

SERENITY CIRCLE COMMUNITY SUBMISSIONS

Mr. Mayor, distinguished members of Council,

CANADA POST COMMUNITY MAILBOXES

This issue has been raised before, when Serenity Circle was less than half developed, and before a development of the nature of Creekside was ever considered. Many of you who served on Council in the previous term may recall the issue. The Community Mailboxes, serving Serenity Circle were located on Ellis Street, about 15 yards from Serenity Circle and served as a temporary location until Serenity Circle was developed. In the beginning, there were a few houses on Serenity that received their mail in those boxes. There had been some discussion by the developer of re-locating the mailboxes to a cement pad which he had poured on the easterly boulevard of Serenity Circle. An email exchange between Public Works Director, Mr. Marra, and a representative of Canada Post confirmed this. As a result of unspecified 'safety' issues, Canada Post preferred not to relocate the boxes.

Residents discussed the issue and agreed that that decision was arbitrary, illogical and unsupportable by the evidence, and launched an appeal to the Ombudsman for Canada Post. We petitioned LaSalle Council, asking for the Town to support the appeal for relocation.

It was in response to that petition that a report was generated by Mr. Marra, dated July 17, 2017, regarding the proposal. Mr. Marra, in consultation with Canada Post, cited numerous reasons why this would not be acceptable to him as Director of Public Works. To summarize, Mr. Marra's objections were:

- a) mailboxes are typically located on the right side of the road or on laybys (a road inlet, which the developer of Serenity Circle either chose not to, or was not required to by the Town construct as a condition of subdivision approval) .
- b) Canada Post is concerned that the safety of the driver who delivers the mail would have to park on the right side of, and cross the street to access the mailboxes.
- c) There is no known Community Mailbox located within a centre median in Essex County.
- d) There is no wheel chair ramp in the proposed location.
- e) Snow clearing would become difficult to prevent snow piles against the mailbox.
- f) General public vehicles do not anticipate a vehicle to be stopped in the 'middle of a road'
- g) for a vehicle to stop in front of the proposed median location would be a violation of Town Parking Bylaw 7298 which prohibits vehicles from stopping with its left wheels at the curb or side of the street.

In answer to those objections, the residents state the following:

- a) There are no typical location of mailboxes. Canada Post themselves in an Ombudsman's decision which will be referred to later, states that:
 - sites should be located on side roads where customers or delivery employees are not subject to traffic hazards (contrast arterial road Ellis with cul-de-sac Serenity Circle which generally sees no traffic other than residents or the occasional service vehicle),
 - their locations should be as unobtrusive whenever possible (boulevard matches this),
 - Site should be placed on corner lots, away from windows and driveways whenever possible (there are rarely boulevards on streets which would be compatible with the placement of a mailbox such as exists on Serenity Circle and thus the corner lot scenario should not be exclusive - the boulevard satisfies all other criteria of being away from windows and driveways. Additionally, the fact that **100% of residents of the street want the boxes in this location** removes any concerns that the location would be obtrusive in any way),

-Sites should comply with local by-laws and be as close as possible to the customer it would serve (The mailboxes are nowhere close to the residents of Serenity - which incidentally serve **only** the residents of Serenity Circle - and not only were they ultimately located where the temporary ones were placed, on Ellis near Serenity, but were actually moved further down the block on Ellis Street, halfway to Normandy!).

Although sidewalks have been added on Ellis, the mailboxes in their current location are so distant from Serenity Circle (contrary to Canada Post's own criteria) that residents often stop their vehicles on Ellis to pick up their mail, and given that the Town does not clear these sidewalks, winter weather conditions will impact the ability to traverse the sidewalk to get to the boxes from our street - particularly for our elderly and disabled residents.

b) With respect, this makes no sense, in the circumstances, whatsoever. Currently, the Canada Post delivery driver who stuffs the mailboxes, exits the vehicle into traffic which is normally steady/heavy on what the developer's consultant refers to as an arterial road, which is built to handle high traffic volumes. Not only is this a danger to the driver, but also to passing traffic which has to decide when to try and pass this stopped hazard. Conversely, as previously stated, there is little to no vehicular traffic on Serenity Circle, a cul-de-sac street, which would pose exponentially less hazard to the delivery driver, and other motorists.

How is this safe on Ellis Street?:



How a delivery driver unloads on the street side

In any event, Canada Post was informed, we believe incorrectly, that it would be necessary for the driver of the Canada Post vehicle to park across the street from the mailboxes in order to unload the mail.

CANADA POST DECISION BASED ON MISINFORMATION

It will be seen that it appears the major concern of Canada Post (based upon Mr. Marra's analysis) was that the delivery driver would be breaching the Town Parking by-law which prohibits a vehicle stopping at the left curb.

In his report, Mr Marra cited section 13 of Parking Bylaw (now section 14 of current Parking Bylaw 8398) which says the following:

14. No operator of a vehicle used for the purpose of delivering goods, wares or merchandise or any other commodity shall, when stopping to make a delivery, stop his or her vehicle on a street, save and except at the right hand curb or edge of the street.

