

**City of Port Colborne
Special Council Meeting 33-19
Minutes**

- Date:** November 25, 2019
- Time:** 6:30 p.m.
- Place:** Council Chambers, Municipal Offices, 66 Charlotte Street, Port Colborne
- Members Present:** M. Bagu, Councillor
E. Beauregard, Councillor
G. Bruno, Councillor
R. Bodner, Councillor
F. Danch, Councillor
A. Desmarais, Councillor
D. Kalailieff, Councillor
W. Steele, Mayor (presiding officer)
H. Wells, Councillor
- Staff Present:** D. Aquilina, Director of Planning & Development
T. Cartwright, Fire Chief
A. Grigg, Director of Community and Economic Development
A. LaPointe, Acting Director of Corporate Services/City Clerk
S. Shypowskyj, Acting Director of Engineering and Operations
H. Mahon, Planning Technician/Clerk (minutes)
C. Madden, Deputy Clerk
P. Senese, Interim Chief Administrative Officer

Also in attendance were interested citizens, members of the news media and WeeStream.

1. Call to Order:

Mayor Steele called the meeting to order.

2. National Anthem:

Those in attendance stood for O Canada.

3. Confirmation of Agenda:

No. 198 Moved by Councillor H. Wells
Seconded by Councillor G. Bruno

That the agenda dated November 25, 2019 be confirmed, as circulated or as amended.
CARRIED.

4. Disclosures of Interest:

Nil

5. Public Hearing Under the Planning Act:

Application for Official Plan Amendment and Zoning By-law Amendment
Planning and Development Department, Planning Division, Report 2019-181,
Subject: Public Meeting Report for Official Plan and Zoning By-law Amendment
Cannabis Production

(i) Purpose of Meeting:

Mr. Aquilina advised that the purpose of this meeting, pursuant to Sections 22 and 34 of the Planning Act, is to present proposed cannabis production facility policies and regulations to Council and the Public.

(ii) Method of Notice:

Mr. Aquilina advised that Notice of the Public Meeting was administered in accordance with Sections 22 and Sections 34 of the Planning Act, as amended, and Section 3 of Ontario Regulation 543/06 and Section 5 of Ontario Regulation 545/06.

Notice of this Statutory Public Meeting was circulated to all applicable agencies on November 4, 2019 and was advertised in the Port Colborne Leader on October 24, 2019. Public notice was also posted on the City's website.

Mr. Aquilina also advised that on November 13, 2019, an Open House was held that displayed staff's proposed regulations for commercial cannabis facilities. Approximately 10 members of the public attended including Councillors Bagu and Wells.

(iii) Explanation of Procedure to be Followed:

Mr. Aquilina advised that the procedure to be followed this evening will be to present Department of Planning & Development Report 2019-189, to hear any comments from the applicant, to receive questions of clarification from Council to Planning Staff, to open the meeting to the public for comments and questions, to announce the requirements under the Planning Act for written notice of passage of the proposed official plan and

zoning by-law amendment, and to provide a brief explanation of future meetings regarding the application.

(iv) Presentation of Application for Official Plan and Amendment and Zoning By-law Amendment:

Mr. Aquilina provided some background information. He noted that cannabis production is not permitted due to an Interim Control By-law enacted by Council. The 1 year Interim Control By-law has been extended to allow new regulations to be put into place. The Planning report proposes to redefine the definition of “Medical Marihuana Facility” to that of a “Cannabis Production Facility” and to recognise that a cannabis production facility be permitted in the Light and Heavy Industrial zones as well as the Gateway Zone provided they meet certain conditions. The conditions are that operations can only occur within a completely enclosed building and not within a greenhouse. The production site must also be located at least 70m from any sensitive land use ie; a school and residential use. Current provisions for Medical Marihuana facilities in the Agricultural and Rural zones are also proposed for a Cannabis Production facility.

Mr. Aquilina advised that during the Public Open House a comment was received from Lorie Tokala stating that she is in support of medical cannabis operations but believes that the distance of 70m should be increased to 150m.

Mr. Aquilina also advised that the Official Plan will be amended to include the new definition of a “Cannabis Production Facility” to the Industrial, Gateway, Agricultural and Rural zone and to delete the definition of “Medical Marihuana Facility” and use within the Industrial/Employment designation. Mr. Aquilina further outlined the definition of “Cannabis” and “Cannabis Production Facility”.

