**REGULAR MEETING OF COUNCIL**

**MINUTES**

**Tuesday, October 12, 2021**
**6:00 PM**
**Council Chambers**
**2021 Division Road N**
**Kingsville, Ontario N9Y 2Y9**

| | |
|---|---|
| Members of Council | Mayor Nelson Santos<br>Deputy Mayor Gord Queen<br>Councillor Kimberly DeYong<br>Councillor Tony Gaffan<br>Councillor Laura Lucier<br>Councillor Thomas Neufeld<br>Councillor Larry Patterson |
| Members of Administration | R. Brown, Manager of Planning Services<br>S. Kitchen, Acting Clerk<br>S. Martinho, Manager of Public Works and Environmental<br>R. McLeod, Director of Financial & IT Services<br>A. Plancke, Director of Infrastructure & Engineering<br>P. Valore, Chief Building Official<br>R. Baines, Deputy Clerk - Administrative Services<br>J. Norton, CAO<br>J. Quennell, Fire Chief<br>Karen Loney, Manager of Recreation Programs and Special Events<br>S. Hirota, Director of Legal and Clerk Services/Town Solicitor<br>R. Wyma, Director of Community and Development Services |

## A. CALL TO ORDER

Mayor Santos, in attendance in the Council Chambers, called the Regular Meeting to order at 6:00 p.m. All other members of Council participated in the meeting through video conferencing technology from remote locations.

## B. CLOSED SESSION

**589-2021**
**Moved By** Deputy Mayor Gord Queen
**Seconded By** Councillor Kimberly DeYong

At 6:02 p.m., pursuant to Subsection 239(2) of the *Municipal Act, 2001*, Council entered into Closed Session to address the following items:

i) Subsection 239(2)(b) [personal matters about an identifiable individual, including municipal employees] and Subsection 239(2)(f) [advice that is subject to solicitor-client privilege, including communications necessary for that purpose] being a verbal report by members of Senior Administration in connection with identifiable municipal employees;

ii) Subsection 239(2)(e) [litigation or potential litigation, including matters before administrative tribunals, affecting the municipality] and Subsection 239(2)(f) [advice that is subject to solicitor-client privilege, including communications necessary for that purpose] being a report of P. Valore, Chief Building Official in connection with a zoning by-law investigation;

iii) Subsection 239(2)(e) [litigation or potential litigation, including matters before administrative tribunals] and Subsection 239(2)(c) [a proposed or pending acquisition or disposition of land by the municipality] being a verbal report of Director G. A. Plancke in connection with a matter relating to land expropriation.

**CARRIED**

Upon rising from Closed Session at 6:35 p.m. there were technical difficulties noted in connection with the video sound stream. The matter was resolved at 6:38 p.m.

Mayor Santos informed that Council entered into Closed Session to address the three matters as outlined above, and reported as follows:

i) Council received a verbal information report from Administration in regard to identifiable municipal employees;

ii) Information was received from the Town's solicitor and the Chief Building Official provided an update with regard to a zoning by-law investigation that is underway;

iii) A verbal report was received from Director Plancke in connection with a matter relating to land expropriation and Council provided direction to Administration.

## C. LAND ACKNOWLEDGEMENT

Mayor Santos read the Land Acknowledgement as follows:

We acknowledge the Three Fires Confederacy (Ojibwe, Potawatomie and Odawa) and the Traditional, ancestral, unceded territory of Caldwell First Nation; the original people of Point Pelee, Pelee Island and its surrounding waters. We recognize and respect the First Nations who are stewards of the land and waters of Turtle Island and who have embraced this stewardship since time immemorial. We would also like to acknowledge other nearby First Nations communities and First Nations across Turtle Island.

## D. MOMENT OF SILENCE AND REFLECTION AND NATIONAL ANTHEM

Live singing of O'Canada by Alyssa Neal.

## E. AMENDMENTS TO THE AGENDA

Deputy Mayor Queen added one announcement; Councillor Lucier added one announcement and one notice of motion.

