

THE CORPORATION OF THE MUNICIPALITY OF WEST GREY

BY-LAW NUMBER 82 - 2011

BEING a By-law to enter into a Swimming Program Agreement with the Saugeen Valley Conservation Authority;

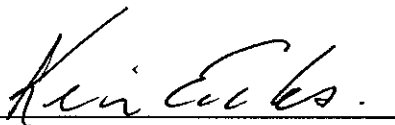
WHEREAS the Council of the Corporation of The Municipality of West Grey deems it desirable to enter into a Swimming Program Agreement with the Saugeen Valley Conservation Authority;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF WEST GREY HEREBY ENACTS AS FOLLOWS:

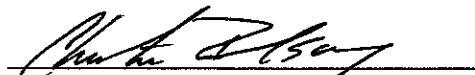
1. That the Swimming Program Agreement be entered into between the Corporation of The Municipality of West Grey and the Saugeen Valley Conservation Authority.
2. That the Mayor and CAO be and are hereby authorized to execute the said agreement on behalf of the Corporation of The Municipality of West Grey.
3. The Schedule 'A' attached hereto shall form part of this by-law.

READ a first and second time this 19th day of December, 2011.

READ a third time and finally passed this 19th day of December, 2011.



Kevin Eccles, Mayor



Christine Robinson, CAO



SCHEDULE "A" TO BY-LAW NO. 82 - 2011

MUNICIPALITY OF

***West
Grey***

SWIMMING PROGRAM AGREEMENT



SWIMMING PROGRAM AGREEMENT

This Agreement dated this 19th day of ~~October~~ ^{December}, 2011, is made,

BETWEEN:

The Saugeen Valley Conservation Authority
(Hereinafter called "the Authority")

OF THE FIRST PART

- and -

The Corporation of the Municipality of West Grey
(Hereinafter called "the Municipality")

OF THE SECOND PART

WHEREAS the Authority is the owner of the Durham Conservation Area (hereinafter called "the Property"), in the former Town of Durham, in the Municipality of West Grey, County of Grey, in the Province of Ontario, being legally described as Part of Lots 14, 15, 18, and Lots 19 to 28, Plan 502, Municipality of West Grey (formerly the Town of Durham);

AND WHEREAS the Municipality wishes to operate a recreational swimming program in the summer months in a portion of the Saugeen River which flows through the Property (hereinafter called "the Program");

AND WHEREAS the Municipality and the Authority have agreed to enter into this agreement upon the terms, conditions and provisions hereinafter set forth for the purposes of providing approval for the aforementioned use of the Property;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements herein and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties agree as follows:

Rights of the Municipality

1. The Authority grants the Municipality the right to enter into and over the Property for the purposes of this Agreement.
2. The Authority further grants the Municipality the right to operate a service on the Property, specifically being a recreational swimming program between the months of June and September of each year.

3. The Municipality shall be able to store any equipment used in conjunction with the Program on site; however, should any such equipment be stolen or damaged in any way, the Municipality shall not hold the Authority responsible for the loss.
4. The Municipality shall be provided with a key to the gates of the Conservation Area located at the west end of the Property.

Responsibilities of the Municipality

5. The Municipality shall be responsible for the placement of swimming area buoy lines to be used in conjunction with the Program only.
6. The Municipality shall pay the Authority the annual sum of Two Thousand Five Hundred Dollars (\$2,500.00) each year during the first five (5) year term, for installing, removing and storing the dock and diving platform upon receipt of an invoice from the Authority.
7. The Municipality shall haul, supply, and place beach sand on the Property and the Municipality will spread the sand as required.
8. The Municipality acknowledges that it accepts use of the Property in as "as is" condition.

Responsibilities of the Authority

9. The Authority shall be responsible for the payment of property taxes on the Property, the cost of which shall be included in the annual operating budget.
10. The Authority shall annually install and remove the dock and diving platform at a mutually agreeable time and shall store the dock and diving platform off season. The Authority shall also be responsible for the placement of the SVCA buoy lines.

