hearing.

If you require more information or have any questions, please contact me at your convenience ([MaryJaneBanks@rothesay.ca](mailto:MaryJaneBanks@rothesay.ca) or 848-6664).

Sincerely,

Mary Jane E. Banks, BComm  
Town Clerk

encl. Draft By-law 1-19-01



19 September 2019

**NOTICE – PUBLIC HEARING**

Rothesay  
70 Hampton Road  
Rothesay, NB  
E2E 5L5

70 Hampton Road  
Rothesay, NB  
Canada E2E 5L5  
T: 506-848-6600  
F: 506-848-6677  
Rothesay@rothesay.ca  
www.rothesay.ca

Dear Rothesay:

**RE: Civic Address: 1 Mulberry Lane  
The Undertaking of a Work as a Local Improvement – Mulberry Lane**

Further to my correspondence dated 15 August 2019, please be advised an objection has been received with respect to the above-noted matter. In accordance with enabling By-law 1-19, notice is hereby given that Rothesay Council has scheduled a public hearing for **Tuesday, November 12, 2019 at 7:00 p.m.** in the Common Room, Rothesay Town Hall, 70 Hampton Road, Rothesay New Brunswick. The purpose of the hearing is to give consideration to any comments with respect to By-law 1-19-01, "A By-law of the Municipality of Rothesay To Direct the Undertaking of Hard Surfacing of the Roadway Known as Mulberry Lane as a Local Improvement" (copy previously provided). The notice and draft By-law are available for review on the Town website at [www.rothesay.ca](http://www.rothesay.ca).

For your reference, the work to be done is as follows:

- *The acquisition of the road right of way and the hard surfacing of the roadway known as Mulberry Lane in Rothesay, together with required appurtenances thereto.*

*The improvement is abutted by the properties having civic numbers 1 to 9 Mulberry Lane inclusive, 11 Mulberry Lane and 40 Cameron Road.*

If you wish to comment, please forward your comments to the Clerk's Office **no later than Wednesday, November 6, 2019 at noon**. Any written comments provided will become part of the public record. Anyone wishing to speak may do so at the public hearing on November 12, 2019.

You may also register your wish to speak in advance by contacting the Clerk's office. If you require more information or have any questions, please contact me at your convenience ([MaryJaneBanks@rothesay.ca](mailto:MaryJaneBanks@rothesay.ca) or 848-6664).

Sincerely,

Mary Jane E. Banks, BComm  
Town Clerk

Explore our past / Explorez notre passé  
Discover your future / Découvrez votre avenir



## PUBLIC HEARING NOTICE

*19 September 2019:* Rothesay Council has scheduled a Public Hearing to give consideration to enactment of By-law 1-19-01, “A By-law of the Municipality of Rothesay To Direct the Undertaking of Hard Surfacing of the Roadway Known as Mulberry Lane as a Local Improvement”. A copy is available [here](#).

The public hearing has been scheduled for **Tuesday, November 12, 2019 at 7:00 pm** in the Common Room, Rothesay Town Hall, 70 Hampton Road, Rothesay, NB.

The purpose of the By-law is to undertake a work as a local improvement for Mulberry Lane, to be paid by special assessment again affected properties. The work to be done is as follows:

*The acquisition of the road right of way and the hard surfacing of the roadway known as Mulberry Lane in Rothesay, together with required appurtenances thereto.*

*The improvement is abutted by the properties having civic numbers 1 to 9 Mulberry Lane inclusive, 11 Mulberry Lane and 40 Cameron Road.*

Comments will be received by the undersigned until **Wednesday, November 6, 2019 at noon**. Any written comments provided will become part of the public record. Anyone wishing to speak may do so at the public hearing on November 12, 2019. You may also register your wish to speak in advance by contacting the Clerk’s office.

Mary Jane Banks, BComm  
Town Clerk





# ROTHESAY MEMORANDUM



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TO : Mayor and Council  
FROM : Town Clerk Mary Jane Banks  
DATE : 7 November 2019  
RE : By-law 1-19-01 (Mulberry Lane)

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## RECOMMENDATION:

- Council give 2<sup>nd</sup> Reading by Title, to By-law 1-19-01, “A By-law of the Municipality of Rothesay To Direct the Undertaking of Hard Surfacing of the Roadway Known as Mulberry Lane as a Local Improvement”
- Council give Reading by summary, to By-law 1-19-01, “A By-law of the Municipality of Rothesay To Direct the Undertaking of Hard Surfacing of the Roadway Known as Mulberry Lane as a Local Improvement”
- Council give 3<sup>rd</sup> Reading by Title, and Enactment to By-law 1-19-01, “A By-law of the Municipality of Rothesay To Direct the Undertaking of Hard Surfacing of the Roadway Known as Mulberry Lane as a Local Improvement”
- Council direct staff to proceed in accordance with the requirements as outlined in By-law 1-19, “Local Improvement Procedures By-Law – 2019”.

