



## SPECIAL COUNCIL MEETING MINUTES

Monday May 13, 2019

05:00 PM

### **PRESENT:**

Lord Mayor Betty Disero, Councillors: Gary Burroughs, Norm Arsenault, Al Bisback, Clare Cameron, Wendy Cheropita, Stuart McCormack, John Wiens

### **REGRETS:**

Councillor Erwin Wiens

### **STAFF:**

Holly Dowd

Rolf Wiens

Official

Warwick Perrin

Peter Todd

Victoria Butters

Chief Administrative Officer

Manager, Enforcement/Chief Building

Supervisor, By-law Enforcement

Town Clerk

Deputy Clerk

### **OTHERS:**

Clifford James

Property Owner

Thomas A. Richardson Sullivan, Mahoney LLP

### **MEDIA:**

### **CALL TO ORDER:**

The Lord Mayor is to call the Special Council Meeting to deal specifically with a Tree By-law Appeal Hearing for 30 Colonel Butler Drive.

Lord Mayor Betty Disero called the meeting to order at 5:05 p.m.

### **CONFLICT OF INTEREST:**

Councillor John Wiens declared a conflict of interest with this matter as he lives within close proximity to the property in question.

### **TREE BY-LAW APPEAL**

#### **30 Colonel Butler Drive**

The Clerk will advise that notice was given on May 3, 2019 to all interested parties.

The following information is being provided to Council Members as per the Town's Tree By-law Appeal procedure.

1. A copy of the Notice of Appeal
2. The complete record before the hearing of the Inspector
3. A copy of the Notice of Appeal Hearing

### **WITNESSES TO BE HEARD IN THE FOLLOWING ORDER:**

The Clerk will advise that notice was given on May 3, 2019 to all interested parties.

All individuals giving evidence before Council on the appeal hearing shall testify under an oath or solemn affirmation.

Statement read:

Do you affirm that the evidence to be given by you in regard to the matters in question between the parties to this proceeding shall be the truth, the whole truth, and nothing but the truth.

1. Town staff, and/or any other witness(es) retained by the Town, shall give evidence as to the position of the Town concerning the tree appeal, upon completion, those individuals who gave evidence on behalf of the Town shall be subject to questioning by Council and the Appellant.

At this time, Warwick Perrin, Manager of Enforcement came forward and summarized the staff findings to Council.

Mr. Perrin stated that this property is a single family detached home, located south of Old Town. Staff became aware of the situation in March of 2019, when the applicant made application to remove a tree. Correspondence was exchanged. Mr. Perrin and Rolf Wiens, Chief Building Official attended the property to inspect the tree in question, which is located in the front of the property. The tree is approximately 15 feet away from the structure and appears to be in

good health. The applicant wanted to remove tree due to the leaves that were blocking his eaves, and the root system that was impacting the foundation of the home. An inspection of the basement found one area that had a damp stain area.

Mr. Perrin stated that the decision was based on what they believed was the intent of Council, which was to save all trees in Town. The applicant was advised of the appeal process.

Mr. Perrin answered questions from Council with regard to the leaves, seepage, distance of tree from house, root system, and addition to house.

Lord Mayor Betty Disero thanked Mr. Perrin for coming forward.

2. Any Interested Parties against the tree appeal shall present evidence, and upon completion shall be subject to questioning by Council and the Appellant.

No one came forward to speak.

3. Any Interested Parties in favour of the tree appeal shall present evidence, and upon completion shall be subject to questioning by Council and the Appellant.

No one came forward to speak.

4. The Appellant shall present their evidence, and may call witness(es) in support of their position, and upon completed those who spoke shall be subject to questioning by Council.

Mr Richardson provided an exhibit book, for Council, to assist with evidence. Mr. Richardson provided details with regard to the property.

Mr. Clifford James, property owner, came forward to provide evidence with Mr. Richardson.

Mr. Richardson and Mr. James answered questions from Council.

Lord Mayor Betty Disero thanked Mr. Richardson and Mr. James for coming forward.

Council proceeded to discuss the details of the tree appeal.

Moved by Councillor Clare Cameron, seconded by Councillor Stuart McCormack that the appeal be granted and the inspector permit the removal of the Locust Tree at 30 Colonel Butler Crescent for Clifford and Ursula James.

A polled vote was called by Councillor Gary Burroughs.

<b>COUNCILLOR</b>	<b>YEA</b>	<b>NAY</b>
Norm Arsenault	X	
Allan Bisback	X	
Gary Burroughs		X
Clare Cameron	X	
Wendy Cheropita	X	
Stuart McCormack	X	
Erwin Wiens (absent)		
John Wiens (conflict)		
Lord Mayor Betty Disero	X	
<b>TOTALS</b>	<b>6</b>	<b>1</b>

**APPROVED.**

## **PROCEEDINGS BY-LAW:**

### **Clerk to read resolution for reading of by-law**

**5159-19-** A by-law to confirm the proceedings at the Special Council Meeting of The Corporation of the Town of Niagara-on-the-Lake on May 13, 2019.

-resolution #1, **BY-LAW RECEIVED THREE READINGS.**

## **ADJOURNMENT**

Moved by Councillor Al Bisback, seconded by Councillor Norm Arsenault that this Special Council adjourn to the following regular meeting being held May 13, 2019.

-resolution #2, **APPROVED.**

## **RESOLUTIONS:**

1. Moved by Councillor Al Bisback, seconded by Councillor Norm Arsenault that leave be given to introduce By-law No. 5159-19 and that the same be considered read a first, second and third time and passed, any ruling of this Council to the contrary notwithstanding.

**APPROVED.**

2. Moved by Councillor Al Bisback, seconded by Councillor Norm Arsenault that this Special Council adjourn to the following regular meeting being held May 13, 2019.

**APPROVED.**

**VERBAL MOTIONS:**

1. Moved by Councillor Clare Cameron, seconded by Councillor Stuart McCormack that the appeal be granted and the inspector permit the removal of the Locust Tree at 30 Colonel Butler Crescent for Clifford and Ursula James.

**APPROVED.**

A polled vote was called by Councillor Gary Burroughs.

<b>COUNCILLOR</b>	<b>YEA</b>	<b>NAY</b>
Norm Arsenault	X	
Allan Bisback	X	
Gary Burroughs		X
Clare Cameron	X	
Wendy Cheropita	X	
Stuart McCormack	X	
Erwin Wiens (absent)		
John Wiens (conflict)		
Lord Mayor Betty Disero	X	
<b>TOTALS</b>	<b>6</b>	<b>1</b>

**APPROVED.**

**ADJOURNMENT: 05:35 PM**

*LORD MAYOR BETTY DISERO*

*TOWN CLERK PETER TODD*



3. Notice of Appeal Hearing.pdf



Notice of Appeal.pdf



2. Complete Record.002.pdf



1. Notice of Appeal.pdf