

THE CORPORATION OF THE TOWN OF GEORGINA

SPECIAL COUNCIL MINUTES

Wednesday, July 24, 2019
7:03 PM

Staff:

David Reddon, Chief Administrative Officer
Harold Lenters, Director of Development Services
Dan Buttineau, Director of Recreation and Culture
Ron Jenkins, Director of Emergency Services/Fire Chief
Rob Wheeler, Director of Corporate Services and Treasurer
Rob Flindall, Director of Operations and Infrastructure
Ryan Cronsberry, Acting Deputy Chief Administrative Officer
Anne Winstanley, Supervisor, Communications
Rachel Dillabough, Acting Town Clerk
Carolyn Lance, Council Services Coordinator

A moment of meditation was observed.

1. CALL TO ORDER - MOMENT OF MEDITATION

"We would like to begin today's meeting by acknowledging that the Town of Georgina is located over lands originally used and occupied by the First Peoples of the Williams Treaties First Nations and other Indigenous Peoples and thank them for sharing this land. We would also like to acknowledge the Chippewas of Georgina Island First Nation as our close neighbour and friend, one with which we strive to build a cooperative and respectful relationship."

2. ROLL CALL

The following Members of Council were present:

Mayor Quirk	Regional Councillor Grossi
Councillor Waddington	Councillor Fellini
Councillor Neeson	Councillor Sebo
Councillor Harding	

3. COMMUNITY ANNOUNCEMENTS

- August 5th, Pefferlaw Association of Ratepayers (PAR) Family Picnic, Lions Community Hall, car show, Udora Lions hosting the food booth
- Saturday, July 20th, Sutton BIA held a successful annual 'Festival on High',
- weekend of August 10th, Sutton Fair & Horse Show and Painted Perch Festival

- Saturday, July 27th, Movie in the Parkette, 8:45pm, at Jackson's Point Parkette
- Saturday, July 27th, Georgina Countryfest, at The ROC

4. INTRODUCTION OF ADDENDUM ITEM(S) *None*.

5. APPROVAL OF AGENDA

Moved by Councillor Neeson, Seconded by Councillor Fellini

RESOLUTION NO. C-2019-0445

That the agenda be approved as presented.

Carried.

6. DECLARATIONS OF PECUNIARY INTEREST AND GENERAL NATURE THEREOF

Councillor Neeson declared an interest Recommendation No. 4 of the report, specific to beach associations, as he is part of a beach association by virtue of location of his residence.

7. ADOPTION OF MINUTES *None*.

Mayor Quirk advised that the order of the agenda is being changed this evening; staff will do the presentation of the report prior to the Speaker section.

8. SPEAKERS

9. DELEGATIONS/PETITIONS *None*.

10. PRESENTATIONS *None*.

11. PUBLIC MEETINGS *None*.

(1) STATUTORY MEETING(S) UNDER THE PLANNING ACT OR MEETINGS PERTAINING TO THE CONTINUATION OF PLANNING MATTERS

(2) STATUTORY MEETING(S) UNDER OTHER LEGISLATION *None*.

(3) OTHER PUBLIC MEETINGS *None*.

12. REPORTS

(1) ADOPTION OF REPORTS NOT REQUIRING SEPARATE DISCUSSION
None.

(2) REPORTS REQUIRING SEPARATE DISCUSSION

(A) Lake Drive Shoreline Jurisdiction Action Plan
Next Steps/Work Plan Recommendations

Report No. CAO-2019-0033

Dave Reddon provided a brief summary of the report.

Andrew Biggart, Town Solicitor;

- concerns raised as to appraisal approach/cost recovery, based upon fair value and an appraisal report
- recommended the Town not proceed to appraise every single lot, but that a few lots of average size be selected and appraised
- appraisal would i) include all restrictions currently on the lands and anticipated to be on the lands; anticipated that lands will be zoned to allow the area to be used to sit out on, to grow grass/shrubs, sit on a chair, put in a dock, ii) include any easements over the lands the Town may need to make repairs to the roadway, iii) specify that the lands should only be for sale to eligible property owner, being the property owner across the street, and consider value of lands, iv) transfer of Lake Drive property to be put together with property across the road so that it is not sold separately, v) obtain a justifiable, reasonable price that is fair, reasonable and appropriate.
- sales cannot be to the benefit of some and to the detriment of others
- Council should be in possession of a report indicating a qualified value of the lands
- title should be cleared up; only the lands that formed the lakeshore portion, from the high water mark, as that would be the land the municipality owns. The property owner should not be charged for any improvements made beyond that point.

