

## GENERAL GOVERNMENT COMMITTEE

### REPORT

Held Thursday, August 28, 2014 at 2:30 p.m.  
Classroom, Town Hall

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**PRESENT:**

R. Anderson	Councillor/Chair
D. Foster	Deputy Mayor
S. Wells	Councillor
M. Bercovitch	Councillor
C. Patterson	Mayor

G. Vadeboncoeur	Chief Administrative Officer
T. Nicholson	Clerk
P. Archdekin	Deputy Clerk
D. Vincent	Sr. MLEO
J. Legget	EDCCO
K. Wilson	Deputy Treasurer

**ABSENT:**

G. Watson	Councillor
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**1. CALL TO ORDER**

Councillor Anderson called the meeting to order at 2:30 p.m.

**2. DISCLOSURE OF PECUNIARY INTEREST - None**

**3. DELEGATIONS/PRESENTATIONS**

**a) Mr. & Mrs. David Bellisario re Appeal Annual Encroachment fee**

Councillor Anderson welcomed Mr. & Mrs. Bellisario to the table.

Mr. Bellisario advised that they encroach on 60<sup>th</sup> Street and Shore Lane and are here to object to the additional annual \$300.00 fee to be added to their taxes as they already pay \$8,000 in taxes. When they built seven years ago there were a number of trees that had to come down and at that time submitted a letter requesting permission to take them down and replace with other trees along the pathway. When they built their cottage they put a retaining wall of natural stone on the property line and there was no issue. At the back of the property (beach side) they hired a local landscaper to install a fire pit and stone work to keep back the erosion. He was asked to ensure they stay within the property. The landscaper did not and the stones ended up on the Town lands. He noted that he has paid the Encroachment Agreement fee.

Mr. Bellisario then circulated pictures of the Town's unopened road allowance that they maintain, keep clean, cut the grass and are asking for consideration not to pay the \$300.00 annual fee.

The Clerk advised that the Encroachment Agreement was approved by Council at its August 26/14 meeting and that there is no report or recommendation on this Agenda in response to the delegation. It is up to Council if they wish to waive the \$300.00 rental fee which is now before Committee for consideration. Staff have not made a recommendation.

Mayor Patterson inquired if there is any precedent set by waiving this fee. The Clerk advised that this is the first request since Council put the new Encroachment Policy and fees in place.

Councillor Bercovitch did not support waiving this fee, as Council would have to waive every fee. If that is the case then take the fees off the books so it is the same for everyone.

Councillor Wells advised he is not prepared to waive the fee; that is Council's Policy and Mr. Bellisario has an option to go back to the landscaper to push it back or cover the costs. The landscaper made the issue and there is an Encroachment Policy that is clear.

Mr. Bellisario advised that he was asked to push back a couple of stones and remove a tree and thought it was ok then. Now years later it has come up again and they were surprised. They maintain that whole lane all the time and they do it for themselves and the benefit for everyone.

Mrs. Bellisario advised that they maintain the laneway and it is a safety hazard. They clean up dog feces; broken bottles, bricks, shingles, garbage every weekend and they want it clean for the kids coming back and forth. There is always garbage and in lieu of their time and considering they keep it safer, they should not be penalized for doing it. There are many laneways that are horrific and this one is not. It was fine seven years ago.

Mayor Patterson noted he appreciates the condition they keep it in. He asked of Public Works involvement. The Clerk advised that when it first came to light with the trees to remove, it was the former Director of Public Works who wrote a letter to remove and replace the trees. In 2009, along with the Provincial Parks staff, Road Superintendent and herself met on site and requested that the rock retaining wall be pushed back onto the Bellisario's property to ensure public safety. Since 2009, staff has been working on a resolution to this and at getting an encroachment agreement with the owners to manage the Town's risk and public safety but have been unsuccessful until now. Public Works gave approval for the trees and that was the end of their involvement until the Road Superintendent went out with the Clerk in 2009.

Deputy Mayor Foster inquired if there is precedent. The Clerk understands that there has always been an annual fee for the use of using Town lands; however, Council increased it to \$300.00 in 2011. The use of Town lands benefits the property owner while at the same time restricts access to the public.

Councillor Bercovitch inquired as to how we determined the property lines. The Clerk advised that a location survey is on file so we know exactly what was on the Town's property and on the Bellisario's property. Staff has been working on this situation since 2009 and has not been able to resolve it with an encroachment agreement until now. When the inspection took place with the Road Superintendent the Town asked for the landscaper to push the rock retaining wall back on to the private property as it was determined to be unsafe to the public should it shift. Ontario Parks was also in attendance at the site and would deal with the beach encroachments separately.

