



Council Memorandum

Date: April 23, 2019
To: Council
From: Joel Watts, Deputy Clerk
Kelly Maloney, Agriculture Development Officer
Re: Line Fence Cost Sharing By-law Administrative Change

Recommendation

That the April 23, 2019 Memorandum for Joel Watts and Kelly Maloney regarding an Administrative Change to the Line Fence Cost Sharing By-law, be received.

Rationale

At the April 12, 2019 Agricultural Development Advisory Committee meeting, committee members had an opportunity to review the proposed Line Fence Cost Sharing By-law. While in their discussion they were supportive of the proposed changes, they did however note one section of the by-law that should be clarified to ensure the Line Fences Act applies in its entirety where agricultural and rural properties abut urban, hamlet, or waterfront properties.

The Committee passed the following motion:

That the April 10, 2019 correspondence from Joel Watts, Deputy Clerk, regarding CKL2019-004 Line Fences Act Review, be received; and

That the Agricultural Development Advisory Committee recommends a clarification in the by-law that the basic fence where an Agricultural or Rural property meets Urban or Settlement Area property be a page wire fence and that the Line Fences Act remains an option for dispute of fences in this situation.

The Committee recommended changing section 4.05 of the by-law from reading as:

4.05 Where a property as described in Section 4.01 and 4.02 abuts a property outside of that description, the Line Fences Act shall be applied to apportion the cost of a line fence on the mutual lot line(s).

To the following:

4.05 Where a property as described in Section 4.01 and 4.02 abuts a property outside of that description, the Line Fences Act shall apply.

Staff agree that the change is administrative in nature to clarify that the Line Fences Act applies in its entirety to allow the Fence Viewers to determine (after discussion with both property owners) the cost apportionment, style, and maintenance requirements in the award. Leaving the by-law as presented to Committee of the Whole may indicate that the Fence Viewers will only have jurisdiction over the cost-apportionment component of their role. This was not the intent of staff when preparing the by-law.

The concern noted by the Committee regarding type of a basic fence to be used is relevant only in a 50-50 cost-sharing by-law such as proposed for urban areas and is not relevant in the use of the Line Fences Act application. When using the Act, the Fence Viewers have the ultimate responsibility to determine the type of fence to be used. It is noted that the Line Fences Act does not describe any type of basic fence.

The by-law as presented on today's Council Agenda has been modified to address the comment from the committee for clarification purposes and final approval.