

THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

STAFF REPORT

DATE: December 15, 2020
TO: Committee of the Whole
FROM: Ken T. Kelly, Chief Administrative Officer
SUBJECT: **Planning Related Legal Matters Update**

RECOMMENDATION:

THAT Committee of the Whole recommend to Council to accept the staff report “Planning Related Legal Matters Update” for information.

BACKGROUND:

During 2020 there were several legal challenges initiated with regards to planning related matters. One matter was dismissed due to the appellant not paying the required Local Area Planning Tribunal fees and three others have reached a state where a decision has been provided or a decision is pending. For these matters we would expect minimal future billings except if an appeal is initiated. The list below is not a complete list of all legal matters, but focuses on the four which have reached some conclusion in 2020.

Local Planning Appeal Tribunal – Appellant Steven Maynard – Applicants Ray & James, Amodeo, Hartlin and Adams (four separate matters) – Dismissed – appellant did not pay fees. No legal fees charged to the Municipality.

Local Planning Appeal Tribunal – Appellant Steven Maynard – Applicants Kazia Homes - \$12,613.21 (total billed amount) – hearing completed in writing, waiting on decision from LPAT.

Ontario Superior Court of Justice Divisional Court – Appellant Steven Maynard – Applicants Aselford Development Corporation \$15,188.30 (total billed amount) – Dismissed.

Ontario Superior Court of Justice Divisional Court – Application to quash by-laws 18-73, 19-89, 19-92, 19-94 and 19-114 - \$32,931.15 (total billed amount) –Dismissed – an appeal to the Court of Appeal has been filed by the Appellant, Steven Maynard.

These four files have cost the Municipality \$54,731.28 in legal fees including the portion of HST that the Municipality cannot recover. In addition to the cost of legal fees there is also staff time required to address these issues.

The fact that these matters have been registered at either LPAT or Provincial Courts means that these matters are all part of the public record and available through the courts. For example, LPAT decisions are available online through the LPAT website. Discussing these decisions is not a disclosure of any private information and the Municipality can choose to provide or withhold information with regards to the legal fees it is required to pay.

FINANCIAL IMPLICATIONS

Legal fees are a budgetary item which are very hard to management and to predict on an annual basis. Through no fault of the Municipality during the conduct of regular business performing actions on behalf of taxpaying residents, businesses and property owner's, circumstances beyond its control can result in an increase in any given year. While staff can estimate costs based on historical experience any one year can produce more legal expenses than would reasonably be expected based on prior experience.

To provide context for \$54,731.28, for the 2021 budget year every 1% revenue increase equates to \$108,440. Half of that taxation revenue would have to go to covering legal fees for the Municipality to defend itself. This is almost the equivalent of the annual salary for first year Water Operator.

CONCLUSION:

This information is provided to inform Council of the challenges in budgeting accurately and the impact of recent legal actions that have been taken against the Municipality and the costs of defending against these actions.

All of which is respectfully submitted by,



Ken T. Kelly
Chief Administrative Officer