

The Corporation of the Municipality of Brockton



By-Law 2018-006

Being a by-law to authorize the signing of a Memorandum of Understanding with the Lake Huron Fishing Club for the purpose of partial removal of the Truax Dam.

Whereas the Council of the Corporation of the Municipality of Brockton deems it expedient to enter into a Memorandum of Understanding with the Lake Huron Fishing Club with respect to the partial removal of the Truax Dam;

Now Therefore the Council of the Corporation of the Municipality of Brockton **Enacts as Follows:**

1. That the Council of the Corporation of the Municipality of Brockton hereby enter into a Memorandum of Understanding with Lake Huron Fishing Club which is attached as Schedule "A" and forms part of this by-law.
2. The execution by the Mayor and CAO/Clerk of said agreement dated January 22, 2018 between the Corporation of the Municipality of Brockton and Lake Huron Fishing Club is hereby authorized, ratified and confirmed.
3. This by-law shall come into full force and effect upon final passage.
4. This by-law may be cited as the "Lake Huron Fishing Club Truax Dam Memorandum of Understanding By-Law".

Read, Enacted, Signed and Sealed this 22nd Day of January, 2018.

Original Signed By
Deputy Mayor – Dan Gieruszak

Original Signed By
CAO/Clerk – Sonya Watson

Memorandum of Understanding

This Memorandum of Understanding (hereinafter referred to as "MOU")

effective as of the 22nd day of January, 2018

Between:

The Corporation of the Municipality of Brockton

(hereinafter referred to as "Brockton")

And

Lake Huron Fishing Club

(hereinafter referred to as "the LHFC")

For the

Partial Removal of the Truax Dam

(hereinafter referred to as the "Project")

Whereas Brockton is the owner of the Truax Dam located on the Saugeen River, in the Town of Walkerton, Municipality of Brockton;

And Whereas the Truax Dam acts as a barrier to migration for some community fish species;

And Whereas Lake Huron Fishing Club has approached Brockton Council to proceed with the partial removal the Truax Dam for the purpose of facilitating migration (the "project");

And Whereas a public consultation meeting was held on October 5, 2016 to allow for public input, which showed support for the project;

And Whereas Brockton Council adopted Motion #17-20-263 on September 11, 2017 indicating their support of LHFC taking the lead on the project and has outlined the terms and conditions as follows:

Now Therefore the parties hereby agree to the following:

1. Lake Huron Fishing Club hereby agrees:

- 1.1. that the Lake Huron Fishing Club will manage and execute the Project with a projected completion date of December 31, 2019;
- 1.2. that a budget for the project be prepared by the LHFC and submitted to Brockton for approval;
- 1.3. that all budgeted and contingency funding for the project be the responsibility of the LHFC;
- 1.4. that the LHFC will retain GSS Engineering as the Engineers on Record for the Project;
- 1.5. that the LHFC will engage with Brockton to develop a project plan for execution of the dam removal in the Fall of 2019;
- 1.6. that the LHFC shall submit the final scope of work for the project to Brockton for approval;
- 1.7. that a Project Team be created comprised of representatives from LHFC, GSS Engineering, Brockton and other stakeholders as required;

- 1.8 that LHFC will provide proof of comprehensive general Liability insurance prior to the commencement of the project;
- 1.9 that LHFC will complete the project in a proper and workmanlike manner and in accordance with all applicable law;
- 1.10 that the project shall be completed to the satisfaction of Brockton;
- 1.11 that LHFC shall follow Brockton's purchase and procurement policies;
- 1.12 that LHFC will enter into any further agreements, if required by Brockton; and
- 1.13 that LHFC will indemnify and save harmless Brockton from and against all claims, actions, losses, expenses, costs or damages of every nature and kind whatsoever which LHFC, its employees, officers or agents, or third parties may suffer as a result of the negligent acts of LHFC, its employees, officers or agents in the performance of its responsibilities herein and work associated with the Project.

2. The Corporation of the Municipality hereby agrees:

- 2.1 Brockton is the owner of the Truax Dam and the adjacent lands;
 - 2.2 Brockton has no financial contribution or obligation to the Project; and
 - 2.3 Brockton will sit as a member of the Project Team.
3. This Memorandum of Understanding will remain in full force and effect until the completion of the Project, as determined by Brockton.
 4. This Memorandum of Understanding shall not be assigned without the prior written consent of Brockton.
 5. The parties agree that this Memorandum of Understanding shall be binding on the parties, their heirs, successors and assigns.
 6. This Memorandum of Understanding may be executed in two or more counterparts, by facsimile or email, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party, it being understood that all parties need not sign the same counterpart.

The Parties have, by their duly authorized representatives, executed this Memorandum of Understanding on the Effective Date.

**The Corporation of the Municipality
of Brockton**

Sonya Watson, CAO /Clerk

David Inglis, Mayor

Lake Huron Fishing Club

Philip Hahn, President