



The Corporation of the City of Temiskaming Shores
Special Meeting of Council
Tuesday, June 29, 2021 – 6:00 p.m.
Electronic Meeting

Agenda

1. Call to Order

2. Roll Call

3. Approval of Agenda

Draft Motion

Moved by: Councillor Laferriere

Seconded by: Councillor Foley

Be it resolved that City Council approves the agenda as printed.

4. Declaration of Special Council Meeting

Draft Motion

Moved by: Councillor Hewitt

Seconded by: Councillor Whalen

Be it resolved that the Council of the City of Temiskaming Shores declares this meeting a "Special Meeting of Council" in accordance to Section 7 of Procedural By-law No. 2008-160.

5. Disclosure of Pecuniary Interest and General Nature

6. Presentations / Delegations

- a) Hugo Rivet, Resident and Local Business Owner (Head to Toe Sportswear)

Re: Support for Whiskeyjack Beer Company Pergola

7. New Business

- a) **Administrative Report No. 028-2021-CS – Whiskey Jack Land Use Agreement**

Draft Motion

Moved by: Councillor McArthur

Seconded by: Councillor Jelly

Be it resolved that Council for the City of Temiskaming Shores acknowledges receipt of Administrative Report No. CS-028-2021; and

That Council directs staff to prepare the necessary by-law to amend By-law 2020-065 to allow for construction of a fence and the installation of interlocking brick for consideration during the July 13th, 2021 Regular Meeting of Council.

OR

That Council directs staff to prepare the necessary by-law to amend By-law 2020-065 to allow the installation of interlocking brick for consideration during the July 13th, 2021 Regular Meeting of Council.

OR

That Council directs staff to enforce By-law 2020-065 and advise the owners/operators of Whiskeyjack Beer Company to remove all items that are not included in By-law 2020-065.

b) Administrative Report No. 029-2021-CS – Tender Award - Cultivation Agreement with Chieftain Dairy Farms Ltd.

Draft Motion

Moved by: Councillor Laferriere

Seconded by: Councillor Foley

Be it resolved that Council for the City of Temiskaming Shores acknowledges receipt of Administrative Report No. CS-029-2021; and

That Council directs staff to prepare the necessary by-law enter into a lease agreement with Chieftain Dairy Farms Ltd. for the cultivation of land off of Grant Drive, for consideration at the June 29, 2021 Special Council meeting.

8. By-laws

Draft Motion

Moved by: Councillor Whalen

Seconded by: Councillor Hewitt

Be it resolved that By-law No. 2021-103 being a by-law to authorize a Lease Agreement with Chieftain Dairy Farms to permit the Cultivation of Municipal Land be hereby introduced and given first and second reading.

Draft Motion

Moved by: Councillor Foley

Seconded by: Councillor Jelly

Be it resolved that By-law No. 2021-103 be given third and final reading, be signed by the Mayor and Clerk and the corporate seal affixed thereto.

9. Adjournment

Draft Motion

Moved by: Councillor McArthur

Seconded by: Councillor Laferriere

Be it resolved that City Council adjourns at _____ p.m.

Subject:	Whiskey Jack Land Use Agreement	Report No.:	CS-028-2021
		Agenda Date:	June 29 th , 2021

Attachments

Appendix 1 – By-law 2020-065 Lease Agreement with Whiskeyjack Beer Company
Appendix 2 – Email from March 22nd, 2021
Appendix 3 – Letter from Eugene Longstreet, P.Eng.
Appendix 4 – Letter from Jocelyn Blais, P.Eng.

Recommendations

It is recommended:

1. That Council for the City of Temiskaming Shores acknowledges receipt of Administrative Report CS-028-2021; and
2. That Council directs staff to prepare the necessary by-law to amend By-law 2020-065 to allow for construction of a fence and the installation of interlocking brick for consideration during the July 13th, 2021 Regular Meeting of Council.

OR

3. That Council directs staff to prepare the necessary by-law to amend By-law 2020-065 to allow the installation of interlocking brick for consideration during the July 13th, 2021 Regular Meeting of Council.

