

Minutes: The Blue Mountains Special Meeting of Council



MEETING DATE: October 28, 2013
LOCATION: Town Hall, Council Chamber
PREPARED BY: Corrina Giles, Town Clerk

A. Call to Order

- Councillor Gamble called the meeting to order with all members in attendance save Mayor Anderson absent due to illness. Deputy Mayor McKinlay joined the meeting during the Closed Session.

Also in attendance were CAO Troy Speck, Director of Planning & Building Services David Finbow, Director of Finance & IT Services Robert Cummings, Chief Building Official Greg Miller and Town Solicitor John Metras

- **Approval of Agenda**

Moved by: Joe Halos Seconded by: Gail Ardiel

THAT the Agenda of October 28, 2013 be approved as circulated, including any items added to the Agenda, Carried.

- No member declared a pecuniary interest with any matter as listed on the Agenda.

B. Closed Session

Moved by: John McKean Seconded by: Gail Ardiel

THAT, with regard to subsection 239 of the *Municipal Act, 2001*, this Council does now move into closed session in order to address matters pertaining to litigation or potential litigation, including matters before administrative tribunals affecting the municipality or local board;

AND with regard to:

- i) an appeal to the Ontario Municipal Board with respect to By-law No. 2009-03; and
- ii) a referral to the Ontario Municipal Board with respect to a zoning by-law and site plan approval related to Telfer Homes/Thornbury Meadows, Carried.

Council moved into closed session at 4:07 pm.
Council moved into public session at 4:49 pm.

C. Report

C.1 Short Term Accommodation Licensing Council Workshop, PL.13.118

Director of Planning and Building David Finbow spoke regarding the recommendations of the Short Term Accommodation Stakeholder Committee. David noted that the purpose of this meeting is to bring matters forward and to assist Council in making a decision and to gain an understanding of the Short Term Accommodation Licensing By-Law and Committee.

Moved by: Joe Halos Seconded by: John McKean

THAT Council receive Staff Report PL.13.118 respecting Short Term Accommodation Licensing Council Workshop, Carried.

C.2 Short Term Accommodation Licensing Council Workshop

1) Overview of the *Municipal Act* as it relates to Licensing

David spoke regarding licensing as referenced in the Municipal Act, noting the Town has the authority to license.

2) Licensing as a mechanism to accomplish what the Town is trying to achieve

David noted that licensing is a mechanism to accomplish what the municipality is trying to achieve, including matters previously identified by residents and presented and accepted as evidence at the OMB, including parking, noise, garbage, nuisance, mischief and vandalism. David noted that related matters have been identified, including overcrowding, and potentially unsafe conditions due to overcrowding (i.e. fire safety, health and sewage systems), and RECO Licensing.

3) Overview of the Human Rights Code as it relates STA Licensing

Solicitor Leo Longo spoke regarding the Human Rights Code noting it is important to note that there are two kinds of headings that the Human Rights Code addresses in housing and general provision of housing. Leo confirmed that one cannot discriminate on the basis of age, race, gender, etc. Leo noted that a short term accommodation unit is a commercial unit and that the licensing of short term accommodation units are permissible and does not run afoul of any short term accommodation matter. Leo noted that the municipality is free to license short term accommodation units and will not be contrary to the Human Rights Code.

Councillor Halos then spoke noting licensing exists in other municipalities and that The Blue Mountains should proceed with licensing short term accommodation units as well.

4) Overview of the Draft STA Licensing By-law considered at the Public Meeting of April 15, 2013

David then provided an overview of the definition of “responsible person”, noting that it implies that a representative for the short term accommodation unit will be available for contact 24 hours a day, 7 days per week.

David then reviewed Section 2 of the Application, noting the draft by-law is Town-wide and that commercial resort units are not included in the short term accommodation licensing regime.

David then reviewed Section 3 Licensing Requirements and Section 4 Administration and noted he believes that the requirements under Section 4 are required. David noted that the Short Term Accommodation Stakeholder Committee recommends that a license be valid for three years. David noted that a license could be valid for one year, non-transferrable and questioned if a license should be transferable. David then spoke regarding the appeal process.

Councillor Halos then spoke regarding the renewal of a licence and questioned if a fire inspection and electrical safety is required each year before a new licence is issued, David replying no, that a declaration is signed stating that there have been no modifications to the premises.

Joe then questioned if the short term accommodation use ceases for a time, if the owner loses its designation as a short term accommodation unit, David replying that there is much caselaw regarding legal non-conforming or grandfathering, further noting that this needs to be reviewed on a case by case basis, but noted that the short term accommodation use must be continuous. Leo noted that if an owner has a licence and they have not taken out the use, that this could be used as an indicator that the owner has “abandoned” the short term accommodation use.

David then reviewed Section 4.14 of the draft by-law and noted that an administrative penalty could be imposed for operating without a license.

David then reviewed Section 5 of the draft by-law, General Regulations. Duncan then questioned if an owner could have a holiday from short term accommodation use, David noting that the owner should communicate with the Town to make their intentions clear.