## BACKGROUND:

### ***Excerpt from Staff Report dated 9 August 2019 (Town Manager Jarvie)***

*Mulberry Lane (at one time known as ‘Ash Lane’) is a short dead end lane lying parallel to the river at the end of Cameron Road. The properties fronting the Lane are served with municipal sewer but not Town water (see air photo attached). The adjacent section of Cameron Road has been raised in the 2019 resurfacing program.*

*Staff have had several discussions with residents on the Lane about the condition of the road surface and ongoing maintenance. The road right of way is not owned by the Town and the surface is gravel and requires annual maintenance. Since Cameron Road has been raised, an upgrade to Mulberry Lane and establishing it as a public road would be timely.*

*Since the Lane is not considered a Town street at present, it would be required to be upgraded to Town standards prior to the Town taking responsibility. This process includes legal survey, design and construction work and is proposed to be carried out as a local improvement with property owners fronting on the Lane responsible for some of the costs. Council will know that Stuart Dobbin Park fronts on Mulberry Lane and therefore the Town would be responsible as a property owner as well as for whatever*

# ROTHESAY

TO: Mayor and Council

FROM: Town Clerk Banks

RE: By-law 1-19-01

2019November12MulberryLnLILHrgFINAL\_006

-2-

7 November 2019

*share of the project Council might agree to fund. Staff suggests the Town contribute \$11,000 to project cost to reflect the reduced cost of maintenance with a hard surface street. An estimate for the cost of the Mulberry work is in the order of \$60,000.*

In accordance with By-law 1-19, notices were sent to affected property owners on 15 August 2019 and 19 September 2019. The Public Hearing was scheduled following the receipt of a letter of objection dated 9 September 2019 from an affected property owner.

The attached notice of Public Hearing was posted to the Town website on 19 September 2019 and social media messages were scheduled for September 20, October 2, October 16, October 21, October 30, November 6 and November 9 to advertise the Hearing.

The draft By-law posted to the website has been edited for typographical errors and the following sections were added under **Effective Date**:

(Advertised as to content on the Rothesay website in accordance with the *Local Governance Act S.N.B. (2017) Chapter 18*)

19 September 2019

## BY-LAW SUMMARY READ:

By-law 1-19, "Local Improvement Procedures By-Law – 2019", Section 3 requires not less than a two-thirds vote of Council (6 of 8), which requires the Mayor to vote:

3. Where this By-Law provides that to enact a By-Law two-thirds of the Council must vote in favour thereof, it shall be sufficient compliance with such provision if two-thirds of the Council vote in favour of the By-Law on third reading by title.

Mary Jane Banks







Mulberry Lane

Eydie Dr

Beach Dr

Cove Cres

Cameron Rd

Wynn St

Ricketts Lane





**BY-LAW NO. 1-19-01**

**A BY-LAW OF THE MUNICIPALITY OF ROTHESAY**

**To Direct the Undertaking of Hard Surfacing of the Roadway Known as Mulberry Lane as a Local Improvement**

The Council of Rothesay, under authority vested in it by the Local Governance Act (S.N.B. 2017, c-18) and amendments thereto (the 'Act') and pursuant to By-law 1-19 'A By-law Describing The Procedure for Directing the Undertaking of a Work as A Local Improvement' enacts as follows:

**1. TITLE**

This By-law may be cited as the "Mulberry Lane Local Improvement By-law".

**2. INTERPRETATION**

In this By-law, unless the context otherwise requires;

- a. words in this By-law which are defined in the Act, and amendments thereto, have the meaning as defined in the Act;
- b. words in this By-law which are defined in Rothesay By-law 1-19, "A By-Law Describing The Procedure for Directing the Undertaking of a Work as A Local Improvement" (the 'Local Improvement By-law'), and amendments thereto, have the meaning as defined in that By-law;
- c. "Council" means the Mayor and Councillors of Rothesay;

**3. DEFINITION OF THE WORK**

The work to be undertaken under the authority of this By-law is the acquisition of the road right of way and the hard surfacing of the roadway known as Mulberry Lane in Rothesay, together with required appurtenances thereto. Council has determined this Work is necessary in the interests of the property owners listed in Schedule 'A'.

