

1.0 CALL TO ORDER

Mayor Anne Eadie called to Order the Committee of the Whole (C O W) meeting of the Council of The Corporation of the Municipality of Kincardine at 6:58 p.m. on Wednesday, February 20, 2019, in the Council Chambers at the Municipal Administration Centre.

2.0 ROLL CALL

Council Present

Mayor Anne Eadie
Deputy Mayor Marie Wilson
Councillor Maureen Couture
Councillor Dave Cuyler
Councillor Gerry Glover
Councillor Laura Haight
Councillor Doug Kennedy
Councillor Randy Roppel
Councillor Bill Stewart

Staff Present

Sharon Chambers, Chief Administrative Officer
Donna MacDougall, Clerk
Michele Barr, Director of Building & Planning
Roxana Baumann, Treasurer/Director of Finance

3.0 AMENDMENTS, ADDITIONS OR DELETIONS TO/FROM THE AGENDA

4.0 DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

None disclosed.

5.0 ADOPTION OF MINUTES OF C O W MEETINGS

Resolution #02/20/19 C O W - 01

Moved by: Bill Stewart
Seconded by: Laura Haight

THAT the minutes of the C O W meetings held on February 6, 2019 and February 11, 2019 be adopted as printed.

Carried.

6.0 ITEMS FOR DISCUSSION FROM COUNCIL MEETING

7.0 DELEGATIONS

None scheduled.

8.0 REPORTS

8.1 Other Areas of Responsibility

Councillor Couture assumed the Chair.

(A) PL 2019-01

Subject: Site Plan Agreement – 3245 Bruce Road 20 Jackson Aggregates Inc. PT LT G CON 4 Bruce as in R357552; Kincardine, Municipality of Kincardine (former Bruce Township)

Recommendation: THAT the Council of the Municipality of Kincardine grant approval of the Site Plan Agreement with Jackson Aggregates Inc. for PT LT G CON 4 as in R337552 and authorize the Mayor and CAO to sign all required documents.

Date to be considered by Council: February 20, 2019

Report Summary: The lands are zoned ACI-z and are subject to site plan approval.

The applicant is proposing to construct a 50' x 100' fabric structure at 3245 Bruce Road 20 for storage.

The site plan application was circulated and submitted for approval.

Origin: Applicant Request

Existing Policy: Comprehensive Zoning By-law, Site Plan Control

Background/Analysis: An application has been submitted for Site Plan approval for the above noted property.

In 2012 a portion of the lands in the north east corner (2.73 ha) were rezoned to 'ACI-z' Agricultural/ Commercial/Industrial Special which allowed for specific uses and included placing the property under site plan control. The remainder of the property is zoned 'M2' Extractive Industrial used as a licensed pit.

The owner is proposing to construct a 50' x 100' fabric structure to be used for storage on the ACI-z lands.

The Site Plan application and drawings were circulated on January 17th, 2019 to staff and various commenting agencies including Bruce County Roads Department, Saugeen Valley Conservation Authority and Engineering.

Comments were addressed and it was noted that should there be additional development in the future a full Stormwater Management Report will be required.

The owner has applied to include warehousing as a permitted use to the ACI-z lands.

Community Plan and Integrated Community Sustainability Plan (ICSP)

Considerations: Direct future growth and development to be consistent with the principles of sustainable neighbourhood design (e.g. affordable, accessible, protective, of the environment and culturally sensitive).

Financial Implications: Financial deposits required by the Site Plan process as per the Rates and Fees By-law.

Attachments: Site Plan Agreement, Site Plan Drawing

Resolution #02/20/19 C O W - 02

Moved by: Randy Roppel

Seconded by: Marie Wilson

THAT C O W recommend Council accept recommendation as set out in report and consider this as a Matter Arising from Committee of the Whole.

Carried.

Mayor Eadie assumed the Chair.

(B) CAO 2019-03

Subject: Bill 68 – The Modernizing Ontario's Municipal Legislation Act, 2017

Recommendation: THAT Council adopt the following municipal policies as contained in Report CAO 2019-03:

- Policy No. GG.6.13 Pregnancy or Parental Leave for Members of Council;

- Policy No. GG.6.14 Council – Staff Relations; and,
- Policy No. GG.6.9 Code of Conduct – Council Members be repealed and replaced with Policy No. GG.6.15 Code of Conduct - Council and Members of Local Boards.

