

**MEETING OF THE HEARING COMMITTEE
OF THE CITY OF GREATER SUDBURY**

Committee Room C-11
Tom Davies Square

Thursday March 12, 2015
Commencement: 4:00 p.m.

TANYA THOMPSON, DEPUTY CITY CLERK IN THE CHAIR

Present

Councillors Cormier; Jakubo; Kirwan; Reynolds; Signoretti

Staff

Tony Cecutti, General Manager of Infrastructure Services; Guido Mazza, Director of Building Services/Chief Building Official; Jamie Canipini, City Solicitor; Dave Shelstead, Director of Roads and Transportation Services; Tony De Silva, Roads Operation Engineer; Darlene Barker, Manager of Compliance and Enforcement Services; Gilles Lefebvre, By-law Enforcement Officer; Kyle Anderson, By-law Enforcement Officer; Tina Whitteker, By-law Enforcement Officer; Lisette Carlson, Tree Warden; Tiffany Lalonde, Animal Control Officer; Darryl Dumoulin, Animal Control Officer; Tanya Thompson, Deputy City Clerk; Lisa Locken, Committee Assistant

**Declarations of
Pecuniary Interest**

None declared.

APPOINTMENT OF COMMITTEE CHAIR AND VICE-CHAIR

**Item 1
Appointment of
Committee Chair
and Vice-Chair**

Report dated February 18, 2015 was received from the Executive Director, Administrative Services/City Clerk regarding the appointment of Committee Chair and Vice-Chair of the Hearing Committee.

Nominations were held for the position of **Committee Chair**.

NOMINATOR

NOMINEE

Councillor Cormier

Councillor Signoretti

Nominations were held for the position of **Committee Vice-Chair**.

NOMINATOR

NOMINEE

Councillor Signoretti

Councillor Cormier

Nominations were closed.

The following recommendation was presented:

HC2015-01 Kirwan/Signoretti: That the City of Greater Sudbury appoint Councillor Signoretti as Chair and Councillor Cormier appointed as Vice-Chair of the Hearing Committee for the term ending December 31, 2015.

CARRIED

COUNCILLOR SIGNORETTI IN THE CHAIR

PRESENTATIONS:

Introduction to
Public Hearings and
the Hearing
Committee

Jamie Canapini, City Solicitor, introduced an electronic presentation, for information only, regarding an overview of the Public Hearing process and the mandate of the Hearing Committee.

PUBLIC HEARINGS

APPEAL OF TREE REMOVAL REQUEST DECISION – 1501 REDFERN STREET

The Hearing Committee meeting was adjourned and the Public Hearing was opened to deal with the following application.

Report dated March 3, 2015 was received from General Manager of Infrastructure Services regarding Tree Removal Request Decision – 1501 Redfern Street.

Paul Difant, the appellant, was present.

Tony De Silva, Roads Operation Engineer, outlined the report.

Tony Cecutti, General Manager of Infrastructure Services, stated the by-law for trees on municipal right-of-ways changed in 2011. The new by-law has a list of approved and not approved boulevard trees. He also stated that a right-of-way is the property ownership between the property line from one neighbour across the street to the neighbour on the other side of the street and the actual property line is behind the sidewalk. He informed that if a tree is planted on the City right-of-way it is owned by the City.

Lisette Carlson, Tree Warden, stated that crab apple trees, as well as all fruit bearing trees, are now on the prohibited list as there are problems with fruit dropping on sidewalks. She stated the City does their best to maintain the trees to lessen the amount of fruit that falls from trees. She also stated the reason Mr. Difiant requested have the tree removed was due to damage it was causing to carpets, and the felled apples in the driveway which caused a slippery walking situation, however the tree is healthy.

Mr. Defiant stated the tree, which is now at least 15 years old, was planted just two feet from the side of the driveway. He stated that he cannot park cars underneath the tree as the branches scratch the roof of the vehicles and the City does come to prune the tree however there are still just as many apples. He stated the apples are all over the driveway causing a mess and a slippery pathway.