Council comments;

- Town would be vulnerable to the sale of properties if values not known, from the public at large
- respecting the licensing the road ends for beach associations, a 2017 report stated that 'associations are not recognized by law...'. licensing provisions in a bylaw could limit liability
- purpose of Ad Hoc Committee was to clarify ownership of shoreline properties respecting the Town's liability, to explore methods to deal with Lake Drive title issues with an eye to limiting the liability to the municipality
- during the creation of Lake Drive, the Town ended up in ownership of that road and all land to the shoreline
- suggested sale of land be based on the cost of a survey, minimal legal costs and nominal transfer fee, with the understanding that owners would then have a surveyed piece of property and the property owner would take over the liability for the property

- surplus land policy was based on \$2.00 per square foot prior to 2017, and was raised after 2017; suggested to retain the fee at \$2.00 per square foot specific to Lake Drive shoreline properties
- cost recovery would be reasonable in sale price

David Reddon

- MPAC separates out properties associated with waterfront, lakefront properties are coded as lakefront properties and property assessment is based on sales

Andrew Biggart;

- Council has an obligation to ensure that it receives a fair price for an asset
- an appraisal report is helpful input for Council, Council can then determine its own value and sale price
- it would be best to have a value informed by an appraisal report; Council does not need to use the figure the appraisal report indicates, but Council can say it has been informed of the value
- vast majority of shoreline properties are owned by the municipality, there are a few properties with issues or questions
- land is Town-owned from the travelled portion of the roadway (asphalted gravel); property beyond that point would be subject to an appraisal. No portion of the travelled portion of Lake Drive would be sold
- obligated to provide all options available to his client; the objective of this exercise was to try to divest the lands and have residents assume responsibility. There are several approaches for property purchases by residents
- begin with appraisals during the month of August; once appraisals received, staff will come back to Council prior to hosting a public information session

Ted Rotenberg, 281 Lake Drive

- Town staff should indicate which shoreline properties are surplus depending on the Town's requirements
- transparency required about what properties are being offered to the owners, and what used will be permitted
- he foresees difficulty in finding an average price for the many distinctive individual properties along the Lake Drive shoreline
- need a category of useable space to be offered
- the municipality is attempting to have residents purchase what they are already using and the municipality does not have the resources to block off the shoreline properties that residents do not want to purchase or cannot purchase
- need a take-up rate; without it, cannot charge cost recovery or fair market value
- a bylaw could be enacted to set the prices and terms, to eliminate potential lawsuits

Andrew Biggart;

- opportunity for Council to make determination to address some of the issues raised can be done after appraisal received, and made public.
- believes it best for Council to have appraisal reports before it and can then decide to reject them or reduce prices based upon them

Alan Drenfeld, 329 Lake Drive East

- this process will be quieting the titles
- he has had exclusive occupation of the property across Lake Drive from his home, his assessment is based on purchase price he paid for the cottage which he purchased based on the exclusive use on the lakeside
- he views this as an opportunity for the Town to straighten out the title at a cost he will incur
- his waterfront is very small measured from the shoulder to the property prior to its infill, an appraisal on his property is not necessary, it cannot be sold to anyone else but him, the Town will retain an easement over it, he cannot do anything with it, he is limited as to fencing or hedging; he wants to lawfully insure it as it will be his responsibility. He expects it to be conveyed to him at a nominal cost.
- not impressed with the prospect of an appraisal
- his property has a culvert but doubts it will be taken into consideration as appraisals will be conducted on an average property, not specific properties and figures will be skewed, unjustified and not reflective of actual values
- suggested the process move forward with proposal that properties have titles quieted at the cost of the owners of the lands on the other side of the road
- numerous property owners have quit claim deeds and some absolutely own the land, there are areas of Lake Drive North where titles have been quit claimed to owners on the other side of the road. The Registry Office is still accepting written deeds to transfer lands and titles
- the Town is not selling property owners anything, the Town is working with the owners to quiet the titles; the only way to resolve the issue is to do it at a value that works. Incorporated not-for-profits do not work and including consequences when a resident does not buy-in is coercion. Residents should be encouraged to participate rather than be forced

