

VILLAGE OF POINT EDWARD
MINUTES

Council Meeting – December 12, 2006

7:00 p.m. – Council Chambers, Point Edward Municipal Office
135 Kendall Street, Point Edward, Ontario

Council Members Present:

Mayor Kirkland	Deputy Mayor Robson	Councillor MacKenzie
Councillor Hand	Councillor Churchill	

Staff Present:

CAO Cramp

DISCLOSURE OF PECUNIARY INTEREST

There were no disclosures of pecuniary interest.

RESOLUTION TO ADJOURN TO A PUBLIC MEETING

Resolution #1

Moved by Deputy Mayor Robson

Seconded by Councillor MacKenzie

THAT Council adjourn to a Public Meeting for the Zoning By-law Amendment for Olindo Scarpelli – Part of Lots 12, 13, 50, 51, Plan 2, Village of Point Edward (513 Louisa Street), at 6:01 p.m.

CARRIED.

RESOLUTION TO RECONVENE TO REGULAR COUNCIL SESSION

Resolution #2

Moved by Deputy Mayor Robson

Seconded by Councillor MacKenzie

THAT Council reconvene to Regular Council Session, at 6:16 p.m.

CARRIED.

DELEGATIONS

1. Mr. Spadafora re: request to increase height of fence – approval is required in accordance with the fence by-law
 - Letter from Mr. Spadafora
 - Letter from Dale and Connie Graham re: objection to fence

Resolution #3

Moved by Deputy Mayor Robson

Seconded by Councillor MacKenzie

THAT Mr. Spadafora and his legal counsel, Rob Giampietri, be invited within the Bar.

CARRIED.

Mr. Giampietri advised that Mr. Spadafora had made application for a variance from the fence by-law. He wanted to dispel any notion that Mr. Spadafora had tried to circumvent the application. There was a misunderstanding. When he submitted his diagram to the Building Inspector Rob King, it was his understanding that it had been approved. However, the Building Official was only dealing with the retaining wall. Mr. Spadafora believed that when he received the Inspector's approval, it included the height. Once the fence was being built, a Stop Order was made on the property. The grade on this property had to be raised by 3 to 4 ft. and Mr. Spadafora had to retain the dirt. He also had to comply with his grading plan. To comply with the fence by-law, it would mean that he would only be able to have a 4 ft. retaining wall plus a 2 ft. fence on his side but this would be a 6 ft. fence on the neighbour's property. There are concerns for safety and privacy if it is built in this manner. Mr. Spadafora has had discussions with some of the neighbours and they had no issue with the structure. If the exemption is granted, it was noted that Lorne Bourrie has recently erected a fence that is 1 ½ ft. higher than Mr. Spadafora's fence. Therefore, if there is a concern that this will set a precedent, there is one that already exists that is in contravention.

Councillor MacKenzie asked if the present situation includes a 4 ft. retaining wall plus a 5 ft. fence totaling 9 ft. as the letter indicates it is only 8 ft. that is required. Mr. Giampietri indicated that the retaining wall is 3 ft. 3 inches.

Deputy Mayor Robson asked if the 4 ft. retaining wall is part of the fence. Mr. Giampietri replied that this only allows for a 2 ft. fence in addition to the retaining wall.

Deputy Mayor Robson noted that the fence is contrary to the by-law but the contractor continued to build it even after he was told that it was not in compliance and that the work should stop immediately.

Councillor Churchill asked for confirmation that the By-law does not cover what has been built. Mr. Giampietri responded that it needs Council's blessing.

Councillor Hand could not understand why the contractor would continue to build after being told it was in contravention with the By-law. She asked if it was a ploy? Mr. Giampietri agreed that the contractor has placed them in a compromising position.

Councillor Hand asked if he had a discussion with Mr. Graham. Mr. Spadafora advised that he had not but there was no problem with Mr. Geary.

Councillor Churchill noted that the other fence in Mr. Graham's backyard was not in compliance. Deputy Mayor Robson noted that the Council will have to deal with the other contravention if a complaint is received.

Councillor Hand asked the total height of the fence/retaining wall. Mr. Giampietri advised that it would be just under 9 ft.

Councillor MacKenzie noted that it would be 8 ft. 7 in. He asked if there is something that would satisfy Mr. Graham. Deputy Mayor Robson noted that this is a huge wall.

Councillor Churchill commented that the by-law states a certain height. However, he would prefer to see the situation mediated.

Deputy Mayor Robson asked if they should be required to remove it. What can we do at this point?

Mr. Spadafora commented that a child could fall over the 2 ft. fence. Whose problem would that be? Councillor MacKenzie responded that it is their property and it would be their problem.