**4. BENEFITTING PROPERTIES**

Council has determined that the properties principally benefitting from the carrying out of the work are those properties listed in Schedule 'A' to this By-law.

**5. ESTIMATE OF COSTS OF THE WORK**

The cost of the Work includes legal, survey, land acquisition, engineering and construction, including placement of asphalt base and seal courses. The estimated costs are as shown in Schedule 'B'. The final cost shall be determined by the Director of Operations upon completion of the work and it is these costs which will be used to calculate the charges to the benefitting properties.

**6. MUNICIPAL CONTRIBUTION**

In addition to the charge to the property owned by the Town known as Stuart Dobbin Park, the Town shall contribute eleven thousand dollars (\$11,000) to the cost of the Work in recognition of maintenance costs that would otherwise be incurred by the Town.

**7. ALLOCATION OF COSTS**

Costs for the Work are to be allocated in accordance with Schedule 'C'. Council authorizes the Clerk and Treasurer to raise the cost set out in said Schedule by special assessment collected over no more than twenty (20) years.

**8. ADMINISTRATION**

The Clerk and Treasurer are hereby authorized and directed to issue such notices and take such steps as are required by the Act and By-law 1-19.

Council further authorizes the Work be carried out as part of the Town resurfacing program.

**9. EFFECTIVE DATE**

This By-law comes into effect on the date of final enactment thereof.

FIRST READING BY TITLE

12 August 2019

SECOND READING BY TITLE

\_\_\_\_\_

(Advertised as to content on the Rothesay website in accordance with the *Local Governance Act* S.N.B. (2017) Chapter 18)

19 September 2019

BY-LAW SUMMARY READ:

\_\_\_\_\_

THIRD READING BY TITLE AND ENACTMENT

\_\_\_\_\_

\_\_\_\_\_  
Nancy Grant  
MAYOR

\_\_\_\_\_  
Mary Jane E. Banks  
CLERK



Schedule A – Affected Properties

Civic	Street	Property Account #	Property Identifier
1	Mulberry Lane	1239513	30133516 245308
3	Mulberry Lane	1239521	30333074
5	Mulberry Lane	1239539	96040 245324
7	Mulberry Lane	1240190	30091045 30107817 246009
9	Mulberry Lane	6321991	30304695
11	Mulberry Lane	6322010	30304703
8	Mulberry Lane	4820711	30167712
6	Mulberry Lane	1245996 1246007	64451 154138 30008965 173005
4	Mulberry Lane	5289895 5866370	30197826 99101
2	Mulberry Lane	5866362	99135 99093 99085
40	Cameron Road	5866354	99143 245290

Schedule B – Cost Estimates

line	Description	Estimated Cost
1	Land Acquisition	7,500
2	Legal & Survey	5,000
3	Engineering	2,800
4	Construction	48,500
5	Contingency	5,000
6	Subtotal	68,800
7	plus HST	10,320
8	less HST Rebate	7,370
9	Total	71,750
10	less Town contribution	11,000
11	GRAND TOTAL	\$60,750

Schedule C – Costs To Be Charged to Properties

	Civic	Street	Property Account #	Cost	Annual
<b>A</b>	1	Mulberry Lane	1239513	\$5,520	\$350.
<b>B</b>	3	Mulberry Lane	1239521	\$5,520	\$350.
<b>C</b>	5	Mulberry Lane	1239539	\$5,520	\$350.
<b>D</b>	7	Mulberry Lane	1240190	\$5,520	\$350.
<b>E</b>	9	Mulberry Lane	6321991	\$5,520	\$350.
<b>F</b>	11	Mulberry Lane	6322010	\$5,520	\$350.
<b>G</b>	8	Mulberry Lane	4820711	\$5,520	\$350.
<b>H</b>	6	Mulberry Lane	1245996, 1246007	\$5,520	\$350.
<b>I</b>	4	Mulberry Lane	5289895, 5866370	\$5,520	\$350.
<b>J</b>	2	Mulberry Lane	5866362	\$5,520	\$350.
<b>K</b>	40	Cameron Road	5866354	\$5,520	\$350.
				\$60,750	\$4,500.