AND FURTHER THAT the Environmental Action Group be instructed to develop a draft policy to describe the manner in which the Municipality will protect the tree canopy and natural vegetation in the Municipality, as required under Section 270 (7) of the *Municipal Act, 2001*, for the consideration of Council;

AND FURTHER THAT the Procedure By-law No. 2013 - 161 be amended as set out in Report.

Date to be considered by Council: February 20, 2019, as matters arising.

Report Summary: Bill 68, *Modernizing Ontario's Municipal Legislation Act, 2017* received Royal Assent on May 30th, 2017, enacting legislative amendments to the *Municipal Act, 2001*, *The City of Toronto Act, 2006* and the *Municipal Conflict of Interest Act*.

Some of the changes made under Bill 68 are already in force, while some changes take effect at a later date. This report outlines amendments to the *Municipal Act, 2001* that will come into force on March 1, 2019, specifically;

Section 223, which relates to codes of conduct for members of council and the appointment and role of Integrity Commissioners. A revised Council Code of Conduct is presented for Council's consideration to reflect the legislative changes to the role of the Integrity Commissioner.

Section 270, which requires municipalities to adopt and maintain certain policies. The new requirements include the adoption of policies pertaining to;

- The relationship between members of council and the officers and employees of the Municipality.
- The manner in which the Municipality will protect and enhance the tree canopy and natural vegetation in the Municipality.
- Pregnancy leaves and parental leaves of members of council.

The draft policies are presented for Council's consideration, with the exception of the policy relating to protection of tree canopy and natural vegetation. It is recommended that this item be deferred to the Environmental Action Group for development. In the meantime, the Municipality may rely on the Bruce County Forest Conservation By-law to cover the tree canopy protection aspect of this legislative requirement.

Origin: Bill 68 - Modernizing Ontario's Municipal Legislation Act, 2017

Existing Policy: Policy GG.6.9 Code of Conduct – Council Members Policy and Bruce County Forest Conservation By-law No. 4071

Background/Analysis: Bill 68, the *Modernizing Ontario's Municipal Legislation Act, 2017*, introduced amendments to various Acts, including the *Municipal Act, 2001*, the *City of Toronto Act, 2006* and the *Municipal Conflict of Interest Act*.

The amendments to these Acts come into force at different times. This report outlines legislative changes that will come into effect March 01, 2019.

Municipal Act, 2001

Section 223 – Codes of Conduct

It is now mandatory for municipalities to establish codes of conduct for members of council and local boards.

Council approved its Code of Conduct on March 2, 2016. The Municipality's Integrity Commissioner, Harold Elston, advised Council during a training session on January 23, 2019, that he recommends the County of Bruce Council Code of Conduct to his clients. Staff has reviewed the County's policy and recommends that it be used as a basis for a new Code of Conduct for Council and Local Boards.

Section 223 – Integrity Commissioner

Bill 68 makes the appointment of an Integrity Commissioner mandatory. Municipalities must provide the public with access to an Integrity Commissioner by either appointing their own or making arrangements with an Integrity Commissioner of another municipality. In 2017, Council appointed Harold Elston as its Integrity Commissioner, by By-law No. 2017-161.

Bill 68 expands the scope of responsibilities of an Integrity Commissioner including:

- The application of the code of conduct for members of council and the code of conduct for members of local boards;
- Requests for advice from members related to their obligations under the Municipality's procedures, rules and policies related to the ethical behaviour of members of council and of local boards, or the application of said procedures, rules and policies;
- The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act (MCIA)* to members of council and local boards, including the duties of members who have a pecuniary interest at a meeting, the filing of written statements of disclosures of pecuniary interest by members and the use of influence on staff by members who have a pecuniary interest in a matter being considered by staff requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member;
- Requests from members of council and of local boards for advice respecting their obligations under the *MCIA*; and
- The provision of educational information to members of council, members of local boards, the municipality and the public about the code of conduct and about the *MCIA*.

