

THE CORPORATION OF THE
T O W N O F P E L H A M
BY-LAW #372 (1976)

Being a by-law to authorize the Mayor and Clerk to enter into an agreement with Mr. Wallace Lane and Mr. Charles Van Dam for a water loading station in the Town of Pelham.

WHEREAS Council deems it desirable to enter into an agreement with Mr. Wallace Lane and Mr. Charles Van Dam for the operation of a water loading station;

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWN OF PEPELHAM ENACTS AS FOLLOWS:

(1) THAT the agreement attached hereto and made part of this by-law be and the same is hereby approved.

(2) THAT the Mayor and Clerk be and each of them is hereby authorized and instructed on behalf of the Corporation of the Town of Pelham to execute the said agreement and the Clerk is hereby authorized to affix the Corporate Seal thereto.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
21st. DAY OF June, 1976 A.D.


MAYOR


CLERK

THIS AGREEMENT made in triplicate this 21st day
of March, A. D. 1977.

B E T W E E N:

WALLACE LANE, of the Town of Pelham, in the
Regional Municipality of Niagara,

HEREINAFTER CALLED

"LANE"
OF THE FIRST PART

- AND -

THE CORPORATION OF THE TOWN OF PELHAM, a
Municipal Corporation,

HEREINAFTER CALLED

THE "TOWN"
OF THE SECOND PART

DEFINITIONS IN THIS AGREEMENT:

- (a) "TOWN CLERK" shall mean the Clerk of the Corporation of the Town of Pelham.
- (b) "COUNCIL" shall mean the Council of the Corporation of the Town of Pelham.
- (c) "WORKS SUPERINTENDENT" shall mean the Works Superintendent of the Corporation of the Town of Pelham.
- (d) "BUILDING INSPECTOR" shall mean the Building Inspector of the Corporation of the Town of Pelham.
- (e) "TREASURER" shall mean the Treasurer of the Corporation of the Town of Pelham.

WHEREAS the owner of the lands described in Schedule "A" attached to this agreement, is desirous of permitting Lane to operate a water loading station on his property in accordance with Schedule "B" attached hereto, being a plot plan and building elevation of the development;

AND WHEREAS the town has agreed to permit the said development and operation, subject to certain terms and conditions;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT IN CONSIDERATION OF One Dollar (\$1.00) now paid by the owner to the town (the receipt whereof is hereby acknowledged), and of the mutual covenants herein contained, the parties hereto mutually covenant and agree as follows:

1. BUILDING -

Lane shall at his own expense construct and arrange to be located to the satisfaction of the building inspector, one aluminum clad building, at such location as shown on Schedule "B" attached hereto. Such building shall be adequately secured with locking door and used solely for the purpose of housing the water standpipe, the water meter, all necessary appurtenances thereto and an electrical heat supply to adequately heat the building.

2. INSTALLATION OF WATER SERVICE -

(a) Lane shall, at his own expense, construct a two inch water line from the property line to the building and install a two inch water meter, under the direction of, and to the satisfaction of the works superintendent.

(b) The water meter shall be entirely housed in the building as shown on Schedule "B" attached hereto and shall be used solely by Lane, his servants and employees.

3. INSTALLATION OF DRY WELL -

(a) Lane shall, at his own expense, construct one dry well 24 inches wide and 6 feet deep in accordance with a design and specifications approved by the works superintendent, at such location as shown on Schedule "B" attached hereto.

(b) The parking lot on the owner's property within 20 feet in any direction of the nearest edge of the dry well

shall be so graded as to ensure that all surface water drains towards and into the dry well.

(c) Lane shall ensure that the lands associated with the water loading station and used for the purpose of vehicular traffic associated with the station, or for accommodating the building are graded in such a manner as to prevent accumulation of water on the surface of the lands described in Schedule "A" attached hereto, and on any lands adjacent thereto.

(d) The works superintendent shall inspect the property periodically to determine that such grading has been undertaken to his satisfaction and any regrading shall be carried on by Lane forthwith upon the request of the works superintendent.

4. CASH DEPOSIT -

(a) Lane shall deposit with the treasurer, a sum in the amount of \$500.00 which is to be held and returned in its entirety upon termination of this agreement, providing that there are no outstanding accounts with the town, or, related to any matters covered by this agreement or relating to the billing for water consumption by Lane. Any outstanding accounts will be subtracted from the deposit, and only the balance remaining after all such deductions will be returned.

5. WATER BILLING -

(a) Lane shall be billed by the town on a monthly basis for all water consumed during the previous month at the water loading station. Lane will be charged at the rate of ~~1.75¢~~ ^{1.02¢} per thousand gallons, with the understanding that this charge will be subject to adjustments, as town water rates are adjusted by the Regional Municipality of Niagara from time to time.

(b) Lane shall have 15 days after mailing of the bill mentioned in clause (a) above, to make full remittance to the treasurer. In the event that such remittance is not made within 15 days, this agreement shall be automatically terminated subject to written notice from the clerk, and all privileges for use of the water meter by Lane shall be discontinued.

(c) The town does not hereby guarantee or undertake the furnishing of any minimum or other amount of water, and reserves the right in times of emergency, as defined by the town, to limit or terminate the supply of water temporarily during the duration of such emergency.

6.

GENERAL -

(a) Lane agrees that the final building plans will be drawn and completed to the satisfaction of the town building inspector.

(b) Lane agrees that the plans and specifications for the installation of the water service and meter will be subject to approval of the works superintendent.