OR

4. That Council directs staff to enforce By-law 2020-065 and advise the owners/operators of Whiskeyjack Beer Company to remove all items that are not included in By-law 2020-065.

Background

On June 16th, 2020 Council entered into a lease agreement (By-law No. 2020-065) with Whiskeyjack Beer Company for the use of municipal property for the purposes of a patio. As the property contains hydro and gas infrastructure, the lease only permitted tables, chairs, benches and lighting to be used on the property in order to maintain easy access to these utilities in the case of an emergency. The lease agreement is attached as Appendix 1.

On March 17th, 2021, staff received an email from Marc Andre Therrien, Vice President, and Luc Johnson, Founder/President of Whiskeyjack Beer Company, requesting

permission to construct a pergola on the leased property. The request was circulated to all City departments for comment. The City's Chief Building Official at the time, stated the pergola would not be permitted on the property. On March 22, 2021 staff responded to Mr. Therrien and Mr. Johnson with all departments comments and advised that;

"The pergola would not be permitted so close to the neighbouring building. It is combustible material and would not meet the spatial separations required by the building code. The other consideration is the utilities that run under that lane may require work or attention that requires the use of heavy equipment or digging and the pergola would not allow this."

The email is attached as Appendix 2.

On June 4th, 2021, it was brought to staff's attention that a pergola was in the beginning stages of construction on the property.

Staff immediately contacted Mr. Johnson to advise him to stop construction, that the lease agreement did not allow for this construction and that staff would bring this matter to Council for their consideration and direction.

During a site visit on June 9th, 2021, staff was then made aware of the installation of interlocking brick on the property. During the meeting, staff, Mr. Therrien and Mr. Johnson discussed possible solutions for the patio space. At that time, it was suggested that an engineer could provide the calculation on the spatial separations for the construction of a pergola in accordance with the Ontario Building Code, but perhaps not to the size originally proposed by Whiskeyjack.

Staff informed Mr. Therrien and Mr. Johnson that the matter would be presented to Council at the June 15th, 2021 Regular Meeting, as the lease agreement would require an amendment to permit the pergola.

Analysis

During the June 15th, 2021 Regular Meeting of Council, Mr. Therrien and Mr. Johnson made a delegation to Council outlining their design and plans for the patio, including the construction of a pergola of a smaller size to allow for greater separation between the two buildings.

Council passed the following resolution:

Draft Resolution No. 2021-262

Moved by: Councillor Jelly

Seconded by: Councillor McArthur

Whereas representatives from Whiskeyjack Beer Company Ltd. submitted a request to amend their lease agreement with the City, to permit the construction of a pergola on a portion of a laneway, located adjacent to 485 Ferguson Avenue.

That Council defers this matter and directs staff to prepare an administrative report regarding the construction of a pergola on the outdoor patio space, leased by Whiskeyjack Beer Company Ltd., for Council consideration at a Special Meeting of Council.

Note: As Councillor Laferriere disclosed a conflict of pecuniary interest regarding the Whiskeyjack Beer Company Ltd. presentation, he did not vote on Resolution No. 2021-262.

On June 16th, 2021, the following committees met and passed the following recommendations:

Note: Councillor Laferriere declared a Conflict on this matter as his son owns Zante's Bar & Grill, and did not vote on Recommendation No. CS-2021-037.

Recommendation CS-2021-037

Moved by: Councillor Danny Whalen

Be it resolved that:

The Corporate Services Committee hereby recommends that Whiskey Jack revert the leased land owned by the City, currently being used as an outdoor patio space, to the permissible features as outlined within By-Law 2020-065.

CARRIED

Recommendation PPP-2021-034

Moved by: Councillor Doug Jelly

Be it resolved that:

The Protection to Persons and Property Committee hereby recommends that Whiskey Jack revert the leased land owned by the City, currently being used as an outdoor patio space, to the permissible features as outlined within By-Law 2020-065.

CARRIED

In accordance with the Ontario Building Code, the role of a chief building official (CBO) includes establishing operational policies for the enforcement of the *Building Code Act* and Building Code, and coordinating and overseeing their enforcement.