## F. DISCLOSURE OF PECUNIARY INTEREST

Mayor Santos reminded Council that any declaration is to be made prior to each item being discussed and to identify the nature of the conflict, if any, as the agenda items come forward.

**Introduction of Paula Parker, Town Clerk for The Corporation of the Town of Kingsville**

Director Hirota introduced and welcomed Paula Parker, the new Town Clerk, who will be formally appointed by By-law later this evening.

## G. PRESENTATIONS

### 1. Communities in Bloom--Presentation by Karin Sonnenberg, Member SEE: Staff Report J-1 SEE ALSO: PowerPoint presentation entitled 'Why become a Bee City?'

Karin Sonnenberg presented the PowerPoint presentation entitled 'Why Become a Bee City?'

Mayor Santos then brought forward Item K-1, being a Report RE: Bee/Pollinator Friendly Community, dated September 30, 2021.

**590-2021**
**Moved By** Councillor Thomas Neufeld
**Seconded By** Councillor Larry Patterson

That Council approves the application for the Town of Kingsville to be a Bee/Pollinator Friendly Community as part of Bee City Canada.

**CARRIED**

## H. DELEGATIONS

## I. MATTERS SUBJECT TO NOTICE

## 1. DRAINAGE REPORT CONSIDERATION--DANUBE DRAIN IMPROVEMENTS

S. Martinho, Public Works Manager and T. Peralta, P. Eng. (N. J. Peralta Engineering Ltd.)

i) Notice of Meeting to Consider the Engineer's Report dated September 27, 2021;

ii) Drainage Report dated October 1, 2020 for the Danube Drain Improvements (for 617885 Ontario Limited (300-32600), Part of Lot 9, Concession 2 ED; N. J. Peralta Engineering Ltd. Project No. D-19-120);

iii) Proposed By-law 76-2021, being a by-law to provide for improvements to the Danube Drain, in the Town of Kingsville, in the County of Essex (to be read a first, second and third and final time); and

iv) Report of S. Martinho, Manager of Public Works and Environmental Services dated September 22, 2021.

Engineer Peralta presented the Drainage Report dated October 1, 2020, and Mr. Martinho presented his accompanying staff report (item I.1.a) and recommendation.

There were no comments from any member of the public, nor were there any comments from the property owner.

**a. Danube Drain Improvements--Report of S. Martinho, Manager of Public Works and Environmental Services**

**591-2021**
**Moved By** Deputy Mayor Gord Queen
**Seconded By** Councillor Thomas Neufeld

That Council authorize the following:

- Per Section 78 of the Drainage Act, the adoption of the engineers report provided by N.J. Peralta Engineering Ltd., titled Danube Drain Improvements;
- Given that the owners of Jem Farms waived their right to appeal, that By-law 76-2021 for the work be presented to Council for 1st, 2nd, and final reading and that the Clerk send by mail a copy of the By-law to each of the affected parties;
- That $65,000.00 be included in the 2022 budget for replacing the culvert crossing on Peterson Side Road.

**CARRIED**

**2. Application for Zoning By-law Amendment by Cibulka Martin Ltd. 1172 County Road 20, Pt. Lot 10, Concession S 4 WD**

R. Brown, Manager of Planning Services

i) Notice of Complete Application and Public Meeting: Zoning By-law Amendment dated September 21, 2021;

ii) Report of R. Brown dated September 27, 2021;

iii) Proposed By-law 81-2021, being a By-law to amend By-law 1-2014, the Comprehensive Zoning By-law for the Town of Kingsville.

Comments from the Applicant:

Dr. Christina Martin (Cibulka Martin Ltd.) advised that the veterinary clinic proposed for this new location will employ two staff members (for a total of three, including Dr. Martin) and potentially one additional staff member. She also informed that she proposes to relocate the Lakeside Animal Hospital (presently located on Division Street North) to this County Road 20 site, and that the

Kingsville Animal Clinic at its present location would be unaffected by this change. She had no further comments.

Public comments:

There were no comments from members of the public.

