

Minutes of Committee of the Whole

April 26, 2016

Time: 7:00 pm

Location: Council Chambers

Meeting # 13

Present: Mayor Ron Vandewal, Pat Barr, John McDougall, Alan Revill, Norm Roberts, Mark Schjerner, Ron Sleeth, Ross Sutherland

Staff: Lindsay Mills, Planner/Deputy Clerk, Mark Segsworth, Public Works Manager, Jamie Brash, Area Supervisor, Angela Maddocks, Executive Assistant

1. Call to Order
 - a) Mayor Vandewal called the meeting to order at 7:00 pm.
2. Declaration of pecuniary interest and the general nature thereof - n/a
3. Scheduled Closed Session - n/a
4. ***Recess **** - n/a
5. Delegations
 - a) David Bucholtz, Cambium Inc, re: Waste Disposal Site Update

David Bucholtz, Cambium Inc, presented the annual update on the township waste disposal sites included ground water flows, remaining volumes and life expectancy of each site and the frequency of sampling for each site.

- b) Lindsay Mills, Planner, re: Proposed Zoning By-law Changes

Mr. Mills referred to his report and outlined the rationale behind the proposed changes to Section 5.10.2 and 5.11. He reviewed the interpretation of 5.10.2 by the Planning and Building Departments and that the township's position has been that when the walls of the building located within the 30 metre setback are removed, the building is considered to be gone and it cannot be reconstructed at its present location without a minor variance and that this interpretation should be built into Section 5.10.2 so that the meaning is more clear. With respect to Section 5.11, Mr. Mills explained that this section is intended to permit any building within the 30 metre setback to be reconstructed if it is destroyed by fire or storm or if it is dilapidated to the point where the Township orders it to be removed for safety reasons. This section is meant to permit property owners to rebuild after destruction that is beyond their control. This is an item of controversy because some property-owners argue that they should be allowed to reconstruct because their structure has deteriorated to the point where it is unsafe and unusable. However, this state of disrepair is often the result of neglect where the building has been allowed to deteriorate. While the proposal is to remove Section 5.11 completely and deal with each proposed reconstruction through the minor variance process. Mr. Mills proposed that Council might consider changing the wording to simply say that when a building or structure is damaged or destroyed due to forces "beyond the owner's control" then it may be rebuilt or to leave Section 5.11 the way it is. Mr. Mills referenced the legal opinion and noted that there is confusion with the interpretation of legal-non-conforming structure and legal non-complying uses.

Councillor Sleeth felt that if an act of God happens, there should not be any need for Committee of Adjustment approval and nothing more than a building permit should be required.

Councillor Revill spoke to this experience as the CBO, and noted that there is no change to Section 5.10.2, this continues the approach that has always been taken and clarifies the wall structure clause. With respect to Section 5.11, the current by-law allows rebuilding if the damage is beyond the control of the owner and is unsafe etc. He stated that climate change affects/creates wind damage, fire etc. He conducted research on accessing insurance funds for total loss claims and insurance policies may not be granted if the setback is changed. He stated that true neglect of property is not the same, rebuilding is allowed but not on the same footprint. The township can't meet everyone's needs under every circumstance.

Councillor Schjerning supported not adding layers of bureaucracy if the loss is due to circumstances outside the owners control, rebuilding on the existing footprint or smaller should be permitted however outside of those parameters, then a variance would be required. He noted that clarification of the number of walls needs to be specified with regard to Section 5.10.2.

Deputy Mayor Sutherland supported Councillor Revill's position.

c) Jeff Peck, re: Proposed Zoning By-law Changes

Mr. Peck applauded Lindsay Mills and Council for the opportunity to share views on Sections 5.10.2 and 5.11 of the Zoning By-law recognizing that everybody wants the same thing which is to protect our lakes. While he is a member of the Sydenham Lake Association and a military lawyer he confirmed he is only speaking for himself. He appreciated the opportunities he has had in the past few weeks to discuss with the planner and Council members his concerns. He originally had misconceptions about the proposal and the 50% of load bearing walls still puts the township at risk he is not opposed to. He was concerned about the notification of the proposed amendment as there are 1500 non-complying structures in South Frontenac and the landowners should be part of the decision making process.

d) Larry Arpaia, President, GBCLA, re: Housekeeping Changes to the 30 metre setback.

