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KING CITY LEGAL COSTS

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, January 8, 2003, from the Commissioner of Transportation and Works, Commissioner of Finance and Commissioner of Corporate Services:

1. RECOMMENDATIONS

It is recommended that:

1. Recognizing that the Region has expended significant costs in defence of its by-law assuming the sewage system in King City, but also that the Township has executed an agreement in settlement of the matter and has abandoned its court appeal, the legal costs in the King City litigation matter as awarded by the court in the amount of \$182,000 not be waived by the Region, but be reduced by \$60,000, such that the Township will pay \$122,000 in legal costs to the Region.

2. PURPOSE

The purpose of this report is to recommend that the legal costs in the amount of \$182,000 as awarded by the court be reduced by \$60,000 such that the Township would pay \$122,000 in costs to the Region.

3. BACKGROUND

At its meeting of December 11, 2003, Regional Council adopted the following resolution and recommendations with respect to the King City litigation:

“Whereas in excess of \$600,000 has been spent by the Regional Municipality of York in legal and other costs defending its by-law that assumed the local sewage system in King City in the Township of King with intent to alleviate health concerns that may arise from defective private septic systems in the community;

And whereas the litigation in this matter was initiated by the Township of King;

And whereas the decision of Madam Justice Hoy of the Ontario Superior Court of Justice determined that the Region had attempted to take a cooperative approach with the Township of King;

And whereas the Court awarded to the Region a sum of \$182,000 in legal costs;

And whereas it is deemed appropriate that the municipality that initiated these legal proceedings reimburse to the Region some of the Region's costs in defending its by-law; Therefore:

1. The Regional Chair and Regional Clerk be authorized to execute the agreement with the Township of King whereby the Township will abandon its appeal respecting the Region's by-law that assumed the King City Sewer system, and both parties agree to work together to complete the sewage servicing project.
2. Prior to award of the tenders for the construction of the sewage system, staff report further on:
 - i) the Township's proposed financial plan regarding funding the local share of the cost of the work;
 - ii) the detailed construction phasing plan;
 - iii) a community communications program.
3. Staff be authorized to reconvene discussions with developers within the community plan benefiting area to discuss contributions towards both the local and Regional share of costs.
4. The matter of the payment of legal costs be referred to the Finance and Administration Committee meeting of January 8, 2004.

The agreement referred to in Recommendation 1 has now been executed by both the Region and the Township. The Township has filed its Notice of Abandonment of the Appeal.

The report of the Commissioner of Transportation and Works, Commissioner of Finance and Commissioner of Corporate Services that was considered by Regional Council on December 11, 2003 stated that:

“Given the amounts expended to date, Region staff cannot recommend a complete waiver of legal costs. Nevertheless, the Township abandonment of its appeal could conceivably save the Region up to \$60,000 in further legal expenses. It can be recommended therefore that \$60,000 be waived, and that the Township pay \$122,000 in legal costs to the Region.”

This continues to be staff's recommendation.

4. FINANCIAL IMPLICATIONS

If approved, the Region would receive \$122,000 in legal expenses in settlement with the Township of King.

5. LOCAL MUNICIPAL IMPACT

If the recommendation is approved, the Township would forward \$122,000 in legal costs to the Region.

6. CONCLUSION

At its meeting of December 11, 2003, Regional Council referred the payment of legal costs in this matter to the Finance and Administration Committee meeting of January 8, 2004. It continues to be the recommendation of staff that since the Township's abandonment of its appeal will conceivably save the Region \$60,000 in additional legal expenses, then the Region could waive that amount of its legal award, resulting in a Township payment of \$122,000.