Lisette Carlson, Tree Warden, stated that prior to the new tree by-law, two (2) trees per lot were planted on the City right-of-way, now trees are planted one (1) per every 50 feet as an average.

PUBLIC HEARINGS (Cont'd)

APPEAL OF TREE REMOVAL REQUEST DECISION – 1501 REDFERN STREET (Cont'd)

Tony Cecutti, General Manager of Infrastructure Services, summarized that the City acknowledges and sympathizes with the owner. He stated they are aware that there are some trees on the right-of-way that are causing homeowners inconveniences. He informed that most trees have some issues such as leaves that fall and have to be raked up and as for the fact that the crab apples cannot be put through the composting system, they are picked up if they are in brown recyclable bags and dealt with like grass clippings. He stated that he does not feel these issues warrant the removal of this tree.

The Chair asked whether there was anyone in the audience who wished to speak in favour or against this application and seeing none:

The Public Hearing concerning this matter was closed and the Planning Committee resumed in order to discuss and vote on the application.

The following recommendation was presented:

HC2015-02 Jakubo/Kirwani: THAT the City of Greater Sudbury decline the request for tree removal from the road allowance at 1501 Redfern Street, Sudbury.

YEAS: Councillor Reynolds

NAYS: Councillors Cormier, Jakubo, Kirwan, Signoretti

DEFEATED

APPEAL OF TREE REMOVAL REQUEST DECISION – 1585 DOLLARD AVENUE

The Hearing Committee meeting was adjourned and the Public Hearing was opened to deal with the following application.

Report dated March 3, 2015 was received from the General Manager of Infrastructure Services regarding Tree Removal Request Decision – 1585 Dollard Avenue

Katherine Rainville, agent of appellant, was present.

William Cameron, witness for the appellant, was present.

Tony De Silva, Roads Operation Engineer, outlined the report.

Tony Cecutti, General Manager of Infrastructure Services, stated that the City is satisfied that the tree in question is on the City's right-of-way. He advised that tree roots will not go into a sewer pipe that has no defects this only occurs when the pipe is cracked. He stated that a fully functional sewer line with no cracks and tree roots can exist compatibly but this is not the same for weeping tiles, where tree roots will find their way into weeping tiles. He also stated if a homeowner is considering an application for a building permit to do weeping tiles work, and they find evidence of tree root damage, the City will investigate.

PUBLIC HEARINGS (Cont'd)

APPEAL OF TREE REMOVAL REQUEST DECISION – 1585 DOLLARD AVENUE (Cont'd)

Ms. Rainville stated they were initially worried about the foundation and if they start digging and find there is damage she wants to make sure the city will come out and inspect again. There other point is the sewer as the plumbing and sewer lines are being interrupted by tree roots. She informed the cost is approximately \$500 to fix the plumbing problem caused by the tree root. She stated that they would like to rectify the situation of roots coming out of ground and driveway and would prefer to keep the tree if possible.

Lisette Carlson, Tree Warden, stated you can grind the roots down that are protruding and causing problems on the lawn and driveway. She informed that when she visited the home owner they did not mention a complaint about protruding roots as she would have made notes.

Ms. Rainville stated the owners, are elderly and the foundation problem has been causing them personal stress. She stated they would prefer to keep both trees and only one of the trees is causing the trouble.

Mr. Cameron advised that when the City replaced the water lines on the street they placed stakes on his lawn that represented the City's property lines. He stated the silver maple trees were planted by the City and the previous owner of the house planted a Manitoba maple. He stated that Nauss Plumbing measured out to where problem with the sewer line was and measured it to be approximately 45 feet. He stated the tree is not on my property but on the city easement and feels that he should not pay \$500 dollars for damage caused by a tree that he does not own.

Tony Cecutti, General Manager of Infrastructure Services, stated the City pays for blockages that are on the City side of the property. He informed that the repairman calls the City to advise them that there is an issue and the City will go out with a camera to inspect. He advised that if the homeowner has old clay pipes they should get in touch with the water/wastewater department.