Indemnity

11. The Municipality covenants and agrees to indemnify and save harmless the Authority of and from any and all manner of claims, damages, loss, costs or charges whatsoever occasioned to or suffered by or imposed upon the Authority or its properties, either directly or indirectly, in respect of any matter or thing in consequence of or in connection with or arising out of the use, occupancy or development of the Property by the Municipality pursuant to this Agreement, or out of any Municipal operation connected therewith, or in respect of any accident, damage or injury to any person, animal or thing by, from or on account of the same. The Municipality covenants that the indemnity herein contained shall extend to all damages and claims for damages by reason of improper or faulty erection or construction of structures hereafter erected or installed on the said Property or in connection therewith by the Municipality, its servants or agents and by reason of any insufficiency in such structures and whether or not same have been approved by the Authority, its servants or agents.

Insurance

12. The Municipality agrees to take out and keep in force throughout the duration of the Agreement liability insurance in the amount of Five Million Dollars (\$5,000,000.00), naming the Authority as additional insured on the policy and to provide the Authority with a copy of same prior to undertaking any part of the Program.

Term

13. The Term of this Agreement will be five (5) years from the date this Agreement is executed.
14. After the initial five (5) year Term, the Term will be automatically extended for an additional five (5) years unless the Municipality provides the Authority with written notice to the contrary at least sixty (60) days prior to the expiry of the Term. The annual fee noted in clause (6) is to be negotiated prior to the end of each Term and as part of the Agreement renewal. Should the parties, acting reasonably and in good faith, be unable to agree to the annual fee for the next five (5) years, the dispute shall be resolved pursuant to paragraph 17.

This Agreement may be further extended for five (5) year terms as the Municipality and the Authority agree.

Assignment

15. This Agreement is not assignable without the prior written consent of the other party. Any attempt to assign any of the rights, duties, or obligations of this Agreement without written consent is void.

Amendments

16. If at any time during the Term of this Agreement the parties deem it necessary or expedient to make any alteration or addition to this Agreement they may do so by means of a written agreement between them which shall be supplemental and shall form part of this Agreement.
17. Should any dispute arise between the parties with respect to this Agreement, the parties agree that they will use their best efforts and will act in good faith to reach an amiable settlement of the issue, failing which the parties agree to engage in an alternative dispute resolution ("ADR") process to resolve the issue.
18. Upon the termination of this Agreement pursuant to this provision, the Authority shall take ownership of any and all capital and physical improvements in "as is" condition; and the subject Property shall be in a condition equal to or better than at the time of execution of the agreement.

Governing Law

19. This Agreement is governed by the laws of the Province of Ontario and the laws of Canada applicable therein.

Binding Effect and Enurement

20. This Agreement enures to the benefit of and binds the parties and their respective heirs, executors, administrators, successors, and permitted assigns.

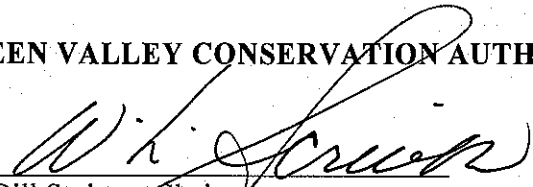
Entire Agreement

21. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings and negotiations, both written and oral, between the parties with respect to the subject matter of this Agreement.

IN WITNESS WHEREOF the parties have set their hands and seals on the date first above written.

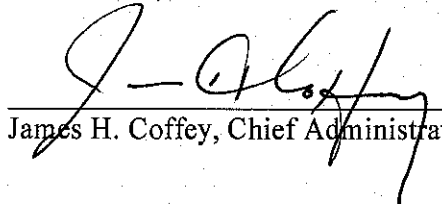
SAUGEEN VALLEY CONSERVATION AUTHORITY

Per:


Bill Scriven, Chair

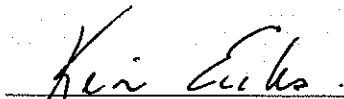
(c/s)

Per:


James H. Coffey, Chief Administrative Officer

THE CORPORATION OF THE MUNICIPALITY OF WEST GREY

Per:


~~John A. Bell, Acting Mayor~~
Kevin Eccles,

(c/s)

Per:


Christine Robinson, Chief Administrative Officer