**592-2021**
**Moved By** Councillor Larry Patterson
**Seconded By** Councillor Tony Gaffan

That Council approves Zoning Amendment Application ZBA/20/2021 to rezone property located at 1172 County Road 20 from Education, (EG) to a site-specific Rural Commercial, C6-14 to permit a veterinary clinic and other limited uses, and adopt the implementing by-law.

**CARRIED**

**3. 2791854 Ontario Inc. 9 Pulford St., Lot 3 & Pt. Lot 4, Plan 1182, Pt. Lots 5 & 6, W/S Water Mill St, Pt. Lots 8 & 9, E/S Division Line Street & Pt. 1, RP 12 R 22657**

R. Brown, Manager of Planning Services

i) Notice of Complete Application and Public Meeting: Zoning By-law Amendment dated September 22, 2021;

ii) Report of R. Brown, dated September 24, 2021.

Mr. Brown presented his Planning Report and recommendation to deny the application for the reasons stated therein.

Comments from the Applicant's representative:

Jackie Lassaline (Lassaline Planning Consultants Inc.) presented her Planning Rationale Report (PRR dated September 6, 2021 regarding the suitability of the requested site specific zoning by-law amendment) on behalf of the applicant (SEE: Appendix C to Mr. Brown's Planning Report).

Comments from the Applicant:

Simone Chisholm (representing the owner, 2791854 Ontario Inc. operating as 'Plan A Windsor', a human resources firm) provided further details and perspective in connection with this application. She indicated that she had made several inquiries with the Town prior to purchasing the building and moved

forward based on the information they were given. She commented that there is a shared driveway with a neighbour and the neighbour has been, and continues to be, supportive of the shared driveway. She explained that it was not until her business took possession of the building and started investments into the building that a complaint was made. She described the nature of the business and outlined her business background and experience. She indicated that 9 Pulford is her primary residence.

Comments from the public:

Helen and Don Noels, 63 Division St. North--Ms. Noels stated that she and her husband object to the application, highlighting that they live right beside and next door to 9 Pulford and as such, it affects them directly; She commented that the property owner is 'asking too much', that the application has been made by the numbered company, not Ms. Chisholm, and that the only activity happening there now is a professional office which has been operating for 6 months. She stated that 9 Pulford is no longer a place of residence, and that the Town's Zoning By-law is not intended to allow such an operation. She asked that Council support the neighbourhood, uphold the Zoning By-law, and support Mr. Brown's recommendation to deny the application.

Linda and David Valentine, 79 Division St. North--Mr. Valentine stated that he and his wife object to the application. Their home is directly across the street from 9 Pulford, and as a result they have a good idea as to what is happening there, including the fact that there is no home occupancy at this location, but rather an intrusion of an incorporated business into a residential neighbourhood. He stated that the employees and Ms. Chisholm arrive during the day to work at the business and it is lit-up at night like a commercial property. He described parking and traffic concerns and concerns regarding the number of employees at the site. Mr. Valentine also stated that he has provided written submissions in this matter. He asked that Council deny the application for the reasons stated, and because it could open the door to other businesses of this nature in this Pulford neighbourhood.

Deputy Mayor Queen presented comments and concerns, stating that he believes that the application is flawed in that it would "lead us to believe that it was an extension of an existing home occupation, rather than a commercial activity in a house in a residential zone". He explained that he had asked Administration to provide Council details of the current by-law for home occupations, which was provided by the Planner. Deputy Mayor Queen provided examples of compliant past home occupations. He stated that Council is now

tasked with a decision that may well affect the future of not only this street but others.

Larry Harrison, 57 Division St. North, indicated his property is west of 9 Pulford. He is concerned about the use of the swimming pool in the rear yard by the employees of the business and their guests, and as well is concerned about the use of the pool house as a temporary residence. He indicated Mr. Brown has responded to such questions, and he has no further comments at this time.

There were no further comments from the public.