Specifically, to the City of Temiskaming Shores, both the previous CBO and the current CBO have determined that a pergola would fall into the definition of a building under the Ontario Building Code, and therefore would require a building permit. This determination was based on the intended use, it being an assembly occupancy, the protection to the public, adjacent buildings and liability to the municipality. For clarification, under the Ontario Building Code, an “Assembly occupancy means the occupancy or the use of a building or part of a building by a gathering of persons for civic, political, travel, religious, social, educational, recreational or similar purposes or for the consumption of food or drink”.

The City’s Acting Chief Building Official has provided the following report:

“The proposed pergola is over 108 sq. ft. in area, does contain walls, roofing components and structural elements serving the function thereof. In the Ontario Building Code, walls are defined as structural elements used to divide or enclose in building construction to form the periphery of a room or a building. Ceiling joists/rafters are roof structural elements that in this case would provide shelters in the form of shade from the sun.

The proposed pergola, precluding any future modifications, would not carry snow and rain live loads but would be subject to wind loads, and dead loads imposed by the framing members which would be situated above members of the public in an Assembly Occupancy A2.

O.B.C. Div. C part 2, Table 1.2.2.1 General Review, states that every building to be constructed for the major occupancy of an **A2 Assembly** occupancy must be done under a General Review of a **Professional Engineer** and an **Architect**.

The building to the north of the laneway at 289 Ferguson Drive is immediately adjacent to the proposed pergola and was calculated to have a total exposed building face of 115 m sq. with a total of unprotected openings of 13%.

According to **Table 9.10.14.4** of the Ontario Building Code where maximum **Aggregate of Unprotected Openings in Exterior Walls the building** the building at 289 Ferguson requires a Limiting Distance of over 4 M from the property line, which would consume most of the 5.8 M laneway width.

Table 9.10.14.5 O.B.C. would therefore apply and state that the building at 289 Ferguson must have non-combustible cladding, where a large portion of the exposed building face is clad with combustible vinyl siding.

As permitted in **9.10.14.2 –(4) O.B.C.**, the limiting distance is permitted to extend to the center of the laneway and if the limiting distance does extend beyond the center of the laneway to the imaginary lot line an agreement must be entered into with the municipality and the owners of both adjacent properties on which the limiting distance is measured and covenant that each owner that the owner will not construct a building on his or her property unless the limiting distance of the exposed building faces in respect of the proposed construction is measured in accordance with the agreement.

These covenants contained in the agreements are binding on the parties, executors, administrators, successors and assigns and shall be registered on title of the properties that apply.”

Based on the above, the construction of a building (pergola) in the laneway between 489 and 485 Ferguson Drive cannot be approved in accordance with the Ontario Building Code by the Chief Building Official.

Staff have also received an engineering opinion from Mr. Eugene Longstreet stating the pergola should be considered under the Ontario Building Code. It is attached as Appendix 3.

Furthermore, staff have contacted Enbridge Gas and Hydro One for comment on Whiskeyjack’s proposal, as both agencies have buried infrastructure located on the subject property. Both stated they have no concerns with the construction and installation of a pergola and interlocking brick.

On June 25, 2021, staff received a letter from Mr. Jocelyn Blais, P. Eng. outlining fire safety recommendations. The letter is attached as Appendix 4.

As per Council’s request, staff has also sought a legal review of the City’s indemnity clause. Should Council direct staff to amend the lease agreement with Whiskeyjack, staff recommends the clause be amended as follows:

The Benefactor shall indemnify and save harmless the City, its employees, its contractors, and its agents from and against any and all liabilities, claims, damages, actions and causes of action arising from the use of the Lands.

*The Benefactor shall on or before the **1st day of April** in each year, provide proof of liability insurance in the amount of **\$5 million** for the lands and all activities carried out thereon during use by the Benefactor.*

Relevant Policy / Legislation / City By-Law

- Ontario Building Code
- Building Code Act

Consultation / Communication

- Consultation with Corporate Services Committee
- Consultation with Protection to Persons and Property Committee
- Consultation with the Public Works Committee
- Consultation with Hydro One
- Consultation with Enbridge Gas
- Consultation with the City of Timmins
- Consultation with legal representative from Kemp Pirie Crombeen

Financial / Staffing Implications

This item has been approved in the current budget: Yes ☐ No ☐ N/A ☒

This item is within the approved budget amount: Yes ☐ No ☐ N/A ☒

Alternatives

All alternatives are included in the recommendations section of this report for Council's consideration and direction.

