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STAFF REPORT: Planning & Building Services Department



REPORT TO: Council
MEETING DATE: May 6, 2013
REPORT NO.: PL.13.52
SUBJECT: Short Term Accommodation Proposal – Martinek/Tyrolean Village Resorts
PREPARED BY: D. Finbow, Director, Planning & Building Services

A. Recommendations

THAT Council receive Staff Report PL.13.52 entitled “Short Term Accommodation Proposal – Martinek/Tyrolean Village Resorts” and provide direction to staff with respect to the proposal.

B. Background

At Council’s meeting of April 15, 2013 Denis Martinek/Tyrolean Village Resorts presented Council with an undated document entitled “Short Term Accommodation Proposal” (Appendix “A”).

The purpose of this Report is to seek direction from Council with respect to the proposal.

The Proposal

The proposal entails Council deferring a final decision on licensing and to appoint a Short Term Accommodation Committee to report back in 3 months with a concrete proposal to address the issues of noise, parking and garbage. It further proposes that a pilot project be implemented where the “proposals would be implemented and the actual results would be measured and assessed with the goal of creating a policy that would be used to permanently resolve any STA issues in a cost effective and fair manner.”

Suggested Committee Make-up

- 2 – 3 Members from a Rental Managers Association;
- STA owners;
- Blue Mountain Ratepayers Association;
- Blue Mountain Resorts;
- By-law Enforcement Officer;
- OPP Officer; and,
- Other interested stakeholders.

With respect to the suggested Committee make-up, Town staff note that should Council decide to pursue this proposal that those resources that would otherwise be allocated for STA Enforcement and STA Licensing development would be allocated and therefore would delay the progress on these Council directed initiatives.

Town staff further note that the OPP have advised that should a *Police Services Act* Section 10 Policing Contract be in place that they could assign resources to this Committee should Council determine to proceed.

With respect to the Blue Mountain Ratepayers Association (BMRA), Town staff inquired as to their interest with the BMRA President advising that the proposal has been circulated to the BMRA Board and the BMRA STA Committee and that following consultation they will formally advise as to their interest. The President did note that BMRA does support the Town's efforts towards implementing a licensing regime and they did formally comment through the recent pre-consultation and public meeting process.

Town staff inquired of Blue Mountain Resorts interest in participating on May 1, 2013 and at the time of writing they had not responded.

As to other interested stakeholders, Town staff are not aware of who this may entail (outside of residents and the STA operators/owners).

Suggested Terms of Reference and Focus Areas for the STA Committee

1. permanent committee
2. focussed enforcement on continual offenders
3. explore funding for additional enforcement
4. address issues on a monthly basis so as to ensure that STA's are operated in a responsible manner
5. ensure that all STA's are focused on following best practices
6. investigate the feasibility of fines being assigned to customers and owners

With regard to the above, Town staff note that without legislated powers to require all STA Operators/Owners to participate that it may not address the issues that the municipality, and the residents, have been confronted with for a number of years. Town staff note that the Ontario Municipal Board in its Order dated June 22, 2011 with respect to the Official Plan and Zoning By-law Amendments noted:

The Board finds, however, that in this case the complaints are well founded. There is convincing evidence of incompatibility and convincing evidence that the integrity and character of the low density residential neighbourhoods are being undermined by the presence of STA units in those areas. These are legitimate concerns to which the Municipality has turned its attention appropriately. The Board finds that the proposal is a reasonable response to the situation and represents good planning.

As noted in previous reports related to licensing, Part IV of the *Municipal Act* indicates:

151. (1) Without limiting sections 9, 10 and 11, a municipality may provide for a system of licences with respect to a business and may,

- (a) prohibit the carrying on or engaging in the business without a licence;
- (b) refuse to grant a licence or to revoke or suspend a licence;
- (c) impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;
- (d) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence;
- (e) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
- (f) license, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it; and
- (g) require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any part of a system of licences established by the municipality. 2006, c. 32, Sched. A, s. 82.

