

Merrickville-Wolford Planning Advisory Committee Meeting Minutes

2015-10-21

Post Office Box 340
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PAC	Regrets	Staff
S. Hamill (Volunteer)		
J. Ireland (Volunteer)		
K. Janes (Volunteer Committee Chair)		
T. Molloy (Volunteer)		
R. Fournier (Volunteer)	Regrets	
C. MacInnis (Councillor)		
K. Weedmark (Councillor)		

1. AGENDA

The agenda for 2015-10-21 was approved as amended.

Moved: T. Molloy Seconded: S. Hamill Carried

2. DECLARATION OF PECUNIARY INTEREST

None

3. REVIEW AND APPROVAL OF MINUTES

Minutes of 2014-08-17 were accepted

Moved: T. Molloy Seconded: J. Ireland Carried

4. OLD BUSINESS

1. Staff have agreed to provide a laptop for use in the meetings as well as an agreement to rotate the position of recording secretary within the members of PAC.

5. NEW BUSINESS

1. Craig Theriault and Erin Labelle, severance application B-86-15; PAC recommends approval of this application as submitted.

Moved: T. Molloy Seconded: S. Hamill Carried

2. The memo from J. Armstrong regarding quorum was discussed.

6. INFORMATION ITEMS

7. ON-GOING BUSINESS

8. ROUND TABLE

1. The issue of Septic System approval was discussed and it was suggested that the issue be moved to Council for discussion.
2. C. MacInnis has again requested copies of pertinent documents for the new committee members including the Zoning By-Law and the Official Plan.

9. NEXT MEETING

2015-11-16 7:00 PM

10. MOVEMENT TO ADJOURN: 8:15 PM By: S. Hamill

Discussion Regarding
Responsibility for Septic System Approvals in Merrickville-Wolford
Prepared for the Village of Merrickville-Wolford PAC Meeting 2015-10-21

For many years the Health Unit of Leeds, Grenville and Lanark have performed effectively and provided good service to the municipality in their role as a provider of recommendations and approvals to consent granting authorities and the municipal Chief Building Official (CBO) for the approval of building permits. In 1997 an act was passed called the "Services Improvement Act" and became law in 1998 which moved the requirements for septic system design and maintenance from the Environmental Protection Act to the Building Code Act. As a result, these criteria have now been completely defined in section 8 of O.Reg. 332/12 the Ontario Building Code (OBC). This effectively set the stage for a shift of approval responsibility for septic systems from authorities with environmental and health mandates such as local conservation authorities and health units to authorities with responsibility for building and development approvals. The conservation authorities and health units only provide a service to the municipalities and their "upper tier" governments. When these authorities are used by municipalities, their inspectors carry with them full approval responsibility equivalent to a CBO under the act. These arrangements, where they are in place, require that an agreement exist between the municipalities, their upper tier government such as the county and the health unit or other authority. It is unclear to me whether an agreement is on record for our municipality or if the status quo is simply being maintained. Some research through the municipal records should clarify this. As a result of the enactment of the legislation and its amendments, our municipality is no longer in conformance with the letter or the intent of the legislation. There appears to be a reluctance on the part of the province, however to enforce this, likely due to the concern for lack of resources at all levels.

Many municipalities have embraced this shift and have taken on this responsibility by empowering their CBO who already has primary responsibility for all other aspects of the OBC. Some of the advantages of doing so are as follows:

1. The CBO is generally located closer to the subject premises allowing for less travel cost and for the combination of inspections with other activities already performed.
2. The CBO has a more intimate knowledge of the character and objectives of the municipality and its residents.
3. The CBO has direct access to Official Plans, Bylaws and related documents to assist in the decision making process.
4. The CBO carries intrinsic authority for approval of all construction projects in the municipality.
5. The CBO, by virtue of qualifications, training and experience is in the best position to interpret the technical and qualitative requirements of the OBC.
6. The approval process for consents and building permits may benefit from having fewer external steps with uncertain response times.
7. The CBO as a municipal official has the ability to enforce requirements within the municipality such as ensuring that a permit is sought by any resident or business who chooses to install or modify an existing septic system. This will directly improve the long

term environmental health of the municipality by ensuring that septic systems needing repair are brought up to standard.

8. The municipality would be seen to be in conformance with the legislation.

Opting out of the current arrangement and transferring this responsibility will require discussion between the municipality and the county to ensure that a transition is managed with no chances of negative environmental impacts and to ensure that the interests of the public and the rate payers are protected. Obviously discussions will also be required between Council and staff including the CBO to chart a course internally toward this goal.

John Ireland P.Eng FEC

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Ref:

1. Building Code Act, 1992 S.O. 1992, Chapter 23
2. ONTARIO REGULATION 332/12 BUILDING CODE (The Ontario Building Code)

Excerpt from an article written by Gary McKay of the Canadian Environmental Law Association (CELA)

The passage of the *Services Improvement Act, 1997* and the proclamation of Schedule B to that Act into law on April 6, 1998 transferred the regulation of smaller septic systems from Part VIII of the *Environmental Protection Act* to the *Building Code Act* (1992). The building code itself has been extensively revised and a new Part 8 has been inserted to regulate the installation and operation of septic systems. Smaller septic systems are those whose design flow is for less than 10,000 litres a day, and the system is located wholly on the lot of the building which the system serves.

Formerly, regulatory provisions relating to septic sewage systems were usually administered and enforced by boards of health of Regional and District health units. Municipal Chief Building officials and their inspectors are now charged with enforcement.

Although the *Building Code Act* allows municipalities to enter agreements with upper tier municipalities or with certain agencies such as conservation authorities or health boards to have those other bodies administer the provisions of the building code as to sewage systems, the Province has only mandated that this be done in Northern Ontario. A new section 2.15.1.1 has been added to the code designating particular Northern health boards and a conservation authority as the responsible bodies.

In contrast, in the Greater Toronto Area there has been a steady devolution of the control of septic systems from regional health units to local municipalities, as part of their over-all responsibilities for building code matters.

An additional feature of the legislative changes is a new requirement for the testing and licensing of installers of sewage systems. Prior to the enactment of new provisions in Part 2 of the building code there was no requirement or regulation of installers of septic systems. In the words of one municipal official, septic systems were previously installed by anyone who knew how to operate a backhoe. Now an examination must be passed to obtain a licence to be an installer.

The new Part 8 of the building code sets out 5 different classes of septic systems in a uniform and detailed fashion. The regulations describe those systems and make provision for such matters as: clearances of systems from bodies of water, requirements as to depth and anchorage of septic tanks and holding tanks, and standards for operation and maintenance of septic systems. Under the *Building Code Act*, a Chief Building Official (CBO) has an obligation to issue a building permit under Section 8 of the Act, unless specified matters are not met. He or she may refuse to issue a permit if any "applicable laws" are contravened. "Applicable laws", means any act, regulation or by-law which prohibits construction unless those laws have been adhered to. Accordingly, a CBO can refuse a building permit if provisions of the building code pertaining to septic systems are not being met.

Some people may be concerned that small septic approvals are generally no longer being handled by health unit staff and are now monitored by municipal building staff. However, the new requirements of training for inspectors of sewage systems, the requirement for the testing and licensing of installers, and a more regulated regime to govern septics under the building code, should mean our ground and surface waters will be no less protected.

Gary McKay is a municipal law lawyer practicing in Toronto. This article was written while he was doing volunteer work for CELA.

This excerpt is an addendum to: Discussion Regarding Responsibility for Septic System Approvals in Merrickville-Wolford
prepared by:

John Ireland P.Eng. FEC

2015-10-21