Submission

Prepared by:

Reviewed and submitted for Council's
consideration by:

"Original signed by"

"Original signed by"

Shelly Zubyck
Director of Corporate Services

Christopher W. Oslund
City Manager

The Corporation of the City of Temiskaming Shores

By-law No. 2020-065

**Being a by-law to enter into an Occupation of Land
Agreement with Marc Andre Therrien and Luc Johnson to
permit the use of the laneway adjacent to the 485 Ferguson
Avenue – Whiskeyjack Beer Company Ltd. – Outdoor Patio**

Whereas under Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the powers of a municipality shall be interpreted broadly to enable it to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

And whereas under Section 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

And whereas under Section 10 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;


And whereas Council considered Administrative Report No. CS-026-2020 at the June 16th, 2020 Regular Council meeting and directed staff to prepare the necessary by-law to enter into an Agreement with Marc Andre Therrien and Luc Johnson for the Occupation of Land (laneway to the north of Whiskeyjack Beer Company Ltd.) for consideration at the June 16th, 2020 Regular Council meeting;

Now therefore the Council of The Corporation of the City of Temiskaming Shores hereby enacts the following as a by-law:

1. That the Mayor and Clerk be authorized to execute the Occupation of Land Agreement with Marc Andre Therrien and Luc Johnson for the use of municipal land (laneway) adjacent to the Whiskeyjack Beer Company Ltd., a copy of which is attached hereto as Schedule "A" and forms part of this by-law.
2. That the Clerk of the City of Temiskaming Shores is hereby authorized to make any minor modifications or corrections of an administrative, numerical, grammatical, semantically or descriptive nature or kind to the by-law and schedule as may be deemed necessary after the passage of this by-law, where such modifications or corrections do not alter the intent of the by-law.

Read a first, second and third time and finally passed this 16th day of June, 2020.



Mayor – Carman Kidd

Clerk – Logan Belanger



Schedule "A" to

By-law No. 2020-065

Occupation of Land Agreement between

The Corporation of the City of Temiskaming Shores

and

**Marc Andre Therrien and Luc Johnson
(Whiskeyjack Beer Company Ltd.)**

for use of the laneway adjacent to the Restaurant

This agreement, made this 16th day of June, 2020.

Between:

The Corporation of the City of Temiskaming Shores
(Hereinafter referred to as "the City")

And:

Marc Andre Therrien and Luc Johnson (Whiskeyjack Beer Company Ltd.)
(Hereinafter referred to as "the Benefactor")

Whereas the City is the owner of real property known as:

Laneway between 485 Ferguson Avenue and 489 Ferguson Avenue

And whereas the Benefactor wishes to use the Lands for Occupation purposes, more specifically as an outdoor patio for patrons;

Now therefore, in consideration of the mutual covenants and promises herein contained, the Parties agree as follows:

1. The Benefactor shall have the right to use the Lands for Occupation for the term of this Agreement which commences **June 16th, 2020** and terminate **July 31st, 2025**, unless the Agreement is terminated early by either party.
2. The Benefactor shall pay to the City an **annual fee of \$1,200** plus applicable taxes, for the term of the agreement payable prior to August 1st of each year that this agreement is valid.
3. The Benefactor is hereby permitted to occupy and use the lands as generally illustrated. It is mutually understood that use of the patio would include such amenities as tables, chairs, benches and lighting without the necessity to amend this agreement.
4. The City, at its sole discretion, reserves the right to prohibit any amenity to which the City considers inappropriate or a hazard.
5. In the event the subject property becomes assessable the Benefactor acknowledges and agrees that it shall be responsible for the payment of any property and education tax levied.
6. The Benefactor, upon request, shall remove all amenities at their expense in order to permit the repair, upgrade or maintenance of utilities contained within the laneway.
7. At the termination of this Agreement, the Benefactor shall leave the Lands in no worse condition than existed at the date of signature of this Agreement to the satisfaction of the City.