The Chair asked whether there was anyone in the audience who wished to speak in favour or against this application and seeing none:

The Public Hearing concerning this matter was closed and the Planning Committee resumed in order to discuss and vote on the application.

**Motion for
Deferral**

Councillor Reynolds presented a motion to defer the foregoing item indefinitely.

CARRIED

The following recommendation was presented:

HC2015-03 Kirwan/Jakubo: THAT the City of Greater Sudbury decline the request for tree removal from the road allowance at 1585 Dollard Avenue, Sudbury.

DEFERRED

PUBLIC HEARINGS (Cont'd)

Recess

At 5:52 p.m. the Hearing Committee recessed.

Reconvene

At 6:25 p.m. the Hearing Committee reconvened.

APPEAL REGARDING VICIOUS DOG NOTICE - #629189

The Hearing Committee meeting was adjourned and the Public Hearing was opened to deal with the following application.

Report dated March 4, 2015 was received from the Acting General Manager of Growth & Development regarding Vicious Dog Notice Appeal - #629189.

Daniel Ross, the appellant, was present

Pauline Dobson, area resident, was present.

Darlene Barker, Manager of Compliance and Enforcement, Tina Whitteker, By-law Enforcement Officer and Darryl Dumoulin, Animal Control Officer, outlined the report.

Darryl Dumoulin, Animal Control Officer, stated the dog does not appear to be aggressive towards people however it does show aggression towards other animals.

Tina Whitteker, By-law Enforcement Officer, stated that all dogs must be leashed on public property as per the by-law. She stated the owner appears to be a responsible owner and has his dogs enrolled in obedience training. She informed that in order to prevent attacks in the future the dog should be muzzled and on a leash. She stated the appellant would like the opportunity for the dog to play in the water, on his property, without these restrictions.

Mr. Ross stated that they have two dogs and there seems to be some confusion as to what dog is being blamed for this incident. He stated his dog Harley was charged when it should have been his red dog, Tonka. He stated that Harley has never bitten anyone, ever, human being or animal and he understands the neighbours' fear of a big red dog coming up the hill towards them. He stated they were hysterical, frightened and scared. He informed that his dogs are always leashed but there have been three occasions when they have bolted from house when they opened the door. He stated that they are working on that problem by taking Tonka, not Harley, to doggy daycare at PetSmart and have her enrolled in a more advance school at Timberlock Dogs where she did quite well. He informed that since then there have not been any issues but she is a skittish dog. He stated they had no issues with their dog until a person they had doggy sitting when they were away, put him up against other dogs to fight which caused him to become very nervous of other dogs. He informed that the dog did bite a friend's lab while Harley stood and watched. He stated that on another occasion the dog bolted and went after a German Sheppard which he bit and they paid for all the medical expenses from that incident. He stated that the dog is good with people but they have to keep him away from other dogs. We also enrolled him at Skiplyn Kennels Dog Training, which are good with big dogs.

PUBLIC HEARINGS (Cont'd)
APPEAL REGARDING VICIOUS DOG NOTICE - #629189 (Cont'd)

He stated that the dog is at the point where he can be around 30 dogs without problems and just ignores other dogs. He stated that they also found a dog discipline organization, Bark Busters In-Home Dog Training, and hired one of their trainers, who works with us and the dogs. I have brought along Pat Leforge who owns the kennel that we have bringing our dogs to for over 30 years and he can tell you Harley is not a vicious dog. He stated that Harley should not be punished for the sins of her brother all she did was run up street to see what was happening that day, and she was confronted by two hysterical women. He stated that the little Yorkie was snapping and biting and Harley just held the little dog down, if she wanted to hurt the Yorkie she could, her head is bigger than the Yorkie. He also stated that he plead guiltily at the hearing, but did not feel he had any other choice. He stated he was told because of all the other incidents there was no chance of the charges being dropped. He stated that to suggest he would allow a dog to attack is ridiculous and if he had known that it would have led to this he would not have plead guilty. He stated that they agree that the dogs are big but they are never walked alone and are always on the leash and they have no issues muzzling both of them. He stated the issue is having Harley deemed vicious when she is definitely not and they live on the water and would like to have the opportunity for her to be able to swim and play Frisbee without a muzzle when at our waterfront.