(c) Lane will, at all times, indemnify and save harmless the town of and from all losses, costs, damages, and injuries which the town may suffer ~~xxxxxx~~ or be put to, for, or, by reason of, or on account of the construction, maintenance, or on account of any work done by Lane, his contractors, servants or agents on the lands described in Schedule "A". The town requires that Lane produce evidence of liability insurance to the amount of at least \$500,000.00 covering his operations upon the lands as described in Schedule "A" attached hereto. Nothing herein contained shall require Lane to indemnify the town with respect to any loss or damage caused by and as a result of the entry upon the premises by the servants, agents, workmen or other employees of the town or its fire department.

(d) In the event of the failure of Lane to carry out any of the provisions of this agreement, the town, its servants or agents shall, on 15 days notice in writing of its intentions, and forthwith in cases of emergency, ~~have~~ the right to enter on the said lands, and at the expense of Lane, or to do any such work as required herein, and shall further have the

right to recover the costs thereof by action or from the cash deposit hereinbefore provided for, and in addition or in the alternative to treat the non payment of such costs by Lane as a breach warranting termination of this agreement.

(e) Lane shall at all times, keep posted on the front of the building or otherwise prominently displayed, a notice indicating the ownership of the said building, and mailing address and the telephone number of the persons having authority to deal with all matters relating to the said building.

(f) Lane shall not call into question directly or indirectly in any proceedings whatsoever in law or in equity, or before any court or administrative tribunal, the right of the town to enter into this agreement and to enforce each and every term, covenant and condition herein described and this agreement may be pleaded as an estoppel against the owner or Lane or both of them in any such proceedings.

(g) Except where inconsistent with the provisions of this agreement, Lane shall be subject to all the by-laws of the town.

(h) Lane agrees that he shall during the currency of this agreement or any successor and upon the sale and transfer of the lands described in Schedule "A" attached hereto, require the purchaser or transferee thereof, to concur in and approve the provisions of this agreement by letter delivered to the town and in the event that he cannot obtain such approval, then this agreement shall terminate at the option of either party.

7.

TERM OF AGREEMENT

(a) This Agreement shall come into force upon the execution thereof by Lane and the town, and unless renewed or modified by the parties, shall be automatically terminated 60 days after completion of each term of office of the town council. The provisions of this sub-paragraph are subject to those of 7 (d).

(b) This agreement, or an amended version thereof, may be extended within the above-mentioned 60 day period by the new council, and shall be signed by each of the parties hereto.

(c) From and after 18 months next after execution of this agreement, each of the parties to this agreement shall have the option of terminating the agreement upon 60 days notice in writing to the other party provided however that in the event of a breach by Lane, ~~xxxxxxxxxxxxxxxxxxxx~~ of any of the terms of this agreement which they shall fail to rectify within 15 days next after notice in writing given by the town, the town may thereupon cease the supply of water as provided under this agreement or any extension or renewal thereof. Notice as required hereabove shall be given by personal service upon the clerk or deputy clerk of the town, or upon Lane, as the case may be, or alternatively by prepaid first class mail addressed to the Town at the Municipal Offices, P. O. Box 400, Fonthill and to Lane at R. R. No. 4, Fenwick, Ontario. Such mailed notice shall be deemed to have been given three business days next after the date of mailing.

(d) This agreement, or any extension or renewal thereof shall not be transferable to any party without the express concurrence and agreement of the other party hereto, and shall come into effect only upon receipt by the town of the written approval of Charles Van Dam to the terms of this agreement.

8.

FIRE DEPARTMENT -

Notwithstanding anything contained in this agreement, nothing shall prohibit the Pelham Fire Department from utilizing the water loading station for emergency purposes.

It is mutually agreed that any water consumed by the Fire Department shall not be charged to Lane.

IN WITNESS WHEREOF Lane has hereunto affixed his hand and seal and the town has hereunto affixed its corporate seal, duly attested by its proper officers in that behalf. *Chas. J. G. May 1977.*

SIGNED, SEALED AND DELIVERED)

In the presence of)

Walter Lane)

Walter Lane)

THE CORPORATION OF THE TOWN OF
PELHAM)

PER:)

J. P. Wilson)

PER:)

W. C. Hunt)

W. C. HUNT)

SCHEDULE "A"

ALL and singular that certain parcel or tract of land and premises, situate, lying and being in the Township of Pelham, in the Regional Municipality of Niagara (formerly in the County of Welland) and being composed of part of the original road allowance between Lots 2 and 3 in the 7th Concession and parts of Lots 2 and 3 in the said 7th Concession more particularly described as follows:

PREMISING that the bearings herein are astronomic and are referred to the meridian through the southeast corner of Lot 7, Concession 7, in the Township of Pelham in Longitude 79 degrees 06 minutes 30 seconds West;

BEGINNING at the southwest corner of Lot 2;

THENCE North 1 degree 06 minutes 30 seconds West along the West limit of Lot 2 a distance of 26.97 feet;

THENCE North 88 degrees 49 minutes 30 seconds East, 16 feet to the Point of Commencement;

THENCE North 43 degrees 51 minutes 30 seconds East, 70.76 feet to a monument in the West limit of a public road known as Haist Road;

THENCE North 1 degree 06 minutes 30 seconds West along the West limit of Haist Road, 130 feet to an iron post planted;

THENCE South 80 degrees 50 minutes 30 seconds West a distance of 210 feet to an iron post planted;

THENCE South 1 degree 06 minutes 30 seconds East a distance of 100.06 feet to an iron bar;

THENCE North 80 degrees 49 minutes 30 seconds East along the north limit of the road allowance between Concessions 7 and 8 as widened by D.H.O. Deposited Plan No. 80507, a distance of 160 feet to the Point of Commencement. ///

