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Date: September 24, 2018

To: Mayor and Council

Author: Roberta Baines

RE: Duck Blinds

Report No.: CS-19-2018

AIM

To provide Council with information regarding the Town's authority over waterfowl hunting, specifically the removal of duck blinds erected in Lake Erie and the restrictions imposed by the discharge firearms by-law.

BACKGROUND

On August 28, 2017, Council passed the following resolution:

559-2017

Moved by Deputy Mayor Gord Queen, seconded by Councillor Susanne Coghill

That Council direct Administration to research the matter of duck hunting off the shores of Lake Erie to determine the ownership of the water lots adjacent to Town owned land and how that may impact the municipality's jurisdiction; to identify the Town's legal jurisdiction over this issue; and further that Administration provide advertised notice to the public as to the date this report is coming back to Council for consideration.

In accordance with the above motion, notice was circulated to the public via newspaper, on the Town's website and through social media.

DISCUSSION

Section 79 of the *Fish and Wildlife Conservation Act, 1997, Chapter 41, S.O.*, authorizes The Town of Kingsville ("The Town") to regulate the hunting of pheasants and rabbits by by-law. The Town passed By-law 68-1999, authorizing the issuance of, and charging a fee for, licenses to hunt pheasant and rabbit during the open season.

Duck or “waterfowl” hunting is federal jurisdiction and is regulated under the *Migratory Birds Convention Act*. All waterfowl hunters in Ontario must have a federal Migratory Game Bird Hunting Permit (MGBHP), Wildlife Habitat Conservation Stamp, and an Ontario licence to hunt small game in order to hunt migratory game birds. Hunters are also required to obey By-law 10-2004 (Appendix “A”), which is a by-law regulating the discharge of firearms and bows within the Town of Kingsville. The discharge of firearms and bows is restricted in the sections highlighted orange on the map attached to By-law 10-2004. Although not depicted on the map, the restriction extends to the waterlots owned by the Town and those owned by private individuals.

Through the Ministry of Natural Resources and Forestry (MNR), Ontario is divided into Wildlife Management Unit (WMU) boundaries. The Town of Kingsville is in the southern district where waterfowl hunting is permitted. Open season for waterfowl hunting begins on September 22, 2018 to January 5, 2019. All hunters have a daily bag and possession limit on the amount of migratory birds they can hunt. Many waterfowl hunters use a temporary shelter called a “duck blind” to camouflage themselves to reduce detection from the ducks. A duck blind can be floating in the water or a permanent structure secured in the water for a period of time. Hunters do not require a permit to erect a duck blind; however, it is the responsibility of the hunter to remove all structures from the water once the season is over. The MNR has the authority to inspect these structures and can prosecute hunters if the blinds are left abandoned.

The *Public Lands Act* allows recreational hunters to erect duck blinds for hunting on federally owned lands and lakebeds. The Town has no legal jurisdiction to prohibit duck blinds except on Town-owned water lots. Attached is a map outlining shoreline properties and water lots owned by the Town of Kingsville and are identified as follows: Park Lane (roll 180-06801; Mettawas Lane (roll 180-05270); 85 Park St (roll 180-05100 and 180-05000). Duck blind are not permitted to be erected on Town owned water lots and as has been done in the past, the Town will demand their removal from its property. The issuance of a hunting licence does not confer any special right of entry on hunters. They are required to follow property entry rules set out in the *Trespass to Property Act*.

The Town has no authority to regulate waterfowl hunting as it falls outside the municipality’s jurisdiction. The Town does however regulate the discharge of firearms and bows within the municipality. If there is a hunter discharging a firearm or bow within the restricted areas or there is a threat to public safety, the OPP should be contacted immediately. Safe hunting practices and abandoned duck blinds fall under the jurisdiction of MNR Enforcement. Additionally, if people witness resource abuse or unlawful hunting practices, including careless hunting they should call the MNR TIPS Reporting Line at 1-877-847-7667 to report the issue.

LINK TO STRATEGIC PLAN

To promote a safe community.

FINANCIAL CONSIDERATIONS

None

CONSULTATIONS

Office of Taras Natyshak, MPP Essex
Ministry of Natural Resources and Forestry (MNRF)
Management Group

RECOMMENDATION

That Council receive this report about the Town's jurisdiction over waterfowl hunting and duck blinds for information purposes.

Roberta Baines

Roberta Baines, B.A.
Deputy Clerk – Administrative Services

Jennifer Astrologo

Jennifer Astrologo, B.H.K. (Hons), LL.B.
Directory of Corporate Services/Clerk

Peggy Van Mierlo-West

Peggy Van Mierlo-West, C.E.T.
Chief Administrative Officer