



Minutes

The Blue Mountains

Special Committee of the Whole Meeting

Meeting Date: March 29, 2018
Meeting Time: 3:00 p.m.
Location: Town Hall, Council Chamber
32 Mill Street, Thornbury
Prepared by Corrina Giles, Town Clerk

A. Call to Order

Mayor McKean called the meeting to order with all members in attendance save Councillor Joe Halos due to illness.

Also in attendance Interim Chief Administrative Officer Shawn Everitt, Director of Planning & Development Services Michael Benner, Director of Infrastructure & Public Works Reg Russwurm, Director of Finance and IT Services Ruth Prince, Director of Enforcement Services & Fire Chief Rob Collins, Acting Director of Community Services Ryan Gibbons, Program Coordinator STA/MLEO Officer Kirsty Robitaille, Planner I Travis Sandberg and Senior Policy Planner Shawn Postma.

▪ Approval of Agenda

Moved by: Michael Martin

Seconded by: Gail Ardiel

THAT the Agenda of March 29, 2018 be approved as circulated, including any items added to the Agenda, Carried.

▪ Declaration of Pecuniary Interest and general nature thereof

None

B. Deputations, Presentations and Staff Reports

B.1 (a) Deputation: Terry Kellar, Blue Mountain Ratepayers Association

Re: Concerns Relating to a Staff Report on Short Term Accommodation Uses

Mr. Kellar, Chair of the Short Term Accommodation ("STA") Committee of The Blue Mountains Ratepayers Association spoke noting that the STA By-laws were established in response to a large outcry in the community regarding the disruptive nature of STA units in residential areas. Mr. Kellar noted that the three primary reasons the STA By-laws were enacted was to ensure the health and safety of the rental customers, comfort, and to protect neighbours and neighbourhoods from nuisance such as noise, parking and garbage. Mr. Kellar noted that any by-law, official plan or zoning changes need to reference and adhere to these established foundations.

Mr. Kellar thanked staff and Council's efforts to make changes to correct previous errors, and agree that the recommendation to immediately revoke the nine licences that are issued in contravention of the 120 metre separation requirement, and to ensure that no further licences will be issued in these circumstances.

Mr. Kellar noted that the rental capacity permitted for legal non-conforming (Grandfathered) units should be two persons per bedroom, plus two in an additional sleeping area, with only one additional sleeping area permitted. Mr. Kellar agreed that the rental capacity should be reflective of the parking availability.

Mr. Kellar noted that they agree that changes need to be made for Commercial Residential Units (“CRU”) units, but are unsure how.

Mr. Kellar spoke regarding the Responsible Person (“RP”), noting that the RPs role has been reviewed and resolved in the past by this Council and received concurrence from the Ontario Provincial Police (OPP), then questioned who is pushing this issue. Mr. Kellar noted that staff are recommending that it be mandated that residents must call the By-law Department, who will in turn notify the RP to attend to the complaint. Mr. Kellar noted that if residents do not comply, demerit points will not be assigned to the STA owner. Mr. Kellar noted that every other resident in The Blue Mountains can receive OPP assistance and the offenders will be ticketed. Mr. Kellar noted that the RP works for the STA operator, and does not have a duty of care to the nearby citizens who made the complaint. Mr. Kellar noted that the no STA Owner has lost their licence through too many demerit points, but noted further that the possibility that they may lose their licence has resulted in reduced noise charges, and an improved circumstance for most residents. Mr. Kellar noted that self-policing does not work, further noting that there was a reduction in noise problems after the licensing and demerit point system was implemented. Mr. Kellar asked that no changes to the RP system be made as it relates to noise issues.

Mr. Kellar referenced a statement in the staff report that, since 2014, there has been a decline in noise complaints that appear directly related to the demerit point system in place, and questioned why Council would want to weaken the system?

Mr. Kellar asked that Council protect the residential neighbourhoods and not accept the proposed change to the Responsible Person and demerit point systems.

Mr. Kellar noted that he will address zoning and official plan concerns at a future meeting.

Mayor McKean spoke questioning the statement that 42 noise complaints were investigated by the OPP, Mr. Kellar spoke in response, yes this is correct, and that just two charges were laid.

Councillor Seguin spoke noting the STA Owner is using non-professional people as their Responsible Person (RP), and questioned if the is Town liable in any way as non-professional people are enforcing the Town’s By-law. Rob Collins, Director of Enforcement Services, spoke noting that the RP is not an employee of the Town, the RP is a staff person of the STA Owner that will attempt to rectify the situation. Councillor Seguin questioned if there is a risk of liability to the Town. Rob Collins spoke noting that he does not have the answer to this, further noting that if the RP cannot control the situation, that the OPP can be called.

Mayor McKean spoke noting that the STA Operators can address the training that the RPs have.