Further amendments with respect to Integrity Commissioners include the following:

- An elector or a person demonstrably acting in the public interest may submit a request for inquiry with the Integrity Commissioner;
- A municipality is required to indemnify its Integrity Commissioner or any persons acting under their instructions for costs reasonably incurred in connection with the defense of certain proceedings;
- Rules that apply if a Commissioner conducts an inquiry; and,
- Requests from Council for advice from the Commissioner must be made in writing.

The Municipality of Kincardine's existing Agreement with Mr. Elston covers the expanded role as set out in the amended legislation. The new *Municipal Act* provision with respect to indemnification of the Integrity Commissioner was forwarded to the Municipality's insurer for review. They have recommended that the wording in the Agreement with Mr. Elston be amended to reflect the wording in the legislation pertaining to indemnification. The Clerk will discuss the proposed amendment with Mr. Elston and report back to Council. The proposed Code of Conduct for Council and Local Boards sets out the process for Council members when contacting the Integrity Commissioner, including a form that must be submitted to the Clerk.

Section 270 – Adoption of Policies: This section has been amended to include three additional policies that municipalities must adopt:

270 (2.1) Council/Staff Relations Policies

Requires a policy respecting the relationship between members of council and the officers and employees of the Municipality.

Policy No. GG.6.14 Council – Staff Relations is presented for Council's consideration which sets out:

- Role of Council, Management and Staff;
- Guiding principles including a commitment to accountability and transparency, leadership, teamwork, respect and trust;
- Respect for time;
- Protocol for communications and inquiries between council and staff;
- Respect of reporting relationships; and,
- Reference to Existing Policy such as the Codes of Conduct, Violence and Harassment in the Workplace Policies, and the Procedure By-law.

270 (7) Protection and Enhancement of Tree Canopy and Natural Vegetation

Requires municipalities to adopt a policy with respect to the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality.

The Bruce County Forest Conservation By-law 4071 can be relied upon on an interim basis to meet the requirement to protect the tree canopy and natural vegetation. It is recommended that the Environmental Action Group develop a draft policy for Council's consideration that would more fully meet the intent of this legislative requirement.

270 (8) Pregnancy and Parental Leave

Municipalities are required to develop policies on pregnancy and parental leave for Council Members, to ensure the offices of Members of Council would not become vacant because of an absence related to pregnancy or parental leave for 20 consecutive weeks or less.

Policy No. GG.6.13 Pregnancy or Parental Leave for Members of Council is attached for council's consideration which sets out:

- Notice requirements by the member of council;
- The member may still actively participate and will continue to receive communication as though they were not on leave;
- The office shall not be declared vacant during the leave; and,
- The member shall continue to receive all remuneration, reimbursements and benefits.

Amendments to the *Municipal Conflict of Interest Act***Member with Pecuniary Interest Present at Meeting**

A new section of the *MCIA* will allow a member to participate in the discussion, but not the vote, where the matter being considered is whether to suspend the remuneration paid to the member.

Written Statement of Disclosure

A member of council or a local board who declares a pecuniary interest at a meeting will be required to file a written statement of the member's interest and its general nature at the meeting or as soon as possible after the meeting. There is a new requirement for municipalities and local boards to establish and maintain a registry of statements and declarations of the pecuniary interests of members and make it available for public inspection.

Section 23.1 of the Municipality's Procedure By-law deals with voting and pecuniary interest and reads as follows:

“Every member present, when a question is put, shall vote thereon unless the member has a pecuniary interest, direct or indirect. When a member has such interest in the question under debate, he/she shall so advise the Council in accordance with the provisions of the Municipal Conflict of Interest Act. The member shall, in instances where the Council is meeting in a closed session, vacate his/her chair and the meeting room until the question is decided, and the Clerk shall duly record the circumstances in the minutes. If any member present refuses to vote except for reasons of such interest, they shall be recorded as voting in the negative on the question before Council.”

In order to reflect the MCIA changes into the Procedure By-law, it is recommended the above section be replaced with the following:

“Every member present, when a question is put, shall vote thereon unless the member has a pecuniary interest, direct or indirect.

When a member has such interest in the question under debate, he/she shall so advise the Council in accordance with the provisions of the Municipal Conflict of Interest Act. Members shall file, with the Clerk, a written statement of interest and its general nature at a meeting, on the form prescribed by the Clerk, at which a member discloses an interest, or as soon as possible afterwards.