The Chief Administrative Officer advised that a motion has been prepared to refer the matter back to staff for review. It was then;

MOVED BY C. PATTERSON  
SECONDED BY D. FOSTER

RESOLUTION NO. 2014-08-01

RESOLVED THAT the request from Mr. & Mrs. David Bellisario to waive the annual encroachment fee be referred to staff for review and recommendation.

CARRIED

Councillor Anderson thanked Mr. & Mrs. Bellisario for their presentation.

**b) Mr. Anthony Fera and/or Ms. Nicole Esch - Encroachments at 102 Fernbrook Drive**

Councillor Anderson welcomed Mr. Fera to the table.

Ms. Esch advised that she was representing the owners on Fernbrook and some on Rose Valley Way and Azores.

Mr. Fera stated he has had an Encroachment Agreement for 17 years that they have and can produce it and asked for clarification on what the Town is proposing. Mr. Fera stated he has concerns. He asked if his encroachment agreement was taken into consideration.

The Clerk was then asked if there is an existing Encroachment Agreement to which the Deputy Clerk responded that in searching the Town files, no Encroachment Agreement was found. What is on file is a letter dated 2003 from the former Clerk/Treasurer Administrator acknowledging a basketball concrete pad and tree fort. The Clerk advised that now there is a basketball pad, no tree fort, but a shed and fire pit.

Staff discussed the issue trying to find the best solution for the owners and the Town as the property is up for sale. Staff considered an Encroachment Agreement with the current owner, but a new purchaser would also have to enter into a new Encroachment agreement. The existing fence is not to the property line and it was recommended that the fence be moved to the property line and become a park. The basketball pad would remain with the other items removed in an attempt to manage the risk to the municipality. Staff further recommended that four gates be installed in the fence to provide access to the Town's property and neighbourhood basketball court.

Mr. Fera suggested that the Town should have come to him to extend the agreement. He advised that he has been there for 17 years. He owns the biggest chunk of land, has maintained it, seeded it, planted trees and flowers and done their own policing and garbage pickup. He stated he also polices the cat walk for a party hang out. It is very dark and most kids move on when he puts on big lights and asks them to move. In 17 years he has only had to call the Police once.

Mr. Fera said it was set up by the Town, not created by the Fera's and he is not here for a fight and regardless if the Fera's sell or not it will affect a lot of people. He advised that he has looked into rights of squatters/rights of privilege. He said the Town gave them an agreement. Mr. Fera suggested the four property owners on Fernbrook would be willing to purchase to the ditch, which is short of the catwalk fence.

Mr. Fera stated that not one of the residents on Fernbrook, Rose Valley and Azores want anything to do with an easement or park as it will bring nothing but trouble to them and a hang out in summer. For 16 years the Town has never stepped in there, so why all of a sudden do you want to create this good will gesture. It takes money to set it up and money to maintain it and police on regular basis.

Mr. Fera suggested that the Town go away and let them do as they have done for the Town. It looks fantastic and there is no liability whatsoever. Some of the Town's most famous residents have broken bones on this pad and never once come to the Town for a broken bone claim. We don't need another park as there is one at Fernbrook and River Road West. Why bring another one into this area and spend money for no reason. There must be more important things to spend money on.

Mr. Fera indicated he is open to any discussion and not here to fight. He has friends around this room and is oblivious why this came to be an issue. Mr. Fera stated the Town created this and he will not relinquish that pad to the Town and will spend his money to remove it.

Mr. Fera then thanked the Town for listening.

Mayor Patterson inquired if the Town has a value of the land as yet. The Clerk responded that staff did consider the option of selling the land; however, it's a long process where all four owners would need to purchase the lands and 102 Fernbrook is up for sale and there is no guarantee the new owners would want to purchase; therefore, an assessment of the value has not been done at this time.

Mr. Fera inquired if there is history on this kind of transaction.

The Chief Administrative Officer advised the land would be sold on a square foot basis and there hasn't been a transaction in a while.

The Clerk advised that the cost is the appraised value, and would include survey costs; legal and advertising shared between the purchasers.

Mr. Fera indicated that is a solution. He stated once again it has been there for 17 years and has not asked the Town to do anything. He also stated it is a useless piece of land except for those who live there and they keep it sharp and clean for all concerned. He suggested that if the Town moves the fence to the edge of its property the home value will decrease and bring trouble to the local neighbourhood.

Mayor Patterson inquired if there was consideration to the cost to move the fence and put gates in and the value to maintain property.

The Clerk advised staff can bring back a report with an option to declare the lands surplus to sell and if that is not a viable option, would strongly recommend an encroachment agreement as the basketball pad and fire pit are liability.

