

Judicial review investigated over cell tower

By Brock Weir

A judicial review could be the next phase in the saga surrounding the Bell Canada cell tower looming over west Aurora on the King boarder.

Councillors voted Tuesday to seek legal advice on applying for a judicial review over the tower process, following an appeal from residents, led by John Cunningham. Council's decision came on the heels of a report the previous week outlining missteps along the way which ultimately lead to the tower's construction. The report brought up a lengthy debate amongst Councillors at the committee level.

Municipal staff will take the King Township cell tower debacle 'on the chin' and apologise to Council and residents over their handling of the file, according to Aurora CAO Neil Garbe.

Mr. Garbe made his comments last week as Council tackled the report on how to better communications with residents and various levels of government when future proposals for telecommunications towers are received by the Town.

As The Auroran reported last week, Councillors were set to review new protocols which would ensure that situations which happened this spring when residents on the west side of Town were dismayed to find a multi-storey cell phone tower looming over their neighbourhood with little notification, would no longer occur.

Recommendations include ratcheting up Aurora's protocols in making sure a wider net is cast in notifying residents of impending plans, and making sure that tower proposals come directly to Council for approval, rather than it being just a matter for the planning department as it is now.

Reviewing the report, there were apologies all around.

The sticking point was the fact a staff member in Aurora's planning department responded with a simple 'no comment' to communications sent by consultants on behalf of Bell Canada for the tower, which was built in King Township, just a few metres over the Aurora-King border at Bathurst Street.

The response was sent not by Planning Director Marco Ramunno, as it should have been, but by a staff member.

'There is no good reason why we would have done it this way because our process wasn't followed,' said CAO Neil Garbe. 'In that respect, I think staff should take it on the chin and apologise to Council and its residents because the email response had a ripple effect and did impact on the residents' ability to respond in that matter.'

'I will say that it is very sad this process, that staff, I feel, could be unfairly hung that the reason the Tower was there was because we said 'no comment.' I think that is grossly unfair. It is clear that Bell and their consultant had no interest in a meaningful dialogue with us, not its residents.'

The 'breakdown in process', he added, has been corrected. Misrepresentations, he said, were made on the part of the consultant to King, who said they notified more residents than they actually did. While he reiterated that staff will 'take it on the chin', he minced no words for Bell.

'I will firmly push it back to Bell and the process was grossly inadequate to handle something of this significance,' he said.

These words, however, were not enough for Councillor Wendy Gaertner who said they missed the mark.

'It's the residents who really have to take it on the chin and the buck has to stop somewhere,' she said. 'The buck has to stop at the Town of Aurora and the planning department.'

This statement did not go over well in some quarters of Council, with Councillor John Abel, for instance, saying he took "great exception" to her statement.

Council considered the new measures to tighten up the communications process just hours after Industry Canada, the ultimate regulator of telecommunications towers across the country, rejected Aurora's request to go into dispute resolution with Bell Canada over the Tower. Word was received Tuesday morning, said Town Solicitor Warren Mar.

"The jurisdiction of the local land use authority was King Township and therefore Bell Canada followed their protocol as necessarily required by Industry Canada and King Township, and therefore, Industry Canada considers the matter closed in terms of dispute resolution," said Mr. Mar.