



Staff Memo

Report To: Dan Best, Chief Administrative Officer

From: **Rebekah Msuya-Collison, Director of Legislative Services**

Date: September 20 2021

Report: CL#033-2021

Subject: Consent Application C11 – 2021 (Kester/Everatt) – Drain Apportionment

Recommendations:

That South Huron Council receives the memo of R. Msuya-Collison, Director of Legislative Services titled "Consent Application C11 – 2021 (Kester/Everatt) – Drain Apportionment"; and

That South Huron Council approve the agreement on the apportioned assessments under Section 65(2) of the *Drainage Act* as presented.

Purpose:

Approval.

Background and Analysis:

The County approved provisional Consent C11-2021 for Concession Lake Road East, Part Lot 7, Stephen Ward; South Huron (71176 Bluewater Highway) on June 9, 2021. As a condition of the provisional consent, Section 65 of the Drainage Act is to be addressed to the satisfaction of the Municipality.

Section 65 of the *Drainage Act* provides for minor updates to the assessment schedule of a municipal drain for lands, including splitting an assessment schedule for divisions of land. The Act provides as follows:

"65 (1) If, after the final revision of an engineer's assessment of land for a drainage works, the land is divided by a change in ownership of any part, the clerk of the local municipality in which the land is situate shall instruct an engineer in writing to apportion the assessment among the parts into which the land was divided, taking into account the part of the land affected by the drainage works. 2010, c. 16, Sched. 1, s. 2 (26).

Agreement on share of assessment

(2) If the owners of the subdivided land mutually agree on the share of the drainage assessment that each should pay, they may enter into a written agreement and file it with the clerk of the local municipality and, if the agreement is approved by the council by resolution, no engineer need be instructed under subsection (1). 2010, c. 16, Sched. 1, s. 2 (26)."

The normal process in South Huron planning procedures provide that when drainage reapportionment is required as a condition of consent, a form is provided to the applicant approving the rebilling of costs. Once the form is received a package is forwarded to the Drainage Engineer to assess the drain apportionment and once complete the Applicant is re-billed for the Engineer's costs.

Mr. Kester requested Council consider an agreement under section 65(2) instead of the normal process. As noted above, the Act does provide that Council by resolution may approve the apportionment by resolution.

The Clerk contacted the municipal engineer and Mr. Dietrich confirmed that he has reviewed the apportionment that Mr. Kester has provided to Council. He advised that he is satisfied with Council proceeding with approving the agreement, if they so choose.

Operational Considerations:

If Council approves the agreement, condition number 6 of Consent Application C11-2021 will be considered satisfied by the Municipality.

Financial Impact:

There are no financial implications as a result of the actions outlined in this report.

Legal Impact:

Council approval of the agreement is provided for under the *Drainage Act* and the agreement is between the two parties. There are no legal implications as a result of the actions outlined in this report.

Staffing Impact:

There are no staffing implications as a result of the actions outlined in this report.

Policies/Legislation:

Drainage Act, R.S.O. 1990

Consultation:

Bill Dietrich, Dietrich Engineering Limited

Related Documents:

Apportionment Agreement

Respectfully submitted,

Rebekah Msuya-Collison, Director of Legislative Services