Mr. Fera stated there hasn't been a liability issue in 17 years and questioned how it is a liability. Councillor Anderson stated that it is a liability as it is on Town property.

Mr. Fera asked why the Town is "flying into their face."

The Clerk responded that it came to light because of the sale of the property and an inquiry by a prospective purchaser and real estate agent. The Town did not go looking for this encroachment.

Ms. Esch asked that there be an assessment of cost of turning it into a park, not just moving the fence. There is no lighting and there is a drainage ditch is on both sides of the fence. What is the cost of moving the fence, gates, maintenance and landscaping.

Ms. Esch inquired if Mr. Fera removed the cement pad can the fence be left as it.

Mr. Fera advised he can get rid of fire pit to his property line.

Mr. Fera stated that the he will remove the concrete pad before he allows the Town to take it over.

The Chief Administrative Officer advised that we have had situations somewhat the same in the past and the municipality tries to work with the property owners. We have had some preliminary information and in order for us to do this we require direction from Council. As an alternative this is something the staff could work with if there is interest for Council to consider selling the land to bring further information to Committee.

Mr. Fera thanked Committee for the time.

Staff will prepare a report outlining options and estimated costs.

**b) Mrs. Marg Mount – representing Mr. Greg Mount of 98 Fernbrook Drive encroachments at 102 Fernbrook Drive**

Councillor Anderson welcomed Mrs. Mount to the table. Mrs. Mount advised that she was representing her son Gary Mount of 98 Fernbrook Drive as he was unable to attend the meeting. The family is quite concerned as they use the home as a vacation home so no one is there full time and have concerns moving the fence closer to their property with someone not being there, the fire pit and shed and teenage boys and girls sitting on their deck. They would like to see a different solution and wants to see what the options are.

Councillor Anderson thanked Mrs. Mount for her comments.

Mayor Patterson inquired if the lands are declared surplus, and the resident doesn't want to buy, could someone else could buy the land. The Clerk responded yes someone else could; however, it's Council's decision to which they sell it to. If the land is declared surplus, it is hoped that all four property owners would purchase their share before 102 Fernbrook sells. If they don't all agree someone else could make an offer and it is up to Council if they sell.

Deputy Mayor Foster noted traditionally it is all or none so a checkerboard effect is not created. Deputy Mayor Foster inquired if both sides of the walkway is being considered or just one. The Clerk advised that the report just dealt with the four Fernbrook properties. If Committee wishes, staff can look to the other properties as well and it is up to Council who they want to sell to. The Town can declare it surplus and advertise it for sale and Council will decide.

Councillor Wells noted that the process is that whenever the Town has surplus lands two or three appraisals are done to somehow determine value/funds required. The Town is not interested in selling at less than market value. The Fernbrook Drive folks in the short term, might want to have a discussion on how that might that happen. The normal process is that the existing property line gets extended. Someone is on the hook for a whole bunch and someone for a little. He noted that no decisions will be made at this meeting. He has walked the property and there doesn't appear to be any encroachments on the other side.

He inquired if moving that fence back on both sides is under consideration, as well as fair is fair. He suggested that if we are going to do this it should be both sides or neither side.

Councillor Wells noted that he disagrees with Mr. Fera's statement of not having liability. Just because nothing has happened in the past, in today's society it is different to what happened then and what happens now. The Town is looked upon as having deep pockets and first to be sued. Liability is a significant issue in today's terms. The basketball pad is on Town property; you can't change that. The Town has to deal with the property and the question is how does the Town deal with it that meets the Town's needs and some accommodation of residents' needs at the same time.

Councillor Wells asked that staff look at options for an encroachment agreement and sale of land and present those options.

The Chair advised that a resolution has been prepared later in the Agenda and with Committee's permission will table it now. Committee agreed and it was then;

MOVED BY C. PATTERSON  
SECONDED BY D. FOSTER

RESOLUTION NO. 2014-08-02

RESOLVED THAT the report pertaining to the encroachments on municipal land abutting properties on Fernbrook Dr. be referred back to staff for review to determine if it is feasible that the property be declared surplus and offered for sale to the abutting property owners, subject to the Town retaining appropriate lands for a public walkway.

CARRIED

**4. UNFINISHED BUSINESS**

- a) Sign By-Law (reviewed) – March 12, 2009

**5. DEPARTMENT REPORTS**

**Municipal Law Enforcement**

- a) **Monthly Report – July 2014**

MOVED BY S. WELLS  
SECONDED BY M. PATTERSON

RESOLUTION NO. 2014-08-03

RESOLVED THAT the General Government Committee does hereby receive the July 2014 Municipal Law Enforcement Department's Report, for information.