**593-2021**
**Moved By** Councillor Laura Lucier
**Seconded By** Councillor Kimberly DeYong

That Council, at 8:24 p.m., enter into Closed Session pursuant to subsection 239(2)(f) [advice that is subject to solicitor-client privilege] and Subsection 239(2)(e) [litigation or potential litigation].

**CARRIED**

Upon rising from Closed Session at 8:29 p.m. the Regular Meeting resumed in open session.

A recorded vote was requested.

**594-2021**
**Moved By** Deputy Mayor Gord Queen
**Seconded By** Councillor Larry Patterson

That Council:

Deny zoning amendment application ZBA/19/2021 as the requested scale of the home occupation – professional office in the proposed location does not conform to the residential policies of Official Plan for the Town of Kingsville.

| | **For** | **Against** |
|---|---|---|
| Mayor Nelson Santos | X | |
| Deputy Mayor Gord Queen | X | |
| Councillor Kimberly DeYong | X | |

| | | |
|---|---|---|
| Councillor Tony Gaffan | X | |
| Councillor Laura Lucier | X | |
| Councillor Thomas Neufeld | X | |
| Councillor Larry Patterson | X | |
| **Results** | **7** | **0** |

**CARRIED (7 to 0)**

**J. CONSENT AGENDA**

**1. Regular Meeting of Council Minutes--September 27, 2021**

**2. Kingsville Accessibility Advisory Committee--June 17, 2021**

**3. Migration Festival Committee--June 22, 2021, July 27, 2021 and August 24, 2021**

**4. Fantasy of Lights--June 22, 2021 and August 24, 2021**

**5. Highland Games Committee--July 19, 2021**

**6. Police Services Board--July 28, 2021**

**7. Communities in Bloom Committee--August 3, 2021, together with Sample 'Year of the Garden 2022' Proclamation**

**8. Union Water Supply System Joint Board of Management--August 11, 2021**

**9. Kingsville Municipal Heritage Advisory Committee--August 17, 2021**

**10. Committee of Adjustment--August 17, 2021**

**11. Park Recreation Arts and Culture Committee--August 19, 2021**

**12. Municipality of Chatham-Kent--Correspondence dated September 28, 2021 RE: Renovictions**

**13. Kingsville B.I.A.--August 10, 2021**

Consent agenda items J 1 and J 7 were removed for subsequent consideration.

**595-2021**
**Moved By** Councillor Kimberly DeYong
**Seconded By** Deputy Mayor Gord Queen

That Council receives Consent Agenda items J2, J3, J4, J5, J6, J8, J9, J10, J11, and J12.

**CARRIED**

**596-2021**
**Moved By** Deputy Mayor Gord Queen
**Seconded By** Councillor Tony Gaffan

That the Regular Meeting of Council Minutes (J-1) dated September 27, 2021 be adopted as amended (insert resolution number re: Save Eye Care motion which was Carried at such meeting).

**CARRIED**

**597-2021**
**Moved By** Councillor Thomas Neufeld
**Seconded By** Councillor Tony Gaffan

That Council resolves that 2022 be proclaimed as 'Year of the Garden' in Kingsville.

**CARRIED**

**598-2021**
**Moved By** Councillor Laura Lucier
**Seconded By** Councillor Kimberly DeYong

That Consent Agenda Item J-7 (Communities in Bloom Committee meeting minutes dated August 3, 2021) be received.

**CARRIED**

## K. STAFF REPORTS

### 1. Bee/Pollinator Friendly Community

See above (Agenda Item G-1 presentation by K. Sonnenberg, Communities in Bloom member re: Bee City).

### 2. 3rd Quarter 2021 - Cityworks Summary Report

G. A. Plancke, Director of Infrastructure and Engineering.

**599-2021**
**Moved By** Councillor Thomas Neufeld
**Seconded By** Councillor Tony Gaffan

That Council receive the CityWorks summary report provided for information.