Mr. Giampietri noted that Mr. Graham is still upset. He noted that if the retaining wall was built separately from the fence, it would comply with the by-law. However, all of the additional costs would be required and there would be absolutely no difference to the neighbour.

Councillor MacKenzie stated that the by-law would have to be redrafted to eliminate a loophole that may exist. He feels that the request should be turned down and that Mr. Spadafora and Mr. Graham should come to an agreement on something.

Mayor Kirkland noted that the drainage is working fine into the catch basin. It is the fence that has caused the problem.

Councillor Churchill asked if there is another way to deal with it.

Mr. Graham stated that he feels that Council should abide by the by-law.

Councillor MacKenzie asked if a chain link fence would be better so that the north breeze would go through.

Mr. Graham replied that he does not want a 9 ft. wall but this might help to resolve it.

Mr. Giampietri stated that the fence is built. In terms of ideas to appease the neighbour, he is fresh out. His main concern seems to be the north breeze. How much does 2 ft. 7 in. impede the breeze. He would suggest that it would be hardly any.

Councillor Churchill suggested that they should take up the cost issue with the contractor who continued the work after being told to stop.

Resolution #4

Moved by Councillor MacKenzie

Seconded by Deputy Mayor Robson

THAT the request by Mr. Spadafora to have an exemption to the Fence By-law, be denied; and that it is recommended that the two parties attempt to reach a mutually acceptable proposal and Council would be willing to speak with the two parties for a reprieve until their January 23 Council meeting.

CARRIED.

ADOPTION OF MINUTES

There were no minutes.

BUSINESS ARISING FROM MINUTES

None

FINANCIAL REPORTS

None.

COMMITTEE REPORTS

1. Technical Liaison Committee Meeting of November 15, 2006

Resolution # 5

Moved by Councillor MacKenzie

Seconded by Deputy Mayor Robson

THAT the minutes of the Technical Liaison Committee Meeting of November 15, 2006, be received and filed.

CARRIED.

MISCELLANEOUS REPORTS

2. Tourism Sarnia-Lambton re: October 2006 Activity Report & show Case Invitation.

Resolution # 6

Moved by Councillor MacKenzie

Seconded by Councillor Churchill

THAT the Tourism Sarnia-Lambton re: October 2006 Activity Report & show Case Invitation, be received and filed.

CARRIED.

3. News release from the County of Lambton Office of the CAO re: Council Highlights.

Resolution # 7

Moved by Councillor MacKenzie

Seconded by Councillor Churchill

THAT the News release from the County of Lambton Office of the CAO re: Council Highlights, be received and filed.

CARRIED.

4. News release from the County of Lambton Office of the County Warden re: Representatives Meet to Discuss Possible Health Study.

Resolution # 8

Moved by Councillor MacKenzie

Seconded by Deputy Mayor Robson

THAT the News release from the County of Lambton Office of the County Warden re: Representatives Meet to Discuss Possible Health Study, be received and filed.

CARRIED.

COMMUNICATIONS (COUNCIL ACTION)

1. Letter from the St. Clair Region Conservation Authority re: Revised Fee Schedule.

Resolution # 9

Moved by Councillor MacKenzie

Seconded by Councillor Hand

THAT the Letter from the St. Clair Region Conservation Authority re: Revised Fee Schedule, be received and filed.

CARRIED.

2. Letter from Caroline DiCocco, MPP re: Congratulations to Mayor and Council.

Resolution #10

Moved by Deputy Mayor Robson

Seconded by Councillor Churchill

THAT the Letter from Caroling DiCocco, MPP re: Congratulations to Mayor and Council, be received and filed.

CARRIED.

3. News release from the County of Lambton office of the County Warden re: Lambton and St. Clair Councils Express Support to Shell Canada.

Resolution #11

Moved by Mayor Kirkland

Seconded by Deputy Mayor Robson

THAT the Village of Point Edward Council send a letter of support for the project being proposed by Shell Canada.

CARRIED.

4. News release from the Blue Water Bridge Authority re: Appointments to the Blue Water Bridge Authority.

Resolution #12

Moved by Councillor Hand

Seconded by Councillor MacKenzie

THAT the News release from the Blue Water Bridge Authority re: Appointments to the Blue Water Bridge Authority, be received and filed.

CARRIED.