Councillor Martin spoke questioning the units that have a history of noise and questioned if the Town is required to issue licenses to those units. David spoke in response noting that the request would be circulated to Fire, Building and Police and that it may be determined that a conditional license is issued or the license could be refused. Michael then questioned if a criteria could be imposed, David noting that a demerit system was suggested by the Committee.

David then reviewed Section 6 Licensing Committee.

Councillor Halos then questioned if Council proceeds with a Licensing Committee, if Council could indicate that there is no appeal mechanism, and that the decision is final.

David then reviewed Sections 7 – 13 of the draft by-law, noting that the Fire and Building Departments need time to inspect units before a license is issued.

5) Overview of the recommendations of the Special STA Stakeholder Committee

David then reviewed the licensing report prepared by the Short Term Accommodation Committee.

6) Identification of areas of non-concurrence between the Draft STA Licensing By-law and the recommendations of the Special STA Stakeholder Committee

David then reviewed the areas of non-concurrence and occupant load, noting that two persons per sleeping area is included in the Building Code.

7) Review of the potential shortcomings of the recommendations of the Special STA Stakeholder Committee

8) What must be included in a Draft STA Licensing By-law so as to meet the statutory requirements of the *Municipal Act* and related Regulations and to accomplish what the Town is trying to achieve

9) Presentation of options for Council's consideration

Duncan then spoke suggesting that the first short term accommodation license issued to a unit owner is could be issued on an annual basis, then bi-annually thereafter. Councillor Ardiel spoke concurring with Duncan.

Councillor Martin spoke noting he believes the license should be issued on a two year basis and that if there are appropriate suspension provisions in effect, that issuing a license for two years should not be problematic. Michael expressed concern with the additional administration required for a one year license. Councillor Halos spoke concurring with Councillor Martin.

Councillor McKean spoke concurring with a bi-annual license. Duncan then questioned if the fire inspections will be completed annually, David replying that fire inspections would be bi-annually.

Councillor Martin then spoke noting Council could be the appeal body for Short Term Accommodation Licensing. Joe noted that the appeal body should have three members on the Committee. Duncan then questioned if the Short Term Accommodation Licensing Committee will have the final ruling, Michael replying yes, and that the Committee should include two members of Council.

Bob then spoke noting that the Committee should have five members, with two being Council members. Councillor Ardiel concurring with Councillor Gamble.

10) Discussion and direction in terms of the Draft STA Licensing By-law.

Moved by: Gail Ardiel

Seconded by: Michael Martin

THAT with respect to Staff Report PL.13.118 respecting Short Term Accommodation Licensing Council Workshop, Council direct staff to proceed with a draft short term licensing by-law with suggested modifications, as presented by the Director of Planning and Building Services in the powerpoint presentation entitled "Short Term Accommodation Licensing", Carried.

Council then discussed the short term accommodation modifications.

Council directed staff to proceed with bi-annual inspections.

Council directed staff to proceed with a transferable Licence only upon approval / consent of the Town.

With respect to a maximum occupant load of 8, with 2 persons per bedroom for non-exempted lands, Council directed staff that a definition of a sleeping area or a bedroom needs to be included in the licensing by-law, further noting that Council is satisfied with a maximum load of 8, with 2 persons per bedroom.

With respect to provision of contact information to neighbouring property owners within 100 metres, Council directed that the renter shall abide by the rental agreement and that the information should be posted on the inside of the unit.

With respect to \$1000 security for a single property and \$10,000 security for multiple properties, Council directed that this security should be applied, but that there should be clarity as to when the security is drawn upon.

Council directed that reference to Real Estate and Business Brokers Act be eliminated.

Council directed that a Committee be appointed to address suspensions and revocations.

Council directed that short term accommodation units shall have a parking management plan.

Council directed that short term accommodation units shall have a property management plan.

Council directed that phased in implementation is something that could be explored.

Deputy Mayor McKinlay then spoke questioning if the short term accommodation licensing by-law applies to farm vacation properties, David replying that there are provisions for bed and breakfast facilities and that if the by-law is municipal wide, that it would have to comply with the short term accommodation licensing by-law.

Leo then questioned if Council wishes to exempt short term accommodation units in exempted areas, Joe spoke in response noting Council should license all short term accommodation units, Council concurring. Michael then noted that when passing the by-law that Council should reserve the right to exempt.

David then spoke noting he will include Council's direction today in a draft by-law and will seek further Council direction in a future staff report.

D. Closed Session

Moved by: John McKean Seconded by: Gail Ardiel

THAT, with regard to subsection 239 of the *Municipal Act, 2001*, this Council does now move into closed session in order to address matters pertaining to personal matters about an identifiable individual, including Town or local board employees;

AND with regard to a committee appointment, Carried.

Council moved into closed session at 6:44 pm.

Council moved into public session at 6:57 pm.

E. Adjournment

Councillor Martin then questioned if the public will be made aware of the closed session discussions earlier today. CAO Troy Speck spoke noting the matter is before the OMB and that the public will be advised following the hearing.

Moved by: John McKean Seconded by: Gail Ardiel

THAT this Council does now adjourn at 6:59 p.m., Carried.

.....
Deputy Mayor D.R McKinlay

.....
Corrina Giles, Town Clerk