Tina Whitteker, By-law Enforcement Officer, stated the vicious dog by-law specifically deals with animals on their own properties. She stated that when they are in public the by-law restricts everyone with a dog to a maximum 6 feet leash. She informed that the neighbours on both sides have expressed concerns, especially for their grandchildren.

Darlene Barker, Manager of Compliance and Enforcement, stated there are no specifics on length of leash when on private property, however the vicious dog by-law states the dog must be muzzled at all times when outside.

Mr. Ross stated that they would like to have the muzzle requirement removed while on our property.

Ms. Dobson, area resident, stated she knew the dog that attacked was Harley and we seem to have different recollections of what happened that night. She stated that she has worked in the emergency department for over 15 years, and she does not get hysterical. She stated that she was screaming because a vicious dog was attacking her dog. She stated that she feels that they should be able to walk down their street without feeling threatened that an animal may come running out and attack. She also stated that a year prior to this incident her husband had his hand torn open in an attack by the same dog. She informed that Mr. Ross paid for the bills associated with the attack so they did not pursue it at that time. She stated the reason he did not hurt my dog this time was we had spoke to our vet who taught us how to keep our dog alive if a vicious attack happened again. She informed that Mr. Ross promised them after the first attack, he would socialize his dog and get some training. She stated that they are good neighbours and we are not out to get them, however we had enough. She informed that they do not want the dog put down they just want their community to be safe. She stated that they are okay with the dog having the muzzle off when on his own property and at the beach and would like to see both dogs tied up when on their property. She stated that they

PUBLIC HEARINGS (Cont'd)

APPEAL REGARDING VICIOUS DOG NOTICE - #629189 (Cont'd)

bring their grandchildren to beach and should not be worried about animals running down to attack. She stated that when walking on street he needs to do like us and put the dog on a short leash.

Mr. Ross stated that it is his intention to build a pen in the backyard for the dogs and they tried to build it in the fall but ran out of time but it will be built this spring. He informed that they have taken all the steps they can to ensure the people on the street are safe.

Darlene Barker, Manager of Compliance and Enforcement Services, stated that they are revisiting the animal control by-law in the next couple of years and will address issues such as re-assessing animals after they are rehabilitated.

The Chair asked whether there was anyone in the audience who wished to speak in favour or against this application and seeing none:

The Public Hearing concerning this matter was closed and the Planning Committee resumed in order to discuss and vote on the application.

The following recommendation was presented:

HC2015-04 Jakubo/Kirwan: THAT the City of Greater Sudbury uphold the Vicious Dog Notice #629189, issued to Daniel Ross.

AND THAT the City of Greater Sudbury approves the request of the appellant to modify the Notice to remove the requirement of muzzling only while the dog is on the owners property and swimming, provided that the dog be leashed at all times.

Subject to the following conditions:

- i. maximum length of leash be 2 metres while swimming; and,
- ii. be limited to the water directly behind the owner's home.

YEAS: Councillors Cormier; Jakubo; Kirwan; Reynolds; Signoretti

CARRIED

APPEAL REGARDING VICIOUS DOG NOTICE - #644478

The Hearing Committee meeting was adjourned and the Public Hearing was opened to deal with the following application.

Report dated March 2, 2015 was received from the Acting General Manager of Growth & Development regarding Vicious Dog Notice Appeal - #644478.

Beverly Marsh, the appellant, was present.

PUBLIC HEARINGS (Cont'd)
APPEAL REGARDING VICIOUS DOG NOTICE - #644478

Sandra Marsh, witness of the appellant, was present.

Darlene Barker, Manager of Compliance & Enforcement Services, outlined the report.

Tiffany Lalonde and Darryl Dumoulin, Animal Control Officers, were present

Proceed Past
7:30 p.m.

THAT this meeting proceed past the hour of 7:30 p.m.