Mr. Aquilina advised that Regional comments had been received and their only objection to the proposed changes are that they did not want to exclude cultivation of cannabis from outdoor facilities.

(v) Questions of Clarification to Planning Staff:

Councillor Wells questioned Mr. Aquilina on enforcement of odour and lighting. Mr. Aquilina advised that it would be enforced as part of a site plan agreement. Other licensing requirements are under Federal regulation. Councillor Wells questioned how the distance of 70m from a sensitive land use was determined. Mr. Aquilina advised that the 70m would pertain only to lands within the urban area. Lands zoned Agricultural and Rural would require a 150m separation distance.

Councillor Bodner noted the difficulty in dealing with Health Canada regarding complaints about odor. He questioned whether tougher regulations could be put into place. Mr. Aquilina advised that this could be done through site plan agreements. Mr. Aquilina also noted that what was permitted back in 2014 is different from what is permitted today. Cannabis Production is only permitted in industrial type buildings in the urban area where the odor is contained and not in greenhouses.

Councillor Bodner questioned whether the City will be challenged by the Region if Cannabis Production is not permitted outdoors. Mr. Aquilina advised that he will speak to them further on this matter.

Councillor Danch questioned whether the regulations will affect the operation of greenhouses now. Mr. Aquilina advised that the existing businesses have been grandfathered in. Any new facilities will be governed by the new regulations.

Councillor Kalailieff questioned whether this means medical marijuana will be permitted on Welland Street as it has been rezoned to Light Industrial. Mr. Aquilina advised that Council did not permit its use in that location.

Councillor Bruno questioned Mr. Aquilina as to whether any new applications have been made. Mr. Aquilina advised that he was approached several months ago but he does not have any applications at this time.

Councillor Bruno questioned Mr. Aquilina on whether any similar decisions or LPAT cases have been made by other municipalities, as well as what timeframe is being considered. Mr. Aquilina responded that he plans to bring forward his report to Council in the New Year. He noted that not many municipalities have this bylaw in place. Pelham, Niagara Falls, and N-O-T-L have citizen advisory groups who are to bring forward their proposals in the summer.

Councillor Bruno questioned the proposed distance as it pertains to odor and lighting and whether this can be dealt with first. Mr. Aquilina responded that the intent is for Council to address the whole by-law.

Councillor Desmarais advised that Norfolk County has dealt with this issue and suggested that Mr. Aquilina contact them for more information. Councillor Bodner also requested that staff provide a map to help identify the affected areas such as the Gateway zone. Mr. Aquilina agreed to contact Norfolk County for more information and to provide the mapping with his report.

(vi) Oral Presentations and/or Questions by Public:

Melissa Bigford of 173 Chippawa Road addressed Council. Ms. Bigford stated that she would like to see the setback made greater especially for the sensitive areas. She asked that conditions such as odor and lighting be included in the actual By-law rather than site plan agreements. Mr. Aquilina advised that there are policies in place in the Official Plan and that he will look into it for the Zoning By-law.

Mayor Steele advised that two delegations Anna Marie Fazari and Alexander Fazari of 3359 Concession 3 had requested to make an oral presentation, however they were not in attendance at this time.

Mayor Steele questioned Mr. Aquilina on whether a decision on the distance separation needed to be made by Council at this time. Mr. Aquilina advised that he will do some more research and bring it back to Council at a later date.

Councillor Bodner questioned the status of any existing or new Medical Marihuana facilities and how they are being regulated. Mr. Aquilina advised that the existing one along Highway 3 has been grandfathered in and there has not yet been a building permit issued for this facility. Mr. Aquilina also noted that any new facilities would need to comply with the new licensing requirements as well as having to make a Site Plan agreement.

Mr. Aquilina advised the public of a sign in sheet located at the rear of the room for those who wish to be notified of any future notices regarding this application. He then read the following cautionary statements:

“If a person or public body does not make oral submissions at a public meeting or make written submissions to the City of Port Colborne before a decision on the proposed Official Plan and Zoning By-law Amendments are passed by Council, the person or public body is not entitled to appeal the decision of the City of Port Colborne Council to Local Planning Appeal Tribunal”

And;

“If a person or public body does not make oral submissions at a public meeting, or make written submission to the City of Port Colborne before a decision on the proposed Official Plan and Zoning By-law Amendments are passed by Council, the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there is reasonable grounds to do so.”