COMMUNICATIONS (RECEIVE AND FILE-LISTED)

Listed as of December 6, 2006

1. Letter from Pat Davidson, MP, acknowledging receipt of letter re: resolution “to secure sustainable long term infrastructure funding for water and water projects in small communities.”
2. Letter from the Sarnia Lambton Chamber of Commerce re: election information website.
3. News release from the County of Lambton Office of the County Warden re: Election of Lambton County Warden and Deputy Warden.
4. News release from the County of Lambton Public Works Department re: Lambton to Celebrate Replacement of Bear Creek Bridge.

Resolution # 13

Moved by Deputy Mayor Robson

Seconded by Councillor MacKenzie

THAT the Communications listed as of December 6, 2006, be received and filed.

CARRIED.

NEW BUSINESS

1. Report from Peggy Cramp re: Advertisement for Committee Appointments

Resolution #14

Moved by Councillor Hand

Seconded by Deputy Mayor Robson

THAT the Village of Point Edward advertise for Boards and Committees for a 2 year term.

CARRIED.

2. Mayor Kirkland – Council appointments to Committees

Resolution \$15

Moved by Deputy Mayor Robson

Seconded by Councillor Hand

THAT the Council appointments to Committees, be approved on a trial basis for the year 2007.

CARRIED.

BY-LAWS

1. By-law No. 45 of 2006, being a By-law to Amend By-law 9 of 1982 pursuant to Section 34 of The Planning Act – Olindo Scarpelli

Resolution #16

Moved by Deputy Mayor Robson

Seconded by Councillor Hand

THAT By-law No. 45 of 2006, being a By-law to Amend By-law 9 of 1982 pursuant to Section 34 of The Planning Act – Olindo Scarpelli, be given a FIRST, SECOND and THIRD READING and FINALLY PASSED this 12th day of December, 2006.

CARRIED.

2. By-law No. 46 of 2006, being a By-law to enter into an Easement Agreement between the Blue Water Bridge Authority and the Village of Point Edward to obtain easements over a number of Easement Lands for municipal purposes

Resolution #17

Moved by Councillor MacKenzie

Seconded by Deputy Mayor Robson

THAT By-law No. 46 of 2006, being a By-law to enter into an Easement Agreement between the Blue Water Bridge Authority and the Village of Point Edward to obtain easements over a number of Easement Lands for municipal purposes, be given a FIRST, SECOND and THIRD READING and FINALLY PASSED this 12th day of December, 2006.

CARRIED.

3. By-law No. 47 of 2006, being a By-law to Confirm the Resolutions of Point Edward Council which were adopted up to and including December 12, 2006.

Resolution #18

Moved by Councillor Churchill

Seconded by Councillor Hand

THAT By-law No. 47 of 2006, being a By-law to Confirm the Resolutions of Point Edward Council which were adopted up to and including December 12, 2006, be given a FIRST, SECOND and THIRD READING and FINALLY PASSED this 12th day of December, 2006.

CARRIED.

BUSINESS FROM COUNCILLORS

Calendars

Deputy Mayor Robson congratulated staff on the 2007 calendars.

Front Street/Michigan Ave. traffic light

Councillor Hand advised that she had received a complaint about the long wait for the traffic light at the corner of Front Street and Michigan Ave. The complainant should contact the County of Lambton as it is within their jurisdiction.

Pond at Sarnia Golf & Curling Club

Councillor MacKenzie expressed concern with the pond at the Sarnia Golf & Curling Club. Mayor Kirkland commented that the do plan to fence it. Consideration of liability should be given.

RESOLUTION TO ADJOURN TO AN 'IN CAMERA' SESSION

Resolution #19

Moved by Councillor MacKenzie

Seconded by Deputy Mayor Robson

THAT Council adjourn to an 'In Camara' session, at 7:30 p.m. for a legal matter.

CARRIED.

RESOLUTION TO RECONVENE TO REGULAR COUNCIL SESSION

Resolution #20

Moved by Deputy Mayor Robson

Seconded by Councillor MacKenzie

THAT Council reconvene to Regular Council Session, at 7:35 p.m.

CARRIED.

REPORT OF THE CLOSED SESSION

There was nothing to report at this time.

ADOPTION OF THE REPORT OF THE CLOSED SESSION

Resolution #21

Moved by Deputy Mayor Robson

Seconded by Councillor Hand

THAT the Report of the Closed Session, be adopted.

CARRIED.

ADJOURNMENT

Resolution # 22

Moved by Deputy Mayor Robson

Seconded by Councillor Hand

THAT the Council Meeting be adjourned at 7:36 pm, until January 9th, 2007 call of the Chair or at such time as a Special Committee meeting is held to discuss legal matters, property matters or personnel matters.

CARRIED.

Mayor Dick Kirkland

CAO Peggy Cramp