CARRIED

- b) **Municipal Law Enforcement Accounts – July 2014 – no comments**

**Economic Development and Communications**

**a) Monthly Report – July 2014**

MOVED BY C. PATTERSON  
SECONDED BY S. WELLS

RESOLUTION NO. 2014-08-04

RESOLVED THAT the General Government Committee receive the July 2014 Economic Development and Corporate Communication Officer's Report, for information.

CARRIED

**b) Chamber of Commerce – Activities & Initiatives**

MOVED BY C. PATTERSON  
SECONDED BY S. WELLS

RESOLUTION NO. 2014-08-05

RESOLVED THAT the General Government Committee receive the Chamber of Commerce Activities & Initiatives Report, for information.

CARRIED

**c) Grandma's Beach Treats – 1014 Mosley Street**

MOVED BY S. WELLS  
SECONDED BY C. PATTERSON

RESOLUTION NO. 2014-08-06

RESOLVED THAT the General Government Committee does hereby recommend to Council that it approve Ms. Sylvia Bray's application for funding under the Façade Improvement Program in the amount of \$2,000.00 for façade and building improvements to 1014 Mosley Street, subject to Ms. Bray meeting all of the Town's requirements at the time of releasing the grant.

CARRIED

**d) Economic Development & Communications Accounts – July 2014**

**Administration**

**a) County of Simcoe – Solid Waste Management Landfill Settlement Proposal**

Mayor Patterson spoke to the County's letter, noting he was pleased with the results. It was then;

MOVED BY C. PATTERSON  
SECONDED BY S. WELLS

RESOLUTION NO. 2014-08-07

RESOLVED THAT the General Government Committee does hereby receive the County of Simcoe correspondence with respect to the Solid Waste Management Landfill Settlement Proposal, for information.

CARRIED

Councillor Wells requested that if the Town is getting a lump sum of money a sense of where that money is going and what its actual purpose will be is needed.

The CAO noted it will come back as part of the Treasurer's review.

**b) Clerk – 2014 Municipal Election – Joint Compliance Audit Committee**

MOVED BY S. WELLS  
SECONDED BY C. PATTERSON

RESOLUTION NO. 2014-08-08

RESOLVED THAT the General Government Committee does hereby recommend to Council that it establish a Joint Compliance Audit Committee and adopt the Amended Terms of Reference to include joint membership with participating municipalities.

CARRIED

**c) Deputy Clerk – Encroachments on Municipal Land behind 102 Fernbrook Drive**

Dealt with earlier in the Agenda.

**d) Deputy Clerk – Right of Way off Edward Street**

MOVED BY C. PATTERSON  
SECONDED BY S. WELLS

RESOLUTION NO. 2014-08-09

RESOLVED THAT the General Government Committee does hereby recommend to Council that the municipally owned right of way, approximately 89 metres long by 6 metres wide, that runs off Edward Street and stops short of Albert Street, be declared surplus to the municipality's needs and be offered for sale to the abutting property owners, as per Council policy.

CARRIED

**e) Treasurer – 2014 Municipal Grant Requests**

MOVED BY S. WELLS

SECONDED BY C. PATTERSON

RESOLUTION NO. 2014-08-10

RESOLVED THAT the General Government Committee does hereby recommend to Council that it approve the following grants to offset rental fees at the RecPlex:

- Jump Start Program for their Steps for Sports fundraiser in the amount of \$765.00
- Wasaga Beach Chamber of Commerce to offset the room rental fees for the annual Santa Claus parade in the amount of \$500.00
- Collingwood General & Marine Hospital foundation to offset the room rental fees for Georgian Circle Hospital Fundraiser in the amount of \$1,292.00
- Friends of Nancy Island to offset the room rental fees for the annual Piping Plover Volunteer Appreciation night in the amount of \$452.00; and,

FURTHER THAT it not approve a grant in the amount of \$1,500.00 to the Sound Investment Community Choir.

CARRIED

**f) Deputy Treasurer – Request to Write Off Penalty/Interest on a Tax Account**

MOVED BY C. PATTERSON

SECONDED BY S. WELLS

RESOLUTION NO. 2014-08-11

RESOLVED THAT the General Government Committee does hereby authorize the Treasury Department to remain consistent with past practice and not write off interest on tax accounts.

CARRIED

**g) Council and Administration Accounts – July, 2014**

MOVED BY S. WELLS

SECONDED BY C. PATTERSON

RESOLUTION NO. 2014-08-12

RESOLVED THAT the July 2014 Accounts as reviewed by General Government Committee, are hereby confirmed.

CARRIED

**6. OTHER AGENCY REPORTS - None**

**7. DATE OF NEXT MEETING** – September 18, 2014

**8. ADJOURNMENT**

Councillor Anderson adjourned the meeting at 3:20 p.m.