CARRIED BY TWO-THIRDS MAJORITY

Ms. Beverly Marsh stated she thought she was allowed to have her dog tied in her yard as long she was not near anyone. She stated that she was not aware that she had to be muzzled as well and had originally put her dog on a chain but switched to a rope as it tangled and had to be removed.

Tiffany Lalonde, Animal Control Officer, stated when she visited Ms. Marsh's property the dog was on a thin rope and not muzzled and the dog could easily have bitten anyone.

Ms. Beverly Marsh stated this whole thing stems back to this particular neighbour who comes out and barks at my dog and gets her riled up. She stated that if her dog is barking it is usually someone going by the house. She informed that one time the neighbour was underneath the trees in the front yard with video camera agonizing the dog and getting evidence. She informed that when the neighbour backs out of driveway he does a stare down with her dog. She stated that the dog is a Sheppard and if she is running at you with her teeth she is going to be scary looking, however she is not a vicious dog. She also informed that for the most part her dog is tied up in her yard, however she cannot give her dog the exercise she needs on 6 foot leash. She stated there is a longer rope in the back yard that does not exceed her property line. She informed that she usually goes to a bush so they can go for a run. She stated that there had been no previous incidents of attacks before and her dog has never bitten this neighbour or anyone else.

Darryl Dumoulin, Animal Control Officer, stated this particular bite incident was reported by someone who had concern for their children and wanted it documented. He stated that Animal Control was advised that someone had been bitten by a dog and the person who reported it was a witness. He stated the office spoke to the victim but she refused to provide testimony and that was why charges were not laid but the victim identified the dog. He Stated it was an unprovoked attacked and they confirmed the registration of the dog to the owner and issued the vicious dog notice. He informed that until the vicious dog notice is appealed or overturned it stays in affect.

Ms. Sandra Marsh, witness of the appellant, stated that she was the prior owner of Katrina the dog until she could not take care of the dog anymore. She informed that Katrina is 10 years old and is walked every day of her life and is not a threat to anyone. She stated her grandson can play with the dog and she has no concerns.

PUBLIC HEARINGS (Cont'd)

APPEAL REGARDING VICIOUS DOG NOTICE - #644478 (Cont'd)

She stated Katrina is now living with her again and she has a compound with five feet high chicken wire fence and would like an end to the muzzle order.

Ms. Beverly Marsh stated when she used to say 'where is your leash, do you want to go for walk?' Her dog used to run around and chase her tail and now she lies on the floor and does not want the muzzle which is so sad. She stated she does not think her dog is a vicious dog.

The Chair asked whether there was anyone in the audience who wished to speak in favour or against this application and seeing none:

The Public Hearing concerning this matter was closed and the Planning Committee resumed in order to discuss and vote on the application.

The following recommendation was presented:

HC2015-05: Jakubo/Signoretti THAT the City of Greater Sudbury uphold the Vicious Dog Notice #644478, issued to Beverly Marsh.

Nays: Councillors Cormier; Jakubo; Kirwan; Reynolds; Signoretti

DEFEATED

APPEAL OF ORDER TO REMEDY #647632 – 634 LASALLE BOULEVARD

The Hearing Committee meeting was adjourned and the Public Hearing was opened to deal with the following application.

Report dated March 3, 2015 was received from the Acting General Manager of Growth & Development, regarding Appeal of Order to Remedy #647632 – 634 Lasalle Boulevard.

Boban Nikolic, the appellant, was present and distributed letters and photos concerning his property.

Darlene Barker, Manager of Compliance & Enforcement Services, and Kyle Anderson, By-law Enforcement Officer, outlined the report.

Mr. Nikolic stated he did not understand why the by-law officer could not come and re-examine the roof to see the repairs had been completed.

Kyle Anderson, By-law Enforcement Officer, stated the order to remedy is given upon the findings of the inspection. The inspection report must be completed by a professional engineer within the timelines outlined in the order to remedy report.