8. Either party may terminate this agreement on not less than one hundred and twenty (120) days written notice to the other.
9. The Benefactor shall indemnify and save harmless the City from and against any and all liabilities, claims, damages, actions and causes of action arising from the use of the Lands.
10. The Benefactor shall on or before the **1st day of April** in each year, provide proof of liability insurance in the amount of **\$2 million** for the lands and all activities carried out thereon during use by the Benefactor.

Remainder of Page left Blank Intentionally

City of Temiskaming Shores
Occupation of Land – Whiskeyjack

Appendix 01 to Schedule "A" to
By-law No. 2020-065

In witness whereof the parties have executed this Agreement the day and year first above written.

Whiskeyjack Beer Company Ltd.

DocuSigned by:



9950EC500D0341D

Owner/Operator – Marc Andre Therrien

DocuSigned by:

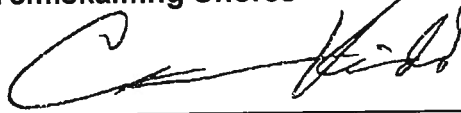


EE3540D1D338488

Owner/Operator – Luc Johnson

Municipal Seal

**Corporation of the City of
Temiskaming Shores**



Mayor – Carman Kidd



Clerk – Logan Belanger

Logan Belanger

From: Shelly Zubycyk
Sent: Monday, March 22, 2021 2:00 PM
To: 'Marc-André Therrien'
Cc: 'Luc Johnson'
Subject: RE: Patio 2021

Hi Marc-Andre,

A few comments from the departments regarding the patio. I'll copy and paste below:

The City has services under this laneway as does Hydro One, so the patio must be removeable should there be a need to access the services.

The pergola would not be permitted so close to the neighbouring building. It is combustible material and would not meet the spatial separations required by the building code. The other consideration is the utilities that run under that lane may require work or attention that requires the use of heavy equipment or digging and the pergola would not allow this.

As far as the fence on the sidewalk, the AODA requires a minimum clear sidewalk width of 1,500mm=1.5m=5'. We would need to review the sidewalk in this location and ensure that the remaining clear pathway meets this requirement, with appropriate clearances around the street trees and streetlights as well.

And as you're aware, you obtained temporary municipal approval to January 1, 2021 at 3:00 a.m. However, the AGCO recently announced that they are authorizing eligible "By the Glass" licensees to temporarily extend or add a temporary physical extension of their licensed premises, until January 1, 2022 at 3:00 a.m. Eligible "By the Glass" licensees do not need to submit an application to extend their licensed premises for the duration of 2021, provided they meet certain requirements, which can be reviewed in the attached link: <https://www.agco.ca/alcohol/changes-or-additions-existing-licensed-areas>

We can certainly update the approval letters to permit continued operations this year; however, if they wish to maintain the patio extension beyond January 1, 2022, they must apply for a permanent modification through AGCO and meet all applicable requirements.

Hope this helps and please do not hesitate to contact me should you have any further questions!

Shelly

From: Marc-André Therrien
Sent: Wednesday, March 17, 2021 8:55 AM
To: Shelly Zubycyk
Cc: Luc Johnson
Subject: Patio 2021

Hi Shelly,

I hope you are well. We are planning on making a more curb-appealing patio this year and also got some funding through NORP to help us recover from COVID shutdowns.

I've attached a few pictures to give you an idea of our project. It does not require any structural and all the fences are actually removable so meters and wires are still all accessible. Can you please advise us on how to proceed for getting this approved or are we still ok with last year's contract for the laneway use?

Thank you and have a great day.

Marc-André Therrien
Whiskeyjack Beer Co.



E.T. ENGINEERING INC.

970 Derland Road
Corbeil, Ontario, P0H 1K0

Phone 705-845-1109

Fax 705-752-2589

Email engineer@hiway11.com

June 26, 2021

To: Mr. Mike Pilon, CBO
New Liskeard, ON.

From: Eugene Longstreet, P. Eng.