Power to suspend a licence

(2) Without limiting sections 9, 10 and 11, for the purpose of clause (1) (b), if a municipality is satisfied that the continuation of a business poses an immediate danger to the health or safety of any person or to any property, the municipality may, for the time and on such conditions as it considers appropriate, without a hearing, suspend a licence subject to the following:

1. Before suspending the licence, the municipality shall provide the licensee with the reasons for the suspension, either orally or in writing, and an opportunity to respond to them.
2. The suspension shall not exceed 14 days. 2006, c. 32, Sched. A, s. 82.

Council will note that this Section of the *Municipal Act*:

1. requires those businesses that Council may determine to regulate to participate in a legislated/obligatory regulatory system;
2. allows for the refusal, revocation or suspension of a privilege to operate a business;
3. imposes legislated/obligatory requirements and/or conditions on those businesses that Council may determine to regulate; or,
4. allows for the imposition of legislated/obligatory administrative penalties for failing to comply.

Town staff are not aware of another methodology, including the proposal before it that would make these things mandatory.

Discussion

While Town staff are not opposed to continuing dialogue with stakeholders, it does note however that the proposal will require Town resources that would otherwise be dedicated to implementing Council's direction of June 11, 2012 and current and on-going STA enforcement efforts.

As to the proposal itself, Town staff's primary concern is that participation/compliance with the recommendations/directions of the STA Committee, if formed, would not be obligatory/mandatory.

C. The Blue Mountains' Strategic Plan

"Providing a strong, well managed municipal government."

D. Environmental Impacts

N/A

E. Financial Impact

TBD

F. In Consultation With

N/A

G. Attached

Appendix "A" Short Term Accommodation Proposal Letter – Undated

Respectfully submitted,

D. Finbow
Director, Planning & Building Services

REC'D
APRIL 15/13
AT COUNCIL
mtg.
[Signature]

SHORT TERM ACCOMMODATION PROPOSAL TO TBM COUNCIL

Mission Statement

“What would happen if town leaders, business, residents and STA owners became partners addressing concerns of local residents and the need for an appropriate level of regulation while also addressing the many benefits that a vibrant STA sector can bring to the Town of the Blue Mountains”

Proposal

We ask that Council defer a final decision on licensing, and appoint a Short Term Accommodation Committee to report back in 3 months with concrete proposals to address the issues of noise, parking and garbage. Council could then consider a pilot project would take place where these proposals would be implemented and the actual results would be measured and assessed with the goal of creating policy that would be used to permanently resolve any STA issues in a cost effective and fair manner.

- 1) The Short Term Accommodation Committee would include representatives from 2 to 3 members from a Rental Managers Association, STA Owners, a Blue Mountain Ratepayers Association (BMRA) official, Blue Mountain Resorts, a Municipal Bylaw Enforcement Officer, an OPP officer and other interested stakeholders. If a council member or staff wish to participate that would be very beneficial. The goal being to find viable alternatives to licensing.
- 2) Some of the ideas the committee would focus on are:
 - An STA Committee would be a permanent committee that meets monthly to deal with all STA issues that arise. For example if there are certain properties continually causing problems the committee would focus on dealing with these properties through bylaw enforcement, OPP, fines, etc.
 - Look in to funding the hiring of an additional enforcement officer (options could be a Bylaw Officer, an OPP Officer or Private Security Firm(s) as contracted by individual Operators) dedicated to patrolling and enforcement of STA locations during peak tourism time periods.
 - Address specific issues brought forward by the BMRA and other residents on a monthly basis with the goal of ensuring that properties within residential neighbourhoods and STA neighbourhoods are operated in a responsible manner.
 - Ensure that all STA's are following best practices like having all customers sign the OPP endorsed Noise bylaw acknowledgement waiver regarding the 1st warning and the noise bylaw violation of fine of \$615.
 - Investigate the feasibility of a noise and garbage bylaw violation fine being given to both the customer and property owner. The property owner's fine could ultimately be put against the property similar to property taxes.

The Overall Goal would be to gain the approval and confidence of the municipality to develop a Comprehensive, Self Funded and Governed STA program that will best serve the general interests of the community, which will promote tourism, safety and the common interests of all tax payers in the community.