Councillor Gamble spoke referencing the 42 complaints, and questioned how many noise complaints were from STA units. Mr. Kellar spoke noting that 30% of the noise complaints are from STA units.

Councillor Martin noted the problem with STA’s is the noise and vandalism is there any benefit in some of the changes proposed. Terry replying, no.

**B.1 (b) Deputation: Stu Frith, Blue Mountain Short Term Accommodation Owner's Association
Re: Staff Report, Short Term Accommodation Proposed Program Updates, FAF.18.42**

Mr. Frith thanked staff for the report, noting he is speaking on behalf of the Blue Mountain Short Term Accommodation Owner's Association (Association). Mr. Frith noted that the Association is asking that the current occupant load calculation remain the same, referencing the Interpretation Policy POL.STAL.14.02.

Mr. Frith spoke regarding the formula for calculating the total STA Occupant Load, known as the "plus two" occupancy model, noting they are not seeking a change in the basic premise of the "plus two" model. Mr. Frith noted that the Association is asking Council to gain a full understanding of the fact that in the chalet and cottage STA market, large multi-bedroom chalets in which the current occupant loads have been the legally approved standard since day one of STA Licensing. The current occupancy models have been endorsed and approved by the Town's Building Department, By-law Department and Town Fire Department, and are within the Ontario Building Code. Mr. Frith noted that all properties have been equipped with the requisite fire safety equipment as mandated under the Ontario Fire Code for the occupancy load limits that are used today. Mr. Frith noted that the chalet/cottage STA Licences have been historically issued with a total occupant load that adhered to the "plus two" model and mirrored the "plus four" model. Mr. Frith noted that this was achievable as a result of Town Staff having used and relied on the Interpretation Policy POL.STAL.14.02 Premises-Definition of a Bedroom.

Mr. Frith spoke noting the staff report seeks to integrate the Interpretation Policy POL.STAL.14.02 Premises – Definition of a Bedroom, into the By-law, noting the Association is comfortable with this provided no wording is changed.

Mr. Frith noting that the Responsible Person (RP) is the most important piece of the legislation, further noting it is underutilized. Mr. Frith noted the RP works well and that staff endorses this. Mr. Frith noted that the RP is someone chosen by the owner that is the eyes for the owner. Mr. Frith noted that calls to the RP are resolved most of the time by the RP, further noting that Licensed Security receives Noise Aware calls.

Mr. Frith noted that in 2017 there were 131 reported noise complaints throughout the municipality, and of that 42 were against STA units, and of that, two charges were laid.

Mr. Frith spoke regarding the Responsible Person (RP), and noted that this is likely the most important component within the STA Licensing Program. Mr. Frith noted that the Association supports staff's recommendation regarding the RP.

Mr. Frith thanked the Committee for hearing his deputation.

**B.1 (c) Deputation: Sheldon Rosen, The Lodges at Blue Mountains
Re: Staff Report, Short Term Accommodation Proposed Program Updates, FAF.18.42**

Mr. Rosen of The Lodges at Blue Mountains spoke noting that he has reviewed the staff report and noted that overall he and his colleagues are pleased with many of the recommendations, and that overall it is a fair report.

Mr. Rosen noted that he has learned a lot from Duncan Rydall, Chief Fire Prevention Officer through this process.

Mr. Rosen noted that he advised the owners of short term accommodation ("STA") units in Delphi to call the Town to determine the zoning and official plan for the area. Mr. Rosen noted that Delphi unit owners received an email from the Town confirming that the properties in Delphi are zoned for STA use and that the 120 metre separation requirement will not be applied to this area. Mr. Rosen noted that the Delphi STA unit owners have now received correspondence from the Town that they do not comply with the zoning.

Mr. Rosen noted that no complaints have been received regarding any of the STA units on Delphi, and that security is in place for this area as well using CHIME Security, with six patrols per evening between the hours of 10:00 pm and 3:00 a.m.

Mr. Rosen noted that illegal STAs should not be permitted and asked that if Council revokes the STA licences of STA units on Delphi that Council also revoke the STA licences of units in Mountain Springs. Mr. Rosen asked that the Delphi units be licenced through a minor variance as the owners of these units have done nothing wrong.

Mr. Rosen noted that the STA industry would like to be involved in the development of a definition of “rental management”, further noting that he takes exception to the current Commercial Resort Units (“CRU”) being forced to rent through a larger establishment.

Mr. Rosen then referenced use of the Noise Aware Technology. Mr. Rosen questioned if personal residences in the Town are also inspected for the safety of its inhabitants.

Councillor McGee questioned reference to CRU rentals, Mr. Rosen spoke in response noting that the CRU units are listed on AirBnB, where there is no central management as they are more than ten or more CRU units making them exempt from the STA Rental Program.

Deputy Mayor Ardiel spoke questioning if the CRUs have a different mill rate, Director of Finance and IT Services, Ruth Prince spoke noting that CRUs are assessed as residential.