Subject: Wood Pergola at Whiskeyjack Beer Company, Haileybury, ON

Particulars:

The pergola was erected using 6x6 vertical wooden column members and 2 x 10 or 2 x 12 perimeter members as support for the roof rafters.

In order to be a true pergola there must not be any sheeting over the roof rafters.

This pergola measures about 20ft. x 15ft more or less.

This structure is more then 10 meters squared in area (107 square feet)

This structure appears as if it may be free standing (Not attached to a building).

This structure will be used by the general public.

Conclusions:

This structure because it is more then 10 square meters in area and because it is being used by the general public should be installed under a building permit.

Respectfully Submitted,

Eugene Longstreet, P. Eng.

June 16, 2021

Whiskeyjack Beer Company
485 Ferguson Avenue
Haileybury, ON
P0J 1K0

Re : Patio/pergola design for fire protection

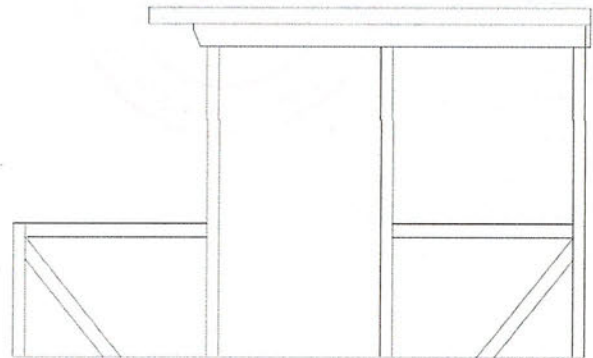
Mr. Therrien,

I am pleased to provide you with the following feedback regarding your revised sketches of the proposed design as submitted to the city of Temiskaming Shores.

I understand that with your revised design, most of the initial concerns have been addressed except the two window areas. From your revised design, I understand that the edges of your pergola rafters would be located at 1.2m from the edge of the adjacent building.



STREET VIEW



Revised design presented to city of Temiskaming Shores

General Observations :


- Both buildings on each side of the proposed pergola, have concrete block/brick wall structures.
- There will be no source of ignition on your proposed patio such as open flame cooking equipment. I also understand that a fire protection plan with the required fire protection equipment will be in place for the operation of your patio.
- The base of your patio is constructed on non-flammable material.
- The quantity of flammable material of your patio/pergola is limited

To address the concern of the two window areas, I would suggest adding a sliding type heat shield/guard panels that could be easily pushed in front of the windows in case of a fire, which would provide the protection required to the window areas. This process would become part of your fire protection plan. These sliding panels could be constructed of mineral fibre thermal material or they could be similar to panels used as wood stove heat guards. Other types of heat shields are also common in the restaurant industry as fire protection in commercial kitchens.

These sliding panels could become a decorative element of your patio or even used as a menu board so their addition, although an additional cost, could be considered beneficial in your overall design.

I hope that this proposed modification provides a solution to the raised concern of the two window areas.

If you have any questions, please do not hesitate to contact me.


Jocelyn Blais, P. Eng.
[Redacted]
[Redacted]
[Redacted]



Subject: Tender Award - Cultivation
Agreement with Chieftain Dairy
Farms Ltd.

Report No.: CS-029-2021

Agenda Date: June 29, 2021

Attachments

Appendix 01: Draft Agreement with Chieftain Dairy Farms Ltd.
(Please refer to By-law No. 2021-103)

Recommendations

It is recommended:

1. That Council for the City of Temiskaming Shores acknowledges receipt of Administrative Report CS-029-2021; and
2. That Council directs staff to prepare the necessary by-law enter into a lease agreement with Chieftain Dairy Farms Ltd. for the cultivation of land off of Grant Drive, for consideration at the June 29, 2021 Special Council meeting.

Background

The lease agreement with Chieftain Dairy Farms expired on December 31, 2020, for the purpose of cultivating hay on municipal land, along with two other lease agreements with Richard Forbes and Alexander Farms. These two lease agreements were renewed at the June 15, 2021 regular meeting of Council.