Mr. Arpaia spoke to his presentation included in the agenda package which outlines concerns about the proposed housekeeping amendments to the Comprehensive Zoning By-law.

e) Graeme Watson, re: Proposed Zoning By-law Changes

Mr. Watson spoke to his submission included in the agenda package that outlined his concerns with respect to the process of giving notice, legal aspects of Council's decision, costs to the property owner and the intent of the amendment and sought clarity of the amendments. He felt the township would be expropriating land if these changes are approved.

f) Bev Mahon, re: Proposed Zoning By-law Changes

Bev Mahon felt this was not just a housekeeping amendment to the zoning by-law. She recognized that the aim is to protect the environment and lakes but is hoping for a compromise between environmental concerns and property owner rights. She provided a history of the property she owns with her sister on Partridge Island on Bob's Lake which has been owned by her family for 104 years. She has a huge emotional attachment to the property and the enjoyment of the property is now extended to the fifth generation. The property

is less than on acre and it would be impossible to rebuild anywhere on the island and achieve the 30 metre setback, it is not possible in any direction. Each spring her family is faced with the concern of damage due to nature or vandalism. She is concerned with the suggestion in Section 5.10.2 that all buildings will be required to be setback 30 metres and that Committee of adjustment approval would be required in the event of extreme damage. She felt Section 5.11 and the right to rebuild muddies the water. She acknowledged that the current structure is substandard and that she hopes that future generations of her family can continue to enjoy the island property.

g) Donald Vogan, re: Proposed Zoning By-law Changes

Mr. Vogan was not in attendance.

h) Don Stricelj, re: Proposed Zoning By-law Changes

Mr. Stricelj spoke to his concerns that were included as part of the agenda package. He felt the changes are not minor in nature and an infringement on property rights and that changes will have a negative impact on property value. Other comments included the process for notification, other areas that impact the quality of water and the environment, the application process for Committee of Adjustment decisions and that the proposed changes does not represent what residents want and does nothing to protect lakes.

i) Timothy Ross, re: Proposed Zoning By-law Changes

Mr. Ross spoke to his presentation that was included in the agenda package. He referred to an Ottawa based legal issue that attempted to bring non-conforming uses into conformity with the "push them back" idea. He commented that the OMB stated you can't do that and provided his interpretation of Mr. Fleming's legal opinion. He circulated copies of the Ontario Planning Journal that referenced an article about the aftermath of the Ottawa vs TDL group and reiterated that municipalities can't push property owners into conformity, this sets a precedent. He felt there should be a distinction between renovating and rebuilding. His opinion was non-conforming uses only lose their rights when the property is abandoned.

j) Carol Sparling, re: Proposed Zoning By-law Changes

Ms. Sparling spoke to her correspondence that was included in the agenda package. Her concerns included the number of property owners affected by the proposed changes, the elimination of "grandfathered rights", notification of the proposed amendments and that many seasonal and permanent property owners not being notified and having an opportunity for input. She felt that clear definitions for "reconstruction" and "renovation" are necessary.

k) Todd Colbourne, re: Proposed Zoning By-law Changes

Mr. Colbourne spoke to his letter submitted as part of the agenda package. He pointed out that the case law referenced is only an "opinion". He referenced Section 34 (9)(a) of the Planning Act and noted that the municipality seems to be trying to subvert a simple rule of law that a lower level of government cannot pass a law that overrides or alters a law by a higher level of government; OMB case law has held that municipalities may not restrict or eliminate a property owner's non-conforming or non-complying right behind the narrow constraints permitted by the Planning Act.

