

Property rights take 'step in the right direction' after Council vote

By Brock Weir

It was hailed by some members of Council as 'a step in the right direction' and, last week, new measures on how local bylaw officers may enter onto your property took that all-important stride.

Last Tuesday, Council ratified their decision made at the previous week's Committee meeting to start a one-year pilot project which will carry out a series of changes designed to combat complaints over right of entry.

Changes were first proposed this past February, but were since honed further following Council input.

Further modifications are expected later this spring when the bylaw department will propose an official registry of vacant buildings and a new set of rules on how these properties should be kept.

In the future, entry onto private property 'rear or side yard, as defined in the bylaw' may be denied by the property owner or occupant. As such, Bylaw Officers will need to consult with the Director and together a decision will be made on whether or not to seek a search warrant, depending on the nature of the complaint.

Bylaw will no longer be entering onto vacant private property without consent to cut grass in response to neighbour complaints, either.

At the Committee level, Councillor Paul Pirri voted in favour of the recommendations, stating that his final opinion might change in the intervening week.

He said, at the time, that the stats just weren't there to show that this was a problem Council needed to address and, by the time last week's Council meeting came about, he gave the measures a firm no.

'I was fine with it being a recommendation to Council, but I wasn't sure how I was going to vote,' he reiterated. 'I just wanted to justify that I won't be voting for it and the reason for that, as I stated last week, I think we need to collect more data to know if there is a problem or not. I recognize this will be collecting data, but to make a decision before the data is collected, I am not 100 per cent comfortable with that position. I am happy to vote against this now and see how the pilot works its way [through].'

While he said he understood Councillor Pirri's position, Councillor Tom Mrakas said support should come down to a 'simple' question and answer: 'Do you believe that bylaw has a right to enter onto your private property without your consent? yes or no??' 'I think that's what it comes down to,' said Councillor Mrakas. 'Should they get a warrant? Regardless of how much data you get, analyse and look at, that's the same question that is going to be asked and you're going to have to answer. My answer is, no, you should get a warrant if you don't have that consent, and that's what is in front of us. I am in favour of it.'

A similar viewpoint was offered by Councillor Harold Kim, who made an effort to look at both sides of the equation.

'I am not sure it is that simple [as] if you're comfortable allowing bylaw onto your property or not,' said Councillor Kim. 'It's like saying, do you believe in giving up some of your freedoms for the overall safety of the public? I'm willing to do that. It's hard to go for one side or the other, I am sure we can go back and forth?and I am in favour of the motion.

'This is a one year pilot and I think that is the key thing here. During those 12 months, staff will outline some key facts that they're going to be collecting, and collecting the information is going to be hugely important in collecting the facts and [whether] we're going to continue on with this indefinitely or not.

'I am sure Aurora being the leader it is, we're going to be looked at by other municipalities to see whether this will work or not. I am curious as well. That is the reason why I am all for this. I know it might be painful for staff, but it is going to be a 12 month experiment or project that is going to be well worthwhile.'

There are, within the new rules, provisions that bylaw might enter onto a property if there is an emergency situation, or if they perceive there might be a hazard or a safety issue.

This was a point both Mayor Geoff Dawe and Councillor Wendy Gaertner were keen to stress.

'I do believe it comes down to a question of property rights, with the caveat that if something is happening and you need to take action, that you have that capability,' said Mayor Dawe.