

New policies could be in the offing as Aurora tackles encroachments

By Brock Weir

Aurora residents are set to approach Council this week to speak out against removing encroachments from their properties onto municipal rights of way ? but some Councillors question whether a July 15 deadline to rectify the problem is the best way forward.

Councillors last week spent over an hour-and-a-half debating two recommendations from municipal staff calling for the denial of two encroachment agreements on properties within Aurora. One issue stems from a property on Pineneedle Drive while the other, which garnered considerably more discussion, concerns a bank of cedar hedges on a Mendy's Forest property.

In this instance, the owner of the property argues the hedges were planted with the permission of an employee of the Town of Aurora over five years ago, a position the Town disagrees with. The municipality offered the resident a \$1,000 payment ?as a goodwill gesture? to aid in the relocation of the hedges, but whether this should be done at all was a question that divided Council.

Responding from questions from Council, Town Clerk Stephen Huycke said there had been ?several issues? cited surrounding these hedges, including the height and sightline issues where Mendy's Forest meets Orchard Heights. Following a delegation to Council from the property owner, members around the table offered different viewpoints on how this issue should be addressed.

?It is obvious from the resident's explanation that he did all he could do at the time of implementing his hedges,? said Councillor Sandra Humfries. ?We contacted the resident in 2011 stating our concerns, he abided.?

Councillor Humfries said it appeared the placement of the hedges did not become a problem in 2014 when the resident complained about snow removal in adjacent catch basins and added she didn't want to make an ?example? out of this property. This was a view shared by Councillor Tom Mrakas who agreed that although this was a clear example of an encroachment, the resident came to the Town seeking permission and was granted.

?Now we're going to turn around and say you have to remove [the hedges],? he said. ?I don't think that is right.?

Added Councillor Wendy Gaertner: I can't see that the resident did anything but follow a very logical process. I consider the resident completely blameless in this situation. I just can't support this motion.?

Other Council members, however, could. One particular overriding concern of those supporting the denial of the encroachment agreement was safety stemming from the sightline issues, as well as Aurora's ability to assert its property rights.

?Staff have clearly indicated it is not necessarily about the trees itself, but that they believe the encroachment is impacting both operations and public safety, and the encroachment agreement will not address those concerns of safety and impacting Town operations,? said Councillor Michael Thompson. ?We have to look at the best interests of the Town as a whole. When we're talking about public safety and impact to the Town and its operations, I wish there was a better solution.?

Although Councillor Paul Pirri said he wished there was ?better communication? with the resident, the safety issue needs to be addressed.

?For me, that is paramount,? he said. ?I still think we have to do what is best for the municipality on the whole. If ever there was an accident in this location because somebody couldn't see, I would feel personally responsible for that and that is not something I could support.?

Councillor Jeff Thom expressed a similar view, but questioned the urgency of setting a July 15 deadline when policies are coming, potentially as early as the fall, to help guide Council's decision-making in situations like these.

?We're going to be potentially denying this one and the next one, but are we personally going to be going through 3,700 of these things at Council?? asked Councillor Thom, citing the potential number of identified encroachments in Aurora. ?I think that is a huge waste of time. If we set up a policy, my concern is we could set up a policy that might deal with these situations differently than the way we might deal with them tonight.?

Mayor Geoff Dawe agreed, and said a clear process was what was ?lacking? to ensure fairness.

?What are we doing to actually put something in place so that it doesn't seem we're?complaint driven [with our bylaw enforcement], which is not a great way to do it, really,? he said. ?Is there something we're doing to actually proactively manage this and to deal with residents who may be encroaching? If about 25 per cent are encroaching, that means 75 per cent are compliant, so we shouldn't penalize those who comply.?