

Lawyer advises Council to keep mum on Mavrinac park

By Brock Weir

Aurora residents east of Bayview Avenue will have to wait for the foreseeable future to find out all the details discussed by Council behind closed doors on a six acre plot of land they are fighting to turn secure for parkland.

Councillors voted against a motion last week by Councillor John Gallo calling for all non-confidential information discussed in closed session by Council to be released to the public. Their decision followed strong words from Town Solicitor Warren Mar recommending Aurora keep their cards close to their chest given what could transpire on this land in the future.

Earlier this month, Council ratified a decision to exercise its right of first refusal on the six acre parcel of land previously reserved by the York Catholic District School Board in the 2B Development, which is roughly the neighbourhood radiating out of the northeast corner of Bayview and Wellington.

After the school board shifted gears and decided they no longer needed the land, a 2007 subdivision agreement says Aurora has the right of first refusal to purchase the land from Minto Communities, the current landowner. Minto, however, represented by lawyer John Mascarin, vehemently opposed Council's view at a recent meeting, stating Aurora had no right of refusal whatsoever.

Given the adamant stance of Minto, Councillors have predicted the Town might be bound for a legal fight on the matter.

"At some point we should let the residents know as much as we can and it is up to Council to figure out whether now is the right time or not," said Councillor John Gallo on releasing the information to the public. "I have no issues with releasing all of the [non-privileged information] we have discussed in closed session regarding the issue."

For Councillor Michael Thompson, it was a matter of "honouring commitments" made to the public to make this information public, but asked Mr. Mar if he had any "concerns" about making the follow through. He replied he had serious reservations on taking that next step.

"I wouldn't want to put the Town's position at risk in relation to this particular matter," said Mr. Mar. "I don't believe any of the materials or the reports are appropriate for release to the general public at this time."

Council, however, pressed on. In response, Councillor Thompson said Mr. Mar's view presented a particular challenge.

"Even though many of us expected it to go in the way it seems to be going ? could go, potentially go ? there were all these promises made to the residents about getting information out, even though a lot has been said behind closed doors. ?I do hope all the information needs to come out because I still don't feel the residents have the whole picture."

Taking an alternate route, Councillor Chris Ballard questioned whether there was another way forward, including having Mr. Mar release a redacted version of the file.

"[We want something that] can't damage the Town, but at some point I want to make sure the correspondence and reports we have discussed behind closed doors are available for the entire community to read."

Mr. Mar, however, was unmoved and said he had concerns about "everything" discussed.

"I would advise Council strongly not to release any information because I would consider it, especially at this time, all solicitor-client privilege and I expressed to Council my concerns relating to that."

Closed session confidentiality, he added, governs land sales and similar transactions, and solicitor-client privilege is an extra layer in

that regard. He added he would not advise any privilege be waived as doing so ?could be to the detriment? of Aurora's position.

?There are items in there that are non-privileged materials, such as reports,? countered Councillor Gallo.
That's not the case anymore, advised Mr. Mar.

?There were items that may have been discussed that were simply covered by closed session confidentiality,? he said. ?I would suggest to Council now, based on events, could now be covered by certain levels of solicitor-client privilege. They have transitioned themselves into that based on circumstances I have discussed with Council in closed session. I can foresee a time when I think it will be appropriate to release that information, [but] I can't say when that would be.?

Councillor Gallo's motion was defeated, with only himself, and Councillors Ballard and Wendy Gaertner voting in its favour. Those voting against the motion said they were convinced by how ?strong? Mr. Mar advised against releasing any information.

?I would respect our residents and the taxpayers and I would heed the advice of our Town Solicitor,? said Councillor John Abel. ?I think we can confidently say when the matter is closed, all the information will be released at that time and it is a fairly common sense approach.?