Dave Szollosy, 857 Fairbank Avenue

- was a member of the Ad Hoc Committee whose recommendations to Council were accepted
- appraisals were not part of the Ad Hoc Committee recommendations, is concerned that appraisal process will only increase the cost of the process with no benefits
- lakeshore tracts of land have no intrinsic property value divorced from the adjacent lots; no access, no parking, no separate value
- any enhancement to shoreline tracts of land that may give it value have been completed by adjacent property holders; all maintenance, grass cutting, removal of dead trees has been performed by the adjacent landowner and improvements should not be used to determine value
- Town has no interest in these tracts of land, less than in vacant lots or road ends that have been disposed of in the past; surplus land policy exists for disposition of these surplus lands, so there is no need to create a separate value for these lands. When disposing of surplus lands, the policy is to offer the lands to adjacent landowners first, so there is no discrimination or favouritism

- this current interest in determining ownership has been initiated by the Town, wanting to release itself of responsibility, liability, and establish binding bylaws to govern it; any fees should only be for cost recovery of that process

Sue Jagminas, 137 Lake Drive North

- appraisal process was discussed and put aside during the Ad Hoc Committee process and does not understand why it is being considered now
- this process started in 2015, and an email list of residents along Lake Drive was created; 40% said they owned the property due to surveys or tax bills, so she is unsure how the Town believes it owns 90% of the lakeshore properties
- enquired what the process would be if people dispute their ownership
- appraisals not necessary, this is a unique situation; indicated that she is willing to pay survey costs and legal fees even though she believes she already owns the lake lot
- it would be difficult to create an average from so many different lots
- lakeshore properties are all vacant parcels of land that no-one can use or do anything on; a nominal fee should be used

Andrew Biggart

- appraiser would be able to choose lots to use as an average
- clearly the land has some value, even as vacant land
- if improvements have been made to increase the value, those improvements would be ignored; appraisal would be solely on a raw land evaluation which does have value
- this is a unique situation and Council needs to determine what is fair and appropriate. If appraisals come in high, no one would question the concept if more information was available. If appraisals came in and Council determined that it rejected the value with reasons and arrived at a different number, Council's decision would be justifiable. If Council made a decision without an appraisal, an individual could say he or she knows of an appraisal conducted that Council was not made aware of and Council therefore made an uninformed decision.

Alan Direnfeld

- the need for an appraisal presupposes there is a sale; the Town is quieting the title, not selling the land, an appraisal is not required in order to quiet the title
- enquired if an individual would need to use his/her own resources to challenge the Town, if appraisals are not performed

Andrew Biggart

- the Town cannot ignore the past reports advising that the Town does in fact own the land
- if referred to as either quieting the title or selling the land, it is an asset that the Town owns and if it dispenses with it, it needs to do so at a reasonable value
- if challenged through a court challenge, it would be at the expense of the challenger

David Reddon

- all properties can be identified

Gord Mahoney, on behalf of Orchard Beach Golf Course;

- reminded Council that the Orchard Beach Golf Course does own the property at the lake but not directly across from the club house; intent to ensure the Golf Course's ability to purchase that land

Kenny Stockman, 7 Lake Drive East

- he understands that he is being requested to purchase land that he believes he already purchased; they doubled their mortgage because they were told they were buying waterfront, with exclusive use to the lake. He was not told it was owned by the Town but that it was governed by the Ministry and he had to obtain permits from Ministry if he wanted to perform any work at the lake.
- the taxes he has paid has already purchased this land
- enquired how land with no value is appraised
- does not understand why the land should be appraised if Council can choose not to use the value and land is appraised at
- enquired if property owners can dispute the sale price
- it has cost him money to maintain the property across the street and does not understand why he should pay again for land he already owns

Andrew Biggart

- he does sympathize with the resident; if he in fact has to purchase the property again, his complaint should be with the person that told him he already has title to it
- why appraising land that apparently has no value; if someone told Council it had no value and Council simply gave the land to that individual, it would not be defensible

Karl Keilhack, 339 Lake Drive East

- purchased his property 30 years ago
- there is a substantial difference in the sale prices of properties without lakefront and those with indirect lakefront
- MPAC came along and valued them for tax purposes based on price in neighbourhood with indirect lakefront; this value was established 30 years ago and if anyone buys it now, the value will be established again
- he pays his taxes and does not see why he should pay again, other than for the cost of administering the paperwork to transfer the property ownership