Except as follows, the member shall, in instances where the Council is meeting in a closed session, vacate his/her chair and the meeting room until the question is decided, and the Clerk shall duly record the circumstances in the minutes. Where the matter under consideration is whether to suspend the remuneration paid to the member if the Integrity Commissioner has reported that, in his or her opinion, the member has contravened the Code of Conduct, the member may take part in the discussion even at a closed meeting, however, the member is not permitted to vote on any question in respect of the matter.

If any member present refuses to vote except for reasons of such interest, they shall be recorded as voting in the negative on the question before Council.”

At the same time, Staff would like to request another minor unrelated amendment to the Procedure By-law. It would be beneficial if the Chief Administrative Officer could provide some general announcements/comments at meetings. This would be used to highlight staff achievements, or other organizational and community matters of a minor/informational nature. Thus, it is recommended that “Chief Administrative Officer Announcements” be added to the agenda following “Members of Council General Announcements”.

Action Where Contravention Alleged

Bill 68 permits an elector, an Integrity Commissioner or a person demonstrably acting in the public interest to apply to a judge for a determination of whether a member or a former member of a municipal council has violated the MCIA. Currently only an “elector” is permitted to bring such an application.

Influence

Members of Council or local boards will be prohibited from using their office to attempt to influence decisions or recommendations being considered by municipal or local board officers or employees, if the member has a pecuniary interest in the matter.

Powers of a Judge

The range of penalties for contraventions of the *MCIA* has been broadened, and a judge may do any or all of the following:

- Reprimand the member or former member (new penalty);
- Suspend the remuneration paid to the member for a period of up to 90 days (new penalty);
- Declare the member's seat vacant (current penalty);
- Disqualify the member or former member from being a member during a period of not more than seven years after the date of the order (current penalty); or,
- If the contravention has resulted in personal financial gain, require the member or former member to make restitution to the party suffering the loss, or, if the party's identity is not readily ascertainable, to the municipality or local board, as the case may be (current penalty).

**Community Plan and Integrated Community Sustainability Plan (ICSP)
Considerations:** N/A

Financial Implications: \$10,000 has been included in the 2019 operating budget for the Integrity Commissioner services, should they be required.

Attachments:

- Policy No. GG.6.13 Pregnancy or Parental Leave for Members of Council;
- Policy No. GG.6.14 Council – Staff Relations;
- Policy No. GG.6.15 Code of Conduct - Council and Members of Local Boards

Questions were raised and discussion took place regarding the appropriate route for Council members in contacting staff (should be with the Senior Manager) and that Council is a governance role, not operational.

Resolution #02/20/2019 C O W - 03

Moved by: Maureen Couture

Seconded by: Gerry Glover

THAT C O W recommend Council accept recommendation as set out in report and consider as a Matter Arising from Committee of the Whole.

Carried.

8.2 Mayor's Update

Mayor Eadie reported on: Council meeting schedule change to Mondays, next meeting is March 4th; thanks to Public Works Staff for work in February; letter from Minister of Municipal Affairs and Housing regarding pause on planning documents.

9.0 CONSENT AGENDA

Items listed under the Consent Agenda are considered routine and are enacted in one motion as a Matter Arising. The exception to this rule is that a Council member or the Chief Administrative Officer may request one or more items to be removed from the consent agenda for separate discussion and action.

1. Communications 5.4 AORS Public Works Leadership Development Program Graduate – Ryan Deer, Associate Road Supervisor
2. Statistical Reports 3.1 Municipality of Kincardine Drinking Water Quality Management System Audit
3. Statistical Reports 3.2 Huronville Subdivision Distribution System DWQMS System Audit
4. Statistical Reports 3.4 2018 Year Building, Planning and By-law Report

The above items were noted.

10.0 ADJOURNMENT

Resolution #02/20/19 C O W - 04

Moved by: Bill Stewart

Seconded by: Doug Kennedy

THAT this C O W adjourn at 7:20 p.m.

Carried.

Original Signed By
Mayor – Anne Eadie

Original Signed by
Clerk – Donna MacDougall