

STAFF REPORT: PLANNING & BUILDING SERVICES



REPORT TO: Council
 MEETING DATE: January 25, 2010
 REPORT NO.: SRB.10.03
 SUBJECT: Thornbury Dam Safety Boom
 Memorandum of Understanding
 PREPARED BY: David Finbow, Director, Planning &
 Building Services

A. Recommendations

THAT Council receive Staff Report SRB.10.03 for information purposes respecting the Thornbury Dam Safety Boom Memorandum of Understanding (MOU) and authorize the Mayor and Clerk to execute the MOU.

B. Background

In 2008 the Ministry of Natural Resources (MNR) requested the Town's assistance with respect to gaining the concurrence of the property owner of lands known municipally as 12 Bridge Street East for the installation of a ground anchor for a proposed safety boom for the Thornbury Dam. Concurrence has now been reached on the installation of the ground anchor with the attached Memorandum of Understanding (MOU) being reflective of same.

Council will note that the MOU contains the following obligation on the part of the Town:

"The Town will be responsible to conduct occasional and reasonable maintenance of a portion of the Owner's Lands, including noxious weed control, in the general area of the anchor for the safety boom associated with the Thornbury dam with such area as denoted on Schedule C. It is acknowledged by all Parties that the Town assumes no responsibility and/or liability related to the use, occupation or maintenance of the lands and the Owner assumes no responsibility for the Town, and its employees and/or agents, for entering the lands and carrying out such occasional and reasonable maintenance."

The Town's solicitor has reviewed the agreement and is satisfied that the agreement contains sufficient liability related exclusionary clauses to protect the Town's interests.

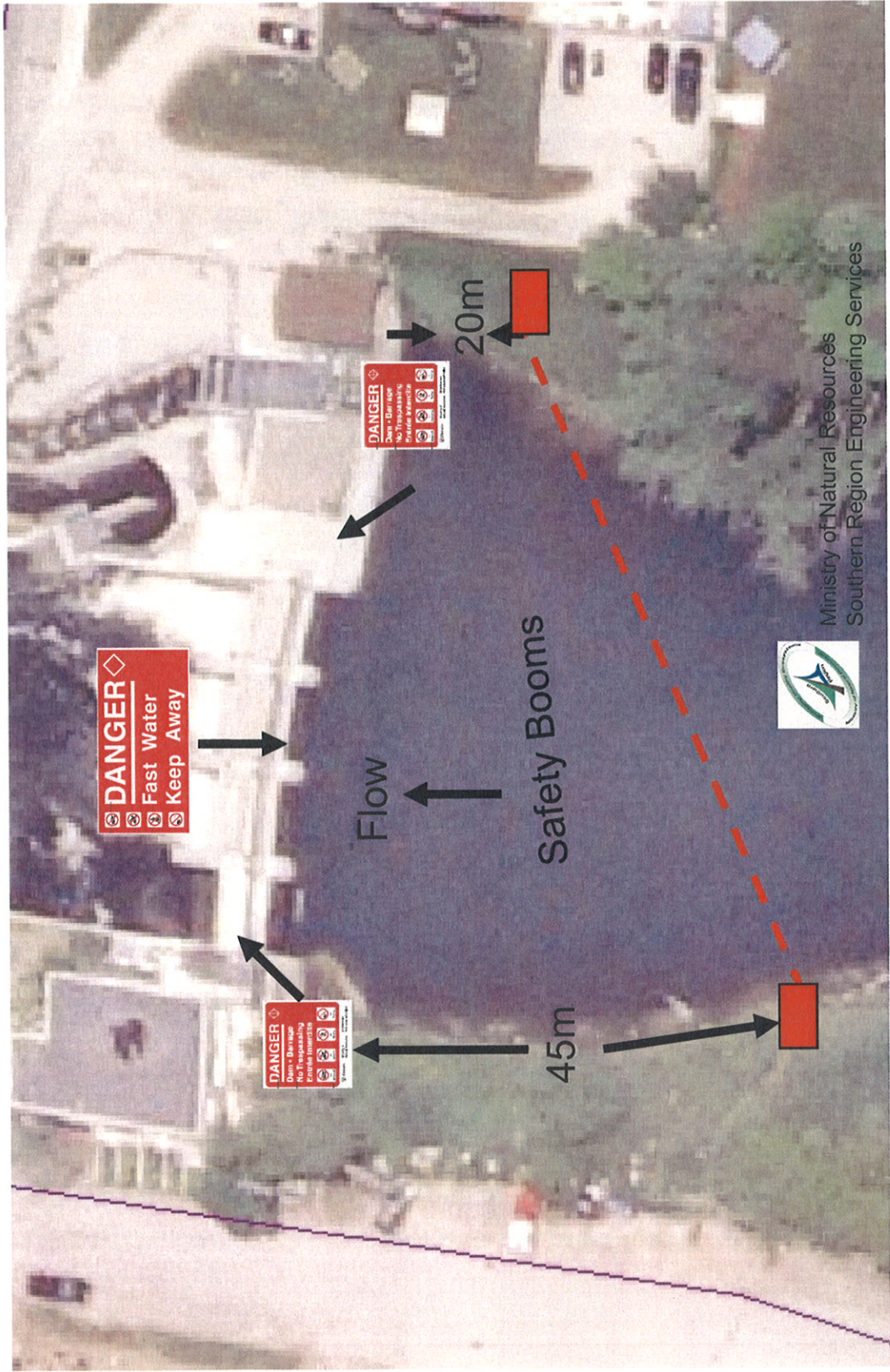
The Director of Recreation has been consulted on the above and is satisfied from an operational perspective.