Ted Rotenberg

- this is an overly cautious approach
- simpler method to quiet the matter is to simply grant owners perpetual licenses to use the lakefront for 99 years with an option to renew; no value is needed, no survey is needed, just a 99 year license or 199 year license
- problem is due to the fact that the only willing buyers are not willing to pay any real money for the land and the only alleged seller is not sure what it owns and will not take the steps necessary to enforce said ownership right

•just give conveyance at cost to quiet the title or give owners a perpetual license and finalize the issue

Moved by Councillor Waddington, Seconded by Councillor Neeson

That the Rules of Procedure be waived to permit an individual to address Council.

Carried.

Alan Drenfeld

- it is possible to identify properties on the waterfront under separate ownership
- stretches of beach still remain unconverted from Land Registry
- some properties have a lot of owners in common; possibly 30 cottages will each have their name registered on the whole of that 30 property-wide strip, their names appeared in the Land Registry but because of no specific delineations separating the properties, Land Registry was not able to convert it to Land Titles, so they include all the names on the whole strip and wait for someone to apply to have it clarified
- If the pin maps are downloaded, the properties can start to be identified
- some strips of waterfront are not parcelled at all because there was no Land Titles deed registered, no Registry Title registered and consequently, no-man's land unidentified
- there are many strips of land along Lake Drive with no identifying pin number
- can start by existing lot lines on dry side and extend them to the lake, to demark the area to which the dry side owners would be entitled, which is how a surveyor would begin
- an R Plan or Reference Plan is simply a survey that is registered in the Land Titles office, a lengthy process; will be a challenge when the road is not straight and will need resolution amongst neighbours who already know where their lot lines are

Andrew Biggart

- was originally thought premature to go through the R Plan process because it is a time-consuming and costly process
- Council wants to ensure the majority of residents were in agreement with the process and following receipt of a nominal deposit, staff would then proceed
- may hold off on the process until completion of the appraisal; the R Plan process can be commenced fairly quickly

Moved by Councillor Waddington, Seconded by Councillor Fellini

That the Rules of Procedure be waived to permit an individual to address Council.

Carried.

John King, 933 Lake Drive

- cottage has been in the family for 102 years
- maybe someone will challenge the Town because it did not get enough money for the land transferred; easier to divest itself of the liability. The Town is liable at this time and is only a liability for the Town
- should ensure the land is transferred to the property owners with vested interest; would make sense for those property owners to own the land and the property would then be their responsibility
- worrying about a challenge is small compared to the liability of someone getting hurt on this lakeshore property; it is in the Town's best interest to do this very soon and make it agreeable to the residents

Andrew Biggart

- litigation is expensive, long and uncertain
- if an accident occurs, the Town has insurance coverage
- if a challenge was to be brought to a municipal decision concerning the transfer of title of properties and that it failed to make compensation in favour of others, that would not be covered by insurance and the litigation would be long, uncertain and costly; the Town needs to inform itself first with a potential sale price

Peter Stevens, 357 Lake Drive North

- they have a policy for surplus lands, and have a rate, it is a defensible position, it does not need to go to the public, no appraisal is necessary

Andrew Biggart;

- the surplus lands policy deals mostly with road ends; a determination made much earlier in the process that these are unique lands in the area

Moved by Councillor Waddington, Seconded by Councillor Fellini

That the Council meeting recess at 9:28pm

Carried.

The Council meeting resumed at 9:40pm

Moved by Regional Councillor Grossi, Seconded by Councillor Sebo

1. That Council receive Report No.CAO-2019-0033 prepared by the Office of the CAO dated July 24, 2019 respecting the Lake Drive Shoreline Jurisdiction Action Plan.
2. That the Town establish that it would be reasonable to charge each lakefront owner an amount equivalent to the actual legal costs and survey costs

incurred in effecting a conveyance of the waterfront lots to the eligible property owners (the actual amount of such costs to be determined as they arise) plus an administration charge, the greater of \$1 per linear foot of frontage or \$200.

