

Present: Mayor Mitchell
Councillor Drumm
Councillor Emm
Councillor Gleed
Councillor Leahy
Councillor Mulcahy
Councillor Roy
Councillor Yamada

Also Present: D. Barnes, Interim Chief Administrative Officer
S. Beale, Commissioner of Public Works
K. Nix, Commissioner of Corporate Services/Treasurer
W. Mar, Commissioner of Legal and By-law Services/Town Solicitor
J. Taylor, Manager of Planning Administration
C. Harris, Town Clerk
C. Bantock, Legislative Coordinator

Regrets: None noted

1. Declarations of Pecuniary Interest

1.1 There were no declarations of pecuniary interest.

2. Presentations

2.1 Kevin Narraway, Manager of By-law and Animal Services, and Alex Lam, Manager of Development Engineering
Re: Public Works Department and Legal and By-law Services
Department Joint Report, PW 07-17
Site Alteration By-law

Kevin Narraway, Manager of By-law and Animal Services, and Alex Lam, Manager of Development Engineering, appeared before Council and stated that staff conducted consultations with stakeholders regarding the Site Alteration By-law following direction provided by Council at the January 23, 2017 Operations Committee meeting. Mr. Narraway stated that the majority of the feedback received through this

consultation process has been for the Town to provide stricter regulations and increase environmental protection. Mr. Narraway provided an overview of the steps taken to date in the process as well as highlights of the main differences between the current draft and the previous version. Mr. Narraway provided the following five areas of concern as addressed by the draft Site Alteration By-law:

- mitigate drainage impacts;
- environmental concerns;
- mitigate potential nuisance impacts
- fair compensation mechanisms; and,
- compliance with the Town's Zoning By-law.

3. Delegations

3.1 Barry Harding, Nick Aprile, Andy Fawcett and Wayne Bruce representing Durham Region Heavy Contractors Association Re: Public Works Department and Legal and By-law Services Department Joint Report, PW 07-17 Site Alteration By-law

Andy Fawcett and Wayne Bruce, representing Durham Region Heavy Contractors Association, appeared before Council and stated as contractors they are creating excess soil and need a place to dispose of such soil; however, this is not easy for a number of reasons. They advised that the difficulty with the proposed draft by-law is cost certainty and that the road damage fee complicates this further because it is not clear how damage is determined and what the associated costs may be for repairs. They stated that they were amenable to the proposed two dollar per cubic meter fee but that contractors with fill disposal sites outside of Durham Region will have an advantage as they will not have to pay the two dollar fee for both removal and dumping. Further concerns were raised by the Durham Region Heavy Contractors Association with regard to onerous peer review requirements, permits being for a maximum of two years, and the length and complexity of the proposed guidelines.

A question and answer period ensued between Members of Council and the delegates with respect to:

- nuisance regulation concerns previously raised (e.g. dust and mud) being resolved in the revised draft by-law;
- concerns with length and complexity of the guidelines but not the by-law;
- the guidelines being a working document open to ongoing dialogue between Staff and stakeholders;
- opportunities to investigate financial securities other than the non-

refundable deposits being recommended;

- whether the by-law diverged from best practices and regulations imposed by other jurisdictions; and,
- how road damage fees would be determined.

3.2 Jane Ling

Re: Public Works Department and Legal and By-law Services
Department Joint Report, PW 07-17
Site Alteration By-law

Jane Ling, 535 Myrtle Road West, Ashburn, appeared before Council and stated she currently serves as the Ashburn Neighborhood Watch Chair person and is a member of the Ashburn Community Centre Board. Ms. Ling stated that Ashburn has been invaded by dump trucks and she has received many emails and phone calls from other residents who are concerned about the volume, disruption, and long term environmental impact of the dumping. Ms. Ling further stated that north Whitby is becoming a hot spot to dump fill and there needs to be increased protection of community residents. She advised that she feels the new by-law is fair and appropriate and supports the implementation of the by-law before April 30th when axle weight restrictions are removed.

3.3 Robert Nixon

Re: Public Works Department and Legal and By-law Services
Department Joint Report, PW 07-17
Site Alteration By-law

Robert Nixon, Ashburn resident, appeared before Council and stated that the community in Ashburn is still very much rural and farm lands. Mr. Nixon stated that most residents get their water from private wells and the influx of fill is threatening this source of water. He further stated that the proposed by-law will be effective in providing oversight in the future and that he is fully supportive and looks forward to the implementation prior to the working season.

4. Items for Consideration

**4.1 Public Works Department and Legal and By-law Services Department
Joint Report, PW 07-17
Re: Site Alteration By-law**

A question and answer period ensued between Members of Council and Staff with respect to:

- the type of projects that fall within the scoped exemptions provided for in the by-law;

- the increased fees proposed as part of the draft by-law;
- the opportunity for staff to provide contractors with costs for potential road damage repair in advance of a permit being issued;
- the start date of a permit being tied to confirmation of fill operations proceeding;
- investigating the use of insured bonds as a financial security;
- the guidelines being adjusted to more clearly define adjacent property references in the by-law;
- concerns related to water quality and proposed requirements to test ground water on properties adjacent to fill operations;
- whether future fill permits adjacent to Townline Road would be permitted due to the boundary road's condition;
- relying on professionals to perform peer reviewed environmental measurements and testing;
- the intent to continue consultations with stakeholders and further clarify the guidelines as necessary;
- the permit length of 24 months being a benefit to ensure finite timelines;
- fill control regulations imposed by surrounding municipalities;
- fill for closure and removal of swimming pools being exempt from the by-law; and,
- staff reporting back on the use of insured bonds compared to non-refundable deposits.

Resolution # 179-17

Moved By Councillor Leahy

Seconded By Councillor Emm

1. That Report PW 07-17 be received for information;
2. That the Clerk be directed to bring forward the Site Alteration By-law and Guidelines in accordance with the recommendations contained in this report;
3. That the Clerk be directed to bring forward an amendment to the Town's Fees and Charges By-law to give effect to the fees identified in this report; and,
4. That the Commissioner of Public Works be provided with the delegated authority to amend the Site Alterations Guidelines from time to time.

Carried later in the meeting (see following motion)

Resolution # 180-17

Moved By Councillor Leahy
Seconded By Councillor Gleed

That the main motion be amended by adding items 5 and 6 as follows:

5. That Staff be directed to investigate and report back on implementing an insurable bond or other mechanisms as a financial protection for the Site Alteration By-law at Council on April 10th.
6. That Staff be directed to meet with the industry to clarify language contained in Guidelines before May 1, 2017.

Carried

The main motion, as amended, was then carried

5. Confirmatory By-law

5.1 Confirmatory By-law

Resolution # 181-17

Moved By Councillor Leahy
Seconded By Councillor Emm

That leave be granted to introduce a by-law and to dispense with the reading of the by-law by the Clerk to confirm the proceedings of the Council of the Town of Whitby at its special meeting held on April 3, 2017 and the same be considered read and passed and that the Mayor and the Clerk sign the same and the Seal of the Corporation be thereto affixed.

Carried

6. Adjournment

6.1 Motion to adjourn

Resolution # 182-17

Moved By Councillor Emm
Seconded By Councillor Leahy

That the meeting adjourn.

Carried

The meeting adjourned at 7:16 p.m.

Christopher Harris, Town Clerk

Don Mitchell, Mayor