The Corporate Services Committee recommended staff release a request for proposal for the three (3) properties, establishing minimum bid amounts of \$100.00 per acre for prime agricultural land and \$25.00 per acre for untiled land, to align with the 2018 Farmland Rental Value Survey, Summary of Findings document, for the Temiskaming District, published in March 2019.

The Request for Proposal (RFP) CS-RFP-003-2021 was distributed to existing Lessors of the municipal land and the Northern Ontario Farm Innovation Alliance (NOFIA), as well as advertised on the City's Website.

Analysis

Three (3) submissions were received in response to the Request for Proposal, prior to the closing date on June 9, 2021. The RFP was for the Lease of Municipal Land, described in the chart below, for cultivation purposes.

Bidder	Description of Area	No. of Acres	Minimum Bid per Acre (\$)	Annual Lease Amount/ Bid per acre (\$)	Total Bid (\$)
Chieftain Dairy Farms Ltd.	Area of Grant Drive, Dymond Township	4.62 ac.	\$100.00	\$21.65	\$100.00
Alexander Farms	Area of Municipal Sewage Lagoons, Dymond Township	35 ac.	\$25.00	\$25.00	\$875.00
Richard Forbes	Area of Farr Cemetery, Haileybury	58 ac.	\$25.00	\$30.00	\$1,740.00

The submissions were reviewed and evaluated in accordance to the requirements of the RFP. Two (2) proposals submitted met the required minimum standards as outlined in the RFP. As a result, Council approved entering into a lease agreement with Richard Forbes and a lease agreement Alexander Farms for cultivation of municipal land, in accordance with the bids outlined above, at the June 15, 2021 regular meeting.

The bid submission from Chieftain Dairy Farms Ltd. was referred to the Corporate Services Committee for discussion at the June 16, 2021 meeting. The owners of Chieftain Dairy requested a reduced price per acre for the following reasons:

- no access to the property, except through privately-owned lands;
- the 4.62-acre size would likely not attract other bidders, due to equipment costs; and
- the land is maintained (i.e.; cleaned of litter).

The Corporate Services Committee supported a reduced rate of \$25.00 per acre, and recommended proceeding to Council for consideration.

Recommendation CS-2021-035

Moved by: Mayor Carman Kidd

Be it resolved that:

The Corporate Services Committee hereby recommends that Council accept the offered price of \$25.00/acre for the Cultivation Agreement with Chieftain Dairy Farms for the Grant Drive land parcel.

Carried

Relevant Policy / Legislation / City By-Law

- 2021 Operations Budget
- By-law No. 2017-015 – Procurement Policy

Consultation / Communication

- Consultation with Corporate Services Committee
- Consultation with City Manager

Financial / Staffing Implications

This item has been approved in the current budget: Yes ☐ No ☐ N/A ☒

This item is within the approved budget amount: Yes ☐ No ☐ N/A ☒

The 2021 revenue for this parcel was budgeted at \$462.00, and the revised amount will result in revenue of \$115.50 (\$346.50 reduction).

Staffing implications related to this matter are limited to normal administrative functions and duties.

Alternatives

No alternatives were considered.

Submission

Prepared by:

Reviewed by:

Reviewed and submitted for
Council's consideration by:

"Original signed by"

Logan Belanger
Municipal Clerk

"Original signed by"

Shelly Zubyck
Director of Corporate
Services

"Original signed by"

Christopher W. Oslund
City Manager

The Corporation of the City of Temiskaming Shores

By-law No. 2021-103

**Being a by-law to authorize a Lease Agreement with
Chieftain Dairy Farms Ltd. to permit the Cultivation of
Municipal Land – Roll No. 54-18-020-002-066.20**

Whereas under Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the powers of a municipality shall be interpreted broadly to enable it to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues; and

Whereas under Section 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

Whereas under Section 10 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public; and

Whereas The Corporation of the City of Temiskaming Shores issued a Request for Proposals CS-RFP-003-2021 and Chieftain Dairy Farms Ltd. was the only bidder on this land, more specifically described as DYMOND CON 3 PT LOT 9 RP 54R4826 PARTS 1 3 5 7 9 AND 11 PCL 25415 25416SST; (4.62 Ac.); and

Whereas Council considered Administrative Report No. CS-029-2021 at the June 29, 2021 Special Council meeting, and directed staff to prepare the necessary by-law to enter into a Land Lease Agreement for Cultivation purposes with Chieftain Dairy Farms Ltd. for consideration at the June 29, 2021 Special Council meeting; and

Whereas Council deems it necessary to enter into a land lease agreement with Chieftain Dairy Farms Ltd. to permit the use of municipal land for cultivation purposes.