A cardinal rule of making an argument based upon a statute or a by-law is that the entire law is to be considered when drawing a conclusion. What makes that reference incomplete, confusing and and quite misleading is that the by-law also includes the following provision:

13. (1) No person shall park a vehicle on any street with the left wheels of the vehicle at the curb or the side of the street. (underlining added for emphasis)

However,

Section 1. (17) of the same bylaw defines what 'park' means and makes a specific exception for a vehicle which stands temporarily for the purpose of and while actually engaged in loading or unloading merchandise.

1. (17) "Park", "Parked", or "Parking" shall mean the standing or stopping of an object or a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers;

It may therefore be seen that the latter provisions lend support for the proposition that a mail truck is not illegally parked and may, in fact, stop with its left wheels against the curb, since it is there to temporarily unload the mail.

Now, Mr. Marra is not a lawyer, however, he is deemed to know the entirety of the contents of the Town's by-laws, and it is submitted, ought to have known that, by citing (then) section 13 of the by-law, in isolation, to support his position, the effect would be misleading.

Unfortunately, the omission to refer to section 13 and section 1. (17) was critical in Canada Post misunderstanding the state of the law in LaSalle and, it is submitted, in error, formed a significant basis for rejecting the request to move the boxes onto Serenity Circle.

At the very best, the terms of the by-law are confusing and contradictory. If, for any reason, there is any doubt, or question that the LaSalle by-law permits a Canada Post vehicle to stop with its left wheels at the curb, it could easily be made clear by amending the Town's by-law to specifically permit Canada Post delivery vehicles to park with the left wheels at the curb on streets with boulevards. In that way, the concerns of driver safety crossing the road are allayed. He/she can exit the vehicle immediately next to the box and fill it without having to cross the road, or step into traffic. Amending the by-law in this way would not create a loophole for others to exploit as there are few streets in LaSalle which have boulevards, and administration, recently, in response to questions of boulevard maintenance, has expressed the view that it will not be approving further development plans which contain boulevards. If the driver wished to park at the west end of the boulevard, immediately next to the mailboxes (as opposed to on the westbound or eastbound lanes

of Serenity), his/her vehicle would not impede traffic travelling either eastbound or westbound on Serenity.

c) numerous photographic examples of mailboxes on boulevards (see attachments) were provided at the hearing, showing them to exist in the Southwood Lakes development in the City of Windsor, and there may be found no concerns or incidents related to those locations.



d) There is a wheel-chair ramp, poured by John Evola, Serenity Circle developer, at the location that was proposed for the community mailboxes (referred to in the email correspondence with Canada Post) on the West end of the boulevard on Serenity Circle. (see photo). It is our information that Mr. Evola was requested to prepare this spot for the Community Mailboxes by previous town engineer, Bob Hayes.



e) If the mailboxes were moved, snow clearing would not be affected as Canada Post hires and pays contractors to clear snow and ice from every Community Mailbox in Canada. While snow plows currently push snow onto the wheelchair access, it is not necessary that they do that and they would not do that if the mailboxes were located there. With the mailboxes where they currently are, only the short sidewalk leading from Ellis street to the mailboxes would be cleared, and not the sidewalk from Serenity to the mailboxes (see sidewalk photos below).

f) The Canada Post delivery vehicle has bright red markings and can be seen for a long distance away. Drivers regularly employ hazard lights when stopping. If the vehicle is stopped next to the ramp on the boulevard, it would not be in the 'middle of the road'. See also the response to (b).

g) See the response to (b). The delivery vehicle would not be violating the parking by-law.

HISTORY OF COUNCIL'S SUPPORT

A petition was brought to the previous Council, and signed by the residents, to request support in the appeal to Canada Post ombudsman. Council, when presented with all the facts, agreed with the residents:

On July 25, 2017, when the matter came to Council, a motion was made to refuse the request to support the residents' appeal to the Ombudsman and, to refuse to support moving the mailboxes. **That motion to allow the boxes to remain on Ellis was defeated:**

Moved by: Councillor Burns Seconded by: Deputy Mayor Bondy That the report of the Director of Public Works dated July 17, 2017 (PW-22-17) regarding the community mailbox for the Serenity Circle development BE RECEIVED; and further that the location of the community mailbox for this development BE MAINTAINED on Ellis Street adjacent to 2003 Serenity Circle as originally designed; and further that the developer BE DIRECTED to complete the outstanding obligation of the sidewalk construction and installation of the originally planned community mailbox in a timely manner; and further that the permanent community mailbox location be constructed so that it is fully accessible. Motion is Put and is Lost.

Aye Votes: Councillor Burns and Deputy Mayor Bondy

Nay Votes: Councillors Akpata, Renaud, Meloche and Desjarlais

Council then clearly expressed a policy to support the request to move the mailboxes in the following way:

277/17

Moved by: Councillor Renaud

Seconded by: Councillor Desjarlais

That the report of Director of Public Works dated July 17, 2017 (PW-22-17) regarding the community mailbox for the Serenity Circle development BE RECEIVED; and further the petition to Canada Post from the residents of Serenity Circle BE SUPPORTED; and further that the resolution BE FORWARDED to Canada Post.