[REDACTED]

6 Mulberry Lane  
Rothesay, NB  
September 9, 2019



Mayor Nancy Grant and Council  
Town of Rothesay  
70 Hampton Road,  
Rothesay, NB

Dear Mayor Nancy Grant and Council:

[REDACTED]s of 6 Mulberry Lane are writing in regards to the written letter addressed to residents of Mulberry lane on August 15th, 2019. The letter we are referencing is concerning the undertaking of work as local improvement, on Mulberry Lane. It is our opinion that the road should be treated similarly to any other road owned and maintained in Rothesay. We are formally seeking support from Mayor and Council as we formally object on the additional costs associated with this work.

The main reasons for this objection are based on the fact that the original private lane was rebuilt and sewage added by the Town of Fairvale, and The Town of Fairvale and the Town of Rothesay have since issued five building permits to adjacent property. They also granted these lot owners access to this "private lane". Based on the Town conducting this work and granting these permits and access, it appears somewhere along the lines, the Town took ownership.

Based on the above, it appears as the Town is treating the road as public or private depending on the occasion. If the road was viewed consistently by the Town, any major maintenance/upgrades would be completed similar to any other street in Rothesay. As a resident of this road, we would like to see it improved, ie. paving, etc., however, not if this comes at an additional cost.

We also feel that we should not have to endure the costs of the Town purchasing land from residents to extend the road.

Thank you for your time on this matter,

Sincerely,

[REDACTED]

October 21, 2019

Mary Jane Banks  
Town of Rothesay  
70 Hampton Road  
Rothesay, NB  
E2E 5L5  
Canada





**RE: By-law 1-19-01 A By-Law of the Municipality of Rothesay to Direct the Undertaking of Hard Surfacing of the Roadway Known as Mulberry Lane as a Local Improvement**

We are residents of 9 Mulberry Lane, Rothesay, NB. As such, we will be heavily impacted by the Local Improvement By-Law 1-19-01 to Hard Surface Mulberry Lane. In addition to the financial impact, our property will also be directly impacted by the turnaround required as part of the By-law. Much, if not all, of the land required for the turnaround will come from our property.

In spite of that, we strongly support this local improvement district. It resolves multiple issues including the ambiguous nature of the current ownership (and potential liability issues) of the road, the challenges in maintaining the gravel road and the damage caused to our property by snowplows and waste management trucks due to the lack of an adequate turnaround area. Further, we feel the cost for the improvements, while significant, is quite fair given the work to be completed.

Sincerely,

Sean and Heather Ryan  
9 Mulberry Lane  
Rothesay, NB  
E2E 2B6



11 MULBERRY LANE  
ROTHESAY, NB  
E2E 2B6

October 22, 2019

Her Worship, Mayor Nancy Grant  
Members of Council  
Town of Rothesay  
70 Hampton Road  
Rothesay, NB  
E2E 5L5



Dear Mayor Grant and Members of Council:

**Re: By-Law 1-19-01**

I wish to register my full agreement with the passing of By-law 1-19-01, "The Undertaking of a Work as a Local Improvement – Mulberry Lane.

Paving Mulberry Lane will certainly enhance this street of well-kept homes and increase the value of our properties.

It will also reduce the wear and tear on my car as I attempt to avoid the many potholes which regularly appear throughout the year.

On a more personal level, as a senior with balance and mobility challenges, a smooth road surface would allow me to get fresh air and exercise with the support of my rollator/walker.

I hope that my neighbours on Mulberry Lane are in favour of the improvements, and I look forward to attending the public hearing on Tuesday, November 12<sup>th</sup>.

Yours truly,

*Lois E. Moore*

Lois E. Moore

Mayor N. Grant & Council  
Town of Rothesay  
70 Hampton Road  
Rothesay, N. B.  
E2E 5L5



October 23, 2019

Dear Mayor N. Grant & Council:

Re Civic Address: 8 Mulberry Lane  
The Undertaking of a Work as a Local Improvement – Mulberry Lane

This is in response to your letter signed by Mary Jane E. Banks, Town Clerk dated September 19, 2019 on the above noted subject.

We are grateful for the work undertaken to date on this project and respectfully request that the Mayor and Council pass the proposed By-law 1 -19 - 01, " A by-law of the Municipality of Rothesay to Direct the Undertaking of Hard Surfacing of the Roadway Known as Mulberry Lane as a Local Improvement".

We would also request that the work be carried out as soon as possible.

Yours truly:

Handwritten signature of Robert R. Collins in blue ink.

Robert R. Collins

Handwritten signature of Joan M. Collins in blue ink.

Joan M. Collins