Given the cooperation of MNR in terms of deeming the Town Hall and other Thornbury lands as surplus, and given the goodwill that has been and will be developed with the property owner as a result of the Town's maintenance involvement, Town staff recommend that Council authorize the Mayor and Clerk to execute the MOU.

C. The Blue Mountains' Strategic Plan

"Providing a strong, well managed municipal government."
"Addressing the Town's infrastructure needs."

Proposed location of a Safety Boom Upstream of the Thornbury Dam – Schedule A



SAFETY BOOM AT THE THORNBURY DAM

MEMORANDUM OF UNDERSTANDING

Between:

Her Majesty the Queen in right of Ontario as represented by the Ministry of
Natural Resources
(hereinafter referred to as the "Ministry")

-and-

The Town of The Blue Mountains
(hereinafter referred to as the "Town")

-and-

Riverside Park (1) Holdings
(hereinafter referred to as the "Owner")

WHEREAS the Owner is the owner of land known municipally as 12 Bridge Street East (Lot 111, Registrar's Compiled Plan 1023/W/S Bridge Street East)(the "Land");

AND WHEREAS the Ministry requires permission from the Owner to install and maintain an anchor and safety boom on the Owner's Land and wishes to enter into a Memorandum of Understanding (MOU) to detail the arrangements for access, construction and maintenance of same;

AND WHEREAS the Town and the Owner acknowledge that the Ministry has identified that a safety boom at the Thornbury dam is required for public safety reasons;

AND WHEREAS the Owner desires that the Town conduct reasonable maintenance of a portion of the Owner's Land as outlined in this MOU in the general area of the anchor for the safety boom associated with the Thornbury dam;

NOW THEREFORE THE PARTIES HEREBY WITH ONE ANOTHER AS FOLLOWS:

LOCATION:

1. The safety boom will be located across the mill pond from Lot 111, Registrar's Compiled Plan 1023 to Lot 153 Registrar's Compiled Plan 153, Town of The Blue Mountains, in the Geographic Town of Thornbury, now the Town of The Blue Mountains, in the County of Grey as shown as Schedule 'A'.

TERM OF AGREEMENT:

2. This MOU shall take effect upon signing of all partnership parties.

RESPONSIBILITIES:

3. All parties agree to the terms and conditions of this MOU.

4. The Ministry will be responsible to obtain approval under the *Navigable Waters Protection Act* for the installation of the boom
5. The Ministry will be responsible for all costs associated with the construction and maintenance of the boom and anchors.
6. The Ministry will provide the Owner with design specifications for the anchors to be installed on the Owner's property.
7. The Owner will provide uninterrupted access for installation and maintenance of the anchor and the boom
8. The Town will be responsible to conduct occasional and reasonable maintenance of a portion of the Owner's Lands, including noxious weed control, in the general area of the anchor for the safety boom associated with the Thornbury dam with such area as denoted on Schedule C. It is acknowledged by all Parties that the Town assumes no responsibility and/or liability related to the use, occupation or occasional and reasonable maintenance of the lands and the Owner assumes no responsibility for the Town, and its employees and/or agents, for entering the lands and carrying out such occasional and reasonable maintenance.
9. The Ministry agrees to consult with and gain the approval of the Owner prior to conducting any improvement activities beyond the scope of this MOU.
10. The Ministry will be responsible for monitoring the performance of the boom and for undertaking remedial work in a timely manner where a deficiency has been identified.

PERMITS AND APPROVALS:

11. The Ministry shall be responsible for obtaining and complying with the necessary permits and approvals that may be necessary to authorize the installation and maintenance of the boom.

COMMUNICATION:

12. All communications regarding this MOU should be with:

In the case of the Town: The Town Clerk @ 519-599-3131

In the case of the Ministry: Owen Sound Area Supervisor @
519-371-6751

In case of the Owner: c/o Bruce Novak, Grandview Farms @
519-

AMENDMENT AND TERMINATION:

13. This MOU may be amended or cancelled at any time upon the mutual consent of all parties.
14. A failure to uphold commitments under this agreement may result in the cancellation and the termination of this MOU.

15. The Ministry, without liability, may terminate this MOU upon giving the Town and the Owner 30 days notice in writing by registered mail.

(_____ Date
(District Manager
(Ministry of Natural Resources
(Midhurst District
(
(
(_____ Date
(Witness

(_____ Date
Stephen Keast, Town Clerk
(The Town of The Blue Mountains
(
(
(_____ Date
(E. Anderson, Mayor
(The Town of The Blue Mountains

(_____ Date
(Riverside Park (1) Holdings
(I have authority to bind the Corporation
(
(
(_____ Date
(Witness

DRAFT