6. Reports Requiring Action

- a) Lindsay Mills, Planner, re; Closing of Road Allowance in Part of Lot 10, Concessions XII and XIII, Loughborough District

Council was supportive of the closure but requested staff to report back on options for fees as some of the land is within 300 metres of the water. It was recognized that the existing policy does not address fees for non-profit organizations.

7. Reports for Information - n/a

8. Rise & Report

- a) Cataraqui Region Conservation Authority

Deputy Mayor Sutherland thanked the Public Works Department for fixing the trail.

There is a follow-up meeting next week with Leeds and Thousand Islands on fee structure.

- b) Quinte Region Conservation Authority

Councillor Roberts has not received anything from the authority since his appointment.

- c) Rideau Valley Conservation Authority

Councillor Barr reported their meeting is next Thursday night. The authority is celebrating their 50th anniversary with some special events.

- d) Portland Heritage

Nothing to report.

9. Information Items

- a) Premier Kathleen Wynne, re: response to letter regarding Solar Energy Projects
- b) Laurie Scott, MPP Haliburton-Kawartha Lakes-Brock, re: Human Trafficking
- c) Tara Mieske, Clerk/Planner Manager, Township of North Frontenac, re: IESO Review of Request for Proposal for the Award of Renewable Energy Contracts
- d) Kevin Flynn, Minister of Labour, re: Bill 163 Supporting Ontario's First Responder's Act, 2016
- e) Jamie Curragh, re: Proposed Zoning By-law Changes
- f) Edwin P. Wilson, re: Proposed Zoning By-law Changes

- g) Ed Wilson Jr, re: Proposed Zoning By-law Changes
- h) Alan & Mary Pearson, re: Proposed Zoning By-law Changes
- i) Tiffany Langille, re: Proposed Zoning By-law Changes
- j) Norm & Nancy Hart, re: Proposed Zoning By-law Changes
- k) Ed Koster & Joanne Irvine, re: Proposed Zoning By-law Changes
- l) Mary Smeaton, re: Proposed Zoning By-law Changes
- m) Jessie Cronister, re: Proposed Zoning By-law changes
- n) Trevor Owen, re: Proposed Zoning By-law Changes
- o) Austin & Frances Young, re: Proposed Zoning By-law Changes
- p) Andrew Robb, re: Proposed Zoning By-law Changes
- q) Susan O'Brien Mactaggart, re: Proposed Zoning By-law Changes
- r) Stan and Donna Brown, re: Proposed Zoning By-law Changes
- s) Gary Kielo, re: Proposed Zoning By-law Changes
- t) Barry Black, re: Proposed Zoning By-law Changes
- u) Mac Prescott, re: Proposed Zoning By-law Changes
- v) Lisa & Andrew Parker, re: Proposed Zoning By-law Changes
- w) Norm Mole, re: Proposed Zoning By-law Changes
- x) John Seidenspinner, re: Proposed Zoning By-law Changes
- y) Carol Whyman, re: Proposed Zoning By-law Changes
- z) Mark Cooke, re: Proposed Zoning By-law Changes
- aa) Tim Edge, re: Proposed Zoning By-law Changes
- ab) R. Bruce Pritchard, re: Collins Lake Subdivision Proposal
- ac) Peggy Boucher, re: Proposed Zoning By-law Changes

- ad) Troy Buchanan, re: Proposed Zoning By-law Changes

- ae) Lyle Turner, re: Proposed Zoning By-law Changes

- 10. Notice of Motions
 - a) Deputy Mayor Sutherland served notice of motion to allow for questions of deputants.

 - b) Mayor Vandewal requested the request from the Township of North Frontenac be brought forward for consideration.

- 11. Announcements
 - a) Mayor Vandewal provided an update on Councillor Robinson who will soon be discharged from the hospital and is doing quite well.

 - b) Councillor Sleeth thanked those Council members who joined the April 23 tour of agricultural businesses and local agriculture.

- 12. Question of Clarity (from the public on outcome of agenda items)
- 13. Closed Session (if requested) - n/a
- 14. Adjournment
 - a) The meeting was adjourned at 9:45 pm.