Mr. Rosen thanked the Committee for hearing his deputation.

B.2 Short Term Accommodation Proposed Program Updates, FAF.18.42

Moved by: John McGee

Seconded by: Michael Martin

THAT Council receive Staff Report FAF.18.42, entitled “Short Term Accommodation Proposed Program Updates”;

THAT Council direct Staff to circulate notice for a public meeting to consider the attached updated Official Plan Policies, Zoning By-law regulations and Short Term Accommodation Licensing By-law that includes the staff recommendations contained in Staff Report FAF.18.42, Carried.

Moved by: John McGee

Seconded by: John McKean

THAT with respect to Staff Report FAF.18.42, entitled “Short Term Accommodation Proposed Program Updates”, Council shall consider additional information before revoking the current 6 licensed STA units on Delphi Lane and 3 Licensed STA units on Settlers Way, Carried.

Councillor Martin vacated the meeting due to a previous commitment.

NOTE: The Committee will break following consideration of the Short Term Accommodation matters. The Special Committee of the Whole meeting will resume at 5:00 pm for the balance of the meeting.

B.3 Presentation: Kyle Fleming, Michael Wynia & Caitlin Vandermeer of Skelton Brumwell and Associates Inc. Re: Draft Lower Whitby Formation ANSI Parks Management Plan

Kyle Fleming spoke noting the purpose of the presentation is to present the findings and summary of key points on the Delphi Waterfront Management Plan, discuss the primary management recommendations, discuss management goals and provide information on next steps for the Implementation of the ANSI (Areas of Natural and Scientific Interest) Management Plan.

Kyle identified the area studied and noted Delphi Point is comprised of three parcels of waterfront land dedicated to the Town for development, that are separated by privately owned parcels of land. Kyle noted that as part of development of the Peaks Bay East, Peaks Bay West and Neighbourhoods of Delphi subdivision, waterfront land was conveyed to the Town. Kyle noted that the “h” holding symbol has been placed on the land until the parks management plan can be completed and implemented.

Kyle noted that they have completed a planning review, consulted with agencies, completed public consultation, consultation and engagement with First Nations, considered natural history, existing conditions, and reviewed options for access and trails.

Councillor McGee questioned why this area is significant. Kyle spoke in response noting that the fossilized shale in this area has National and Provincial significance. Kyle spoke regarding ANSIs, noting this area should be protected to minimize damage, further noting the shale is slippery and that safety and liability concerns with access is a concern.

Kyle spoke providing the management plan alternatives for Delphi Point, including a Waterfront Trail, No Permitted Access or Limited Permitted Access and Enforcement Measures. Kyle noted that the suggested alternative is Limited Access to ANSI to protect the fossils, further noting that this alternative leaves responsibility of the area with the Town, no trails or facilities are provided within the ANSI, low-impact recreation opportunities are provided through designated access points, and includes signage posted for By-laws and educational opportunities and protection of valuable fossils.

Kyle then spoke regarding the next steps, including amendment of By-law 2008-44 to strengthen fossil protection, notify public and waterfront residents of restricted permitted access to waterfront and ANSI and enforcement measures, develop and implement schedule for the management of invasive species, create access and signage at waterfront for ANSI.

Councillor McGee spoke referencing the Delphi park, and questioned the ANSI area, Interim CAO Shawn Everitt spoke noting that the ANSI area includes everything west of the park, further noting that the ANSI area was designated by another agency. Shawn noted that the ANSI area is in the Peaks Bay East, Peaks Bay West, and on the private property. Kyle spoke noting that the Ministry of Natural Resources are reviewing the mapping.

Councillor Seguin spoke noting that enforcement will be an issue, further noting that there will be confusion of what is the limited permitted access. Shawn spoke in response noting that the ‘h’ holding symbol is currently placed on the area, that the crushed shale is protected, and that it is permitted to walk on the flat shale

B.4 Presentation of Draft Lower Whitby Formation ANSI Parks Management Plan, CSPW.18.35

Moved by: Gail Ardiel

Seconded by: Michael Seguin

THAT Council receive Staff Report CSPW.18.35 entitled “Presentation of Draft Lower Whitby Formation Area of Natural Scientific Interest (ANSI) Parks Management Plan”; and,

THAT Council receive the Draft Parks Management Plan as presented; and,

THAT Council acknowledge Option 3 “Limited Permitted Access to the ANSI with Protection and Enforcement measures in place” as the recommended preferred option; and,

THAT Council authorize staff to proceed with the timetable as referred to in this report, Carried.

C. Adjournment

Moved by: R.J. Gamble

Seconded by: John McGee

THAT this Committee of the Whole does now adjourn at 6:05 p.m. to meet again at the call of the Chair, Carried.

John McKean, Mayor

Corrina Giles, Town Clerk