3. That the town issue a notice to each eligible property owner of the town's intention to convey clear title to such eligible property owner of the lands (to be identified by later reference plan) on the lake side of Lake Drive east and north as the case may be and thereby make enquiry of such eligible property owner such owner's desire to acquire such property.
4. That the town accept offers to quiet title by conveyance thereof to accepting eligible property owners and to immediately undertake preparation of required reference plan and legal documents to effect such conveyance provided that the eligible property owner first deposit with the Town payment in the amount of \$500 together with their acceptance of the proposal and to pay the balance thereof upon conveyance of the lake side property on such terms as the town and the eligible property owner may agree.
5. Such options for payment to include payment on closing of the balance then due or payment amortized over time in similar fashion as was permitted in the case of the hookup of water and sewer.

Motion Withdrawn.

Moved by Councillor Fellini, Seconded by Councillor Harding

1. That Council receive Report No.CAO-2019-0033 prepared by the Office of the CAO dated July 24, 2019 respecting the Lake Drive Shoreline Jurisdiction Action Plan.
2. That Council direct staff to engage an appraiser to conduct appraisals of 3 to 5 waterfront properties, taking into consideration all potential encumbrances such as easements and zoning restrictions and the restriction of conveyance of waterfront properties to adjacent eligible property owners only, as well as obtain cost estimates and completion time for the preparation of a reference plan/survey and report back to a Special Council Meeting to be held on September 25, 2019.
3. That staff investigate options for lands not owned but currently occupied by a beach association other than incorporation as a not-for-profit organization.
4. That Council direct staff to coordinate the Lake Drive Shoreline Jurisdiction Action Plan with the Waterfront Parks Masterplan as it relates to the acquisition or divestiture of lakeside lands for any potential synergies and reciprocal support of each plan.

Due to a declared pecuniary interest with the beach associations, it was requested that Recommendation No. 3 be separated from recommendations 1, 2 and 4, and voted on separately.

Moved by Councillor Fellini, Seconded by Councillor Harding

RESOLUTION NO. C-2019-0446

1. That Council receive Report No.CAO-2019-0033 prepared by the Office of the CAO dated July 24, 2019 respecting the Lake Drive Shoreline Jurisdiction Action Plan.
2. That Council direct staff to engage an appraiser to conduct appraisals of 3 to 5 waterfront properties, taking into consideration all potential encumbrances such as easements and zoning restrictions and the restriction of conveyance of waterfront properties to adjacent eligible property owners only, as well as obtain cost estimates and completion time for the preparation of a reference plan/survey and report back to a Special Council Meeting to be held on September 25, 2019.
4. That Council direct staff to coordinate the Lake Drive Shoreline Jurisdiction Action Plan with the Waterfront Parks Masterplan as it relates to the acquisition or divestiture of lakeside lands for any potential synergies and reciprocal support of each plan.

Carried.

Councillor Neeson declared a pecuniary interest in Recommendation No. 3 of the Lake Drive Shoreline Jurisdiction Action Plan specific to beach associations, as he is part of a beach association by virtue of the location of his residence. Councillor Neeson did not participate in any discussion or vote regarding Recommendation 3.

Moved by Councillor Waddington, Seconded by Councillor Fellini

RESOLUTION NO. C-2019-0447

3. That staff investigate options for lands not owned but currently occupied by a beach association other than incorporation as a not-for-profit organization.

Carried

Following approval of the above-noted resolutions, Council directed that this matter again be dealt with at its own Special Council meeting, and that the meeting be scheduled on *Tuesday, September 24th*, rather than September 25th as indicated in the resolution.

13. DISPOSITIONS/PROCLAMATIONS, GENERAL INFORMATION ITEMS AND COMMITTEE OF ADJUSTMENT *None.*

- (1) Dispositions/Proclamations *None.*
- (2) General Information Items *None.*
- (3) Committee of Adjustment Planning Matters *None.*

14. MOTIONS/NOTICES OF MOTION *None.*

15. REGIONAL BUSINESS *None.*

16. OTHER BUSINESS *None.*

17. BY-LAWS *None.*

18. CLOSED SESSION *None.*

19. CONFIRMING BY-LAW

Moved by Councillor Harding, Seconded by Councillor Waddington

That the following by-law be adopted:

- (1) By-law No. 2019-0070 (COU-2), a by-law to confirm the proceedings of Special Council on July 24, 2019.

Carried.

20. MOTION TO ADJOURN

Moved by Councillor Fellini, Seconded by Councillor Waddington

That the meeting adjourn at 9:55pm

Carried.


Margaret Quirk, Mayor


Rachel Dillabough, Acting Town Clerk