Now therefore the Council of The Corporation of the City of Temiskaming Shores hereby enacts the following as a by-law:

1. That the Mayor and Clerk be authorized to execute the land lease agreement with Chieftain Farms Dairy Ltd. for the use of municipal land for cultivation purposes, a copy of which is attached hereto as Schedule "A" and forms part of this by-law.
2. That the Clerk of the City of Temiskaming Shores is hereby authorized to make any minor modifications or corrections of an administrative, numerical, grammatical, semantically or descriptive nature or kind to the by-law and schedule as may be deemed necessary after the passage of this by-law, where such modifications or corrections do not alter the intent of the by-law.

Read a first, second and third time and finally passed this 29th day of June, 2021.

Mayor

Clerk



Schedule “A” to

By-law No. 2021-103

Agreement between

The Corporation of the City of Temiskaming Shores

And

Chieftain Dairy Farms

for Cultivation purposes on Lands owned by
The City of Temiskaming Shores
Roll No. 5418-020-002-066.20

This agreement, made this 29th day of June, 2021.

Between:

The Corporation of the City of Temiskaming Shores
(Hereinafter referred to as the "the City")

And:

Chieftain Dairy Farms
(Hereinafter referred to as "the Benefactor")

Whereas the City is the owner of real property legally described as:

DYMOND CON 3 PT LOT 9 RP 54R4826 PARTS 1 3 5 7 9 AND 11 PCL 25415 25416SST
– Roll No. 54-18-020-002-066.20 (Approximately 4.62 Ac.)

And whereas the Benefactor wishes to use the Lands for cultivation purposes;

Now therefore, in consideration of the mutual covenants and promises herein contained, the Parties agree as follows:

1. The word "Cultivation" as used in this agreement shall mean the process of seeding, growing, bailing and removal of hay for use in the feeding of farm animals.
2. The Benefactor shall have the right to use the Lands for cultivation for the term of this Agreement which commences **July 1, 2021** and ends **December 31, 2026** unless the Agreement is terminated early by either party.
3. The Benefactor shall have no right to use the Lands for any other purpose than cultivation, and shall commit no act on the Lands which would constitute a nuisance to any other person.
4. The Benefactor shall not be entitled to fertilize the Lands or to use pesticides or herbicides on the Lands without the prior written consent of the City.
5. At the termination of this Agreement, the Benefactor shall leave the Lands in no worse condition than existed at the date of signature of this Agreement.
6. The Benefactor shall pay to the City for the rights granted herein, the sum of **\$115.50 per annum**, payable in advance on or before the 1st day of July in each year.
7. Either party may terminate this agreement on not less than thirty (30) days written notice to the other. Unless the Lands are required by the City for an immediate purpose, it shall terminate the Agreement in any year until the Benefactor has had a reasonable opportunity to remove his hay crop from the Lands.
8. The Benefactor shall indemnify and save harmless the City from and against any

and all liabilities, claims, damages, actions and causes of action arising from his use of the Lands.

9. The Benefactor shall on or before the **1st day of July** in each year, provide proof of liability insurance in the amount of **\$2 million** for the lands and all activities carried out thereon during use by the Benefactor.
10. The Benefactor shall not be entitled to assign the benefit of this agreement without the consent in writing of the City, which consent may not be unreasonably withheld.

Remainder of Page left Blank Intentionally

In witness whereof the parties have executed this Agreement the day and year first above written.

Signed and Sealed in
the presence of

Chieftain Dairy Farms Ltd.

Basil Loranger

Municipal Seal

**The Corporation of the City of Temiskaming
Shores**

Mayor – Carman Kidd

Clerk – Logan Belanger