**CARRIED**

### 3. Timbercreek Estates Phase 2 – Initial Acceptance

G. A. Plancke, Director of Infrastructure and Engineering

**600-2021**
**Moved By** Councillor Larry Patterson
**Seconded By** Councillor Laura Lucier

That Council initially accepts the Timbercreek Estates Phase 2 Subdivision onto “Maintenance” for a period of no less than one year, and that the Clerk provide written confirmation to the Developer of the date of Initial Acceptance of the Development by Council resolution.

**CARRIED**

### 4. Dix Alley Surplus & Disposal

G. A. Plancke, Director of Infrastructure and Engineering

**601-2021**
**Moved By** Councillor Kimberly DeYong
**Seconded By** Councillor Tony Gaffan

That Council approves the surplus and disposal declaration of the unopened portion of Dix Alley, and further explore the offer for sale process for the recognized unopened sections of registered Plan # 1348 forming part of the Dix Alley Road allowance with the abutting landowners; And further that Council approves - Table 1. Proposed Dix Alley Disposal Apportionment Schedule.

**CARRIED**

## 5. Elimination of Residential Tenant Water Billing and Revised Shut-off Procedures

R. McLeod, Director of Financial and IT Services

**602-2021**
**Moved By** Councillor Kimberly DeYong
**Seconded By** Councillor Tony Gaffan

That Council eliminate the option for residential tenant water and wastewater billing, effective January 1, 2022;

And that, any existing residential tenant customer accounts shall remain active until they vacate their dwelling;

And that, the Town shall continue the use of shut-offs as a collection tool for existing residential tenant accounts, however, it will discontinue the use of shut-offs as a collection tool for all other residential accounts and instead transfer of any unpaid water and wastewater charges to the property's tax roll. Such transfers will occur once an account is two or more bills in arrears and will be subject to $25 administrative fee;

And that, the Town will continue to offer water and wastewater billing for commercial tenants, however, staff are authorized to shut-off the water to any commercial accounts which are two or more bills in arrears.

**CARRIED**

## 6. Appoint a Clerk

S. Kitchen, Acting Clerk

**603-2021**
**Moved By** Councillor Tony Gaffan
**Seconded By** Councillor Laura Lucier

That Council pass By-law 82-2021 appointing a Clerk under Section 228(1) of the *Municipal Act, 2001*.

**CARRIED**

## L. BUSINESS/CORRESPONDENCE-ACTION REQUIRED

## M. NOTICES OF MOTION

### 1. Councillor DeYong may move, or cause to have moved:

**604-2021**
**Moved By** Councillor Kimberly DeYong
**Seconded By** Councillor Laura Lucier

**WHEREAS** the Town of Kingsville residents and businesses pay E.L.K. for electricity and are not receiving good value and service for payment.

**AND WHEREAS** E.L.K. is a monopoly and customers have no ability to buy electricity elsewhere. And whereas E.L.K. has frequent disruptions and outages that results in:

1. Economic hardship and losses to local businesses;
2. Personal hardship as homes and family lives are disrupted;
3. Loss and damage to electronic equipment; and
4. Stress and concern arising from uncertainty as to when the service can be relied upon.

**AND WHEREAS** we have experienced poor customer service with complaints and concerns unanswered and a seemingly uncaring and unresponsive ELK executive leadership, ELK Board of Directors, and Town of Essex which is the owner of ELK. We do not understand why the ELK executive leadership, ELK Board of Directors, and Town of Essex are unresponsive to customer concerns which have been raised by many individuals and business leaders.

**AND WHEREAS** the Town of Kingsville, along with its residents and local businesses, have been asking E.L.K. for responses to these concerns but has received no satisfactory reply, including such concerns as not being responsible

to residents who have trees abutting E.L.K. hydro wires causing a safety concern.

**AND WHEREAS** developers in the Town of Kingsville have difficulty in getting subdivisions and buildings connected to the E.L.K. power supply and further have felt that their questioning about unreasonable delays have resulted in being "blacklisted" and facing reprisals from E.L.K. staff who seem to operate with impunity.