Guido Mazza, Director of Building Services/Chief Building Official, stated this property a six story, part 3 building structure and under the Ontario Building Code, an architect

PUBLIC HEARINGS (Cont'd)

APPEAL OF ORDER TO REMEDY #647632 – 634 LASALLE BOULEVARD (Cont'd)

and/or a professional engineer is required for any repair or construction for this type of building. He also stated when the City inspects a property and sees water penetration they have to be sure the building has not been compromised. He informed the professional engineer would inspect the fire separations, mould, electrical problems and issues with the building envelope. He stated that after the inspection the owner must obtain a building permit to proceed with the repairs. He informed that no building permits were applied for or issued for any repairs at this property.

Kyle Anderson, By-law Enforcement Officer, stated Mr. Nikolic hired a roofing contractor to fix the work without having a professional engineer provide his inspection. He also stated during communications with the owner he was advised that they were going to appeal the order.

Proceed Past
8:30 p.m.

THAT this meeting proceed past the hour of 8:30 p.m.

CARRIED UNANIMOUSLY

Mr. Nikolic stated that in the spring of this year there was a leak in the roof and they took prompt steps to hire a professional contractor, the same one that was involved in the construction of the building, Mannco Roofing. He stated that they repaired the roof by applying a substantial layer of membrane. He stated that the pictures he has submitted were taken March 10th of this year. He informed that he has not heard of any water leaks at this property before. He stated there was substantial rainfall on the day of the inspection and there was a small pinhole in membrane of the roof that caused the leak. He informed that it was repaired and there is no breach of water at this time.

Guido Mazza, Director of Building Services/Chief Building Official, stated the repair work on the roof was done without an inspection by a professional or a permit.

Kyle Anderson, By-law Enforcement Officer, stated when he visited the property to inspect, he spoke with some residents who advised the roof leaking has been an ongoing problem. He also stated the By-law Department has received five previous complaints over the leaking roof since 2012.

Mr. Nikolic stated his family owns many other properties and he was not aware he needed to have a permit to repair the roof. He also stated his father did not want him to cover up the drywall until an inspection had taken place however there are a lot of tenants in this building and he did not feel it was fair to have them staring at an open ceiling for a month and half to two and a half months. He also stated that he disagrees with the statement from the tenants about the roof leaking for seven years and informed that he just became aware of the problem in the spring of 2014.

Guido Mazza, Director of Building Services/Chief Building Official, stated that since 2006, there are three components to any repairs that need to be completed for this type of building; a designer, a contractor, and a municipal department.

PUBLIC HEARINGS (Cont'd)

APPEAL OF ORDER TO REMEDY #647632 – 634 LASALLE BOULEVARD (Cont'd)

He informed that there needs to be professionals involved, as they can use thermal scanners to see damage from the water. He stated that when fixing or replacing a roof, you need to look at all the structural components such as weight of roof, flashing details, rust, mould, and other details.

Mr. Nikolic stated that the Sudbury District Health Unit came out and inspected the building and took some pictures, they did not see any issues with mould or damage. He stated that when they repaired the drywall they took precautions and applied special seals to isolate the mould.

Kyle Anderson, By-law Enforcement Officer, stated that an inspection by the Public Health Unit cannot replace the inspection of a professional engineer.

The Chair asked whether there was anyone in the audience who wished to speak in favour or against this application and seeing none:

The Public Hearing concerning this matter was closed and the Planning Committee resumed in order to discuss and vote on the application.

The following recommendation was presented:

HC2015-06 Signoretti/Jakubo THAT the City of Greater Sudbury uphold the Property Standards Order for Expert Examination #648732 issued to 1277897 Ontario Ltd, owner of 634 Lasalle Blvd, City of Greater Sudbury.

AND THAT the time of compliance be extended to April 30th, 2015.

YEAS: Councillors Cormier; Jakubo; Kirwan; Reynolds; Signoretti

CARRIED

Adjournment

Jakubo/Signoretti: THAT this meeting does now adjourn.
Time: 9:05 p.m.

CARRIED



TANYA THOMPSON, DEPUTY CITY CLERK