Deputy Mayor voting nay.

Carried

Shockingly, in what was interpreted by residents as having the effect of undermining the legitimacy of the resolution, and damaging the appeal to Canada Post, when Council's resolution was forwarded to Canada Post by the Town, the Public Works report that council specifically overrode with its vote, was included in the package. Equally as disturbing was the fact that, although the

resolution in support was mentioned in the transmittal letter, the text of it was not enclosed to Canada Post. (Transmittal document and attachments provided separately)

With administration's objections in hand, and **the Ombudsman having specifically mentioned that report in its decision**, Canada Post Ombudsman refused to relocate the boxes. Its major raison d'être - the mail delivery truck could not park with its wheels against the boulevard without violating LaSalle's Parking By-law (information contained in the report as well):

OMBUDSMAN DECISION DATED AUGUST 30, 2017:

The confusion caused by appending Mr. Marra's report to the material sent to the Ombudsman is clearly illustrated in the Ombudsman's decision, as the Ombudsman refers to the report as Council's report rather than Administration's report. This appears to show that the Ombudsman regarded the report as expressing Council's will, as opposed to administration's objections:

"The LaSalle Town Council's report PW-22-17 recommends that the permanent community mailbox site be maintained on Ellis Street adjacent to 2003 Serenity Circle as originally designed and approved"

The decision goes on:

"Your suggestion to relocate the site from Ellis Street to the median on Serenity Circle is not possible as the proposed location does meet Canada Post's safety criteria. It would require a delivery agent to park on the right side of the road and cross the road with his/her mail bins to deliver mail which puts the employee's safety at risk. Additionally, parking on the left side of the road (in front of the mailbox) is a violation of the Town of LaSalle parking by-law which states that all vehicles stopped on the road must be as close to the right hand side of the road as possible. As the current site meets Canada Post criteria, your request to have the site moved cannot be supported."

The decision left residents puzzled and scratching their heads in wonder.

There is even more reason to revisit the matter with Canada Post at this time.

There are **changed circumstances**:

1. 178 units of residential development in the Creekside Proposal, will be built on the property across the street from Serenity Circle (are 178 mail boxes to be lined up beside Serenity's on Ellis Street, or will they be given preferential treatment and their mailboxes be located in the area where they live?). For residents who stop on Ellis Street to pick up their mail, the additional traffic generated by this new development will make getting out of their cars even more dangerous than it is now. The Creekside proposal is enclosed separately.
2. All 21 lots on Serenity Circle have now fully developed (when the petition was presented in 2017, only half of the lots were built on- more traffic is now generated to the mailboxes than it was back then), and
3. Another large scale residential development apparently planned for Wyoming Street next to the Home Hardware store. This will increase traffic in the immediate area creating more risk to residents stopping to collect their mail.



Caption

4. The sidewalk which was referred to in Administration's report to Council in 2017 has now been built leading from Serenity Circle to the current mailboxes. In the photographs below, the sidewalk is not visible as it is covered in snow. It is not cleared in the Winter and is dangerous to attempt to navigate. In addition, snow plows spray ice and snow onto the sidewalk when they pass.





Looking South on Ellis Street from Serenity Circle. The community mailboxes, in the distance, are circled in red. The sidewalk leading from Serenity Circle is obscured by snow, and by ice sprayed from the snow plow while clearing Ellis Street.

Residents appeal to Council to re-assert its will to accommodate the safety and convenience of residents of Serenity Circle by strongly lobbying Canada Post, **without reservation, negative, or contrary commentary**, to relocate the Community Mailboxes serving Serenity Circle, from its current location on Ellis Street to the West end of the Easterly boulevard on Serenity Circle. Should the location on the West end of that boulevard be inconvenient for any reason (although it appears to be an ideal spot given the broad area where a delivery vehicle could park without hindering any traffic which might pass by), a location elsewhere on the boulevard would be workable.

In order to allay the reservations of Canada Post to the repositioning of the mailboxes, residents earnestly pray that Council:

1) a. Require administration, when communicating Council's resolution of relocation, to correct the previous mis-statement and emphasize to Canada Post in the most poignant language possible, that the portion of the bylaw previously communicated was incomplete, and that it is not contrary to the by-law for a Canada Post vehicle to stop with it's left wheels at the curb in order to unload the mail, or

in the alternative,

b). Amend Parking By-Law 8398 or whatever other by-law requires amendment, to exempt Canada Post vehicles from the prohibition of parking against the left curb of a boulevard, in order to

accomplish this relocation, and communicate same to Canada Post when advising of Council's support of the relocation, and

2) Require administration to advise Canada Post, that notwithstanding ANY recommendation of administration, it is the policy of Council that the Community Mailboxes serving the residents of Serenity Circle be relocated from their current location on Ellis Street to the Easterly boulevard of Serenity Circle, and that such relocation represents Council's wishes, and not those of administration.

Thank you for your consideration of this matter.

All of which is respectfully submitted

Residents of Serenity Circle, LaSalle.