**AND WHEREAS** the Corporation off the Town of Kingsville has asked for a road use agreement (or similar agreement) which E.L.K. has ignored or refused to sign, contrary to industry standards, and which has resulted in hardship to the Town and risk of injury to residents as work has been undertaken by E.L.K. on Town property without regard to public safety, public notice and cooperation with the Town.

**AND WHEREAS** the Town of Essex must be accountable for E.L.K. and cannot simply take dividends without any expectation of delivering reliable service, good customer service and reasonably requiring E.L.K. to operate safely and cooperatively with the Town government within which it operates.

**Therefore be it resolved that:**

1. The Town of Kingsville asks the Town of Essex to require the E.L.K. executive leadership and E.L.K. Board of Directors to embark on a comprehensive review of supply of electricity, why its supply is unreliable, why E.L.K. is unresponsive to customer complaints and concerns and why E.L.K. won't work with the Town of Kingsville on a road use agreement. The Town of Essex can do this through a unanimous shareholders declaration or similar resolution.

Failing satisfactory resolution from the Town of Essex and E.L.K. in regard to the items above within four months, that Administration bring a report to Council on options available to the Town to hold E.L.K. accountable including (but not limited to) a complaint or application to the Ontario

**CARRIED**

**2. Deputy Mayor Queen may move, or cause to have moved:**

That Council instruct staff to explore the use of such simple technology as a central phone for committee meetings when the Zoom tool is not available in

such locations as the Grovedale and the Arena meeting rooms, thus allowing the public to know what is going on.

Deputy Mayor Queen did not move the above.

**3. Deputy Mayor Queen may move, or cause to have moved:**

That Council receive detailed reports, including the applications, minutes of the SERT Committee meetings that include exactly what the Town is to do, as well as what the applicant for the SERT application is to do for any request sent to Council for approval. Thus, ensuring that Council and thereby the public is aware of the work of and for this.

Deputy Mayor Queen did not move the above.

Having in mind the late hour, Councillor Lucier did not add a notice of motion at this Regular Meeting.

## N. UNFINISHED BUSINESS AND ANNOUNCEMENTS

Councillor Lucier reminded of the upcoming Migration Festival, commencing Thursday evening and continuing through the weekend.

Deputy Mayor Queen reminded of Kingsville's Communities in Bloom Pumpkin Parade to be held on November 1. Pumpkin drop-off details are available on the Town's website.

Mayor Santos acknowledged the Town's firefighters who responded to a fire at Kimball Lumber on Sunday evening. He also acknowledged the Essex Fire Department firefighters who assisted at the scene and Leamington Fire who were available for regional support. On behalf of municipality, staff and Council, Mayor Santos extended his appreciation for their efforts.

## O. READING OF BY-LAWS AND CONFIRMATORY BY-LAWS

**1. By-law 76-2021**

**2. By-law 80-2021**

**3. By-law 81-2021**

**4. By-law 82-2021**

**5. By-law 83-2021**

**605-2021**
**Moved By** Deputy Mayor Gord Queen
**Seconded By** Councillor Larry Patterson

That Council reads collectively:

By-law 76-2021, being a by-law to provide for improvements to the Danube Drain in the Town of Kingsville, in the County of Essex,

By-law 80-2021, being a by-law to amend By-law 2-2019, as amended, being a By-law to appoint certain members of Council and individuals to boards and committees,

By-law 81-2021, being a by-law to amend By-law 1-2014, the Comprehensive Zoning By-law for the Town of Kingsville (1172 County Road 20, Pt Lot 10, CON S 4 WD; ZBA/20/21),

By-law 82-2021, being a By-law to appoint a Clerk of The Corporation of the Town of Kingsville, and

By-law 83-2021 being a By-law to confirm the proceedings of the Council of The Corporation of the Town of Kingsville at its October 12, 2021 Regular Meeting

a first, second and third and final time.

**CARRIED**

## P. ADJOURNMENT

**606-2021**
**Moved By** Councillor Tony Gaffan
**Seconded By** Councillor Thomas Neufeld

That Council adjourns this Regular Meeting at 9:36 p.m.

**CARRIED**