- (vii) Announcement Respecting Written Notice of Passage of the Official Plan and Zoning By-law Amendment:

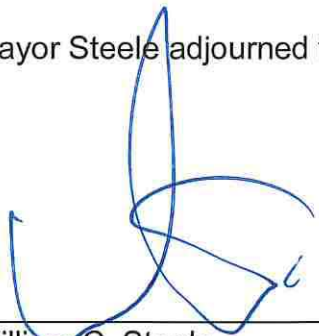
Mr. Aquilina advised that if anyone wishes “to be notified of the approval of the official plan and zoning by-law amendment they must make a written request to the City Clerk. Only those persons and public bodies that give the clerk a written request for the notice of the adoption and passing of a zoning by-law amendment will be given notice.”

- (viii) Explanation of Future Meetings:

Mr. Aquilina advised that this concludes the Public Hearing Under the *Planning Act*. The proposed amendments will be placed on Council’s agenda at a future meeting.

6. **Adjournment:**

Mayor Steele adjourned the meeting at approximately 7:10 p.m.



William C. Steele
Mayor



Amber LaPointe
City Clerk

Minutes prepared by the Department of Planning and Development.

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Proposed Official Plan and Zoning By-law Amendment for Cannabis Production Facility

File: D09-01-19 and D14-04-19

Purpose of Application

- The Official Plan is proposed to be amended by adding the definition of a “Cannabis Production Facility”, the use of a Cannabis Production Facility to the Industrial/Employment Lands, Gateway Zone, Agricultural and Rural and designations and by deleting the definition of a “Medical Marijuana Production Facility” and use within the Industrial/Employment designation.
- The Official Plan for cannabis production will also be amended to ensure compatibility with neighbouring land uses through installation and operation of odour and light mitigation systems; odour and light control, maintenance and monitoring plans, servicing and maintaining appropriate setbacks from sensitive receptors as detailed in Zoning By-law 6575/30/18 and through Site Plan Control.

The Zoning By-law Amendment proposes that a cannabis production facility be permitted in the Light and Heavy Industrial and the Gateway Zone provided they meet the following conditions:

1. all operations related to the production, storage and processing of cannabis occur within a completely enclosed building but not a greenhouse.
2. the site is located is at least 70 metres from any property used for a school or any residential use.

The Zoning By-law Amendment also proposes to delete reference throughout of Medical Marihuana Production Facility and replace it with Cannabis Production Facility and further that cannabis cultivation is not permitted outdoors in any zone.

The current provisions for medical marihuana facilities in the Agricultural and Rural zone are proposed to be in place for a Cannabis Production Facility.

The Zoning By-law Amendment proposes to add the following definitions:

“Cannabis”: means a cannabis plant, including the phytocannabinoids produce by or found in such a plant regardless of whether that part has been processed or not and any substance or mixture of substances that contains or has on it and part of such a plant and any substance that is identical to a phytocannabinoid produced by or found in such a plant regardless of how the substance was obtained. Marihuana shall have the same definition.

“Cannabis Production Facility”: means a facility structure for the cultivation, processing, packaging and shipping where cannabis is produced by a federally licensed producer and can be for the production of medical or recreational cannabis.

Existing

Zone Requirements – Medical Marihuana Production Facility

- | | | |
|----|---|---|
| a) | Minimum Lot Frontage | 75 metres |
| b) | Minimum Lot Area | Permitted only on an existing lot having a minimum size of 3 hectares |
| c) | Maximum Lot Coverage | |
| | i) Lots less than 5 hectares | 30 percent |
| | ii) Lots 5 hectares to 10 hectares | 10 percent |
| | iii) Lots greater than 10 hectares | 5 percent |
| d) | Minimum Front Yard | 30 metres |
| e) | Minimum Interior Side Yard | 16 metres |
| f) | Minimum Corner Side Yard | 30 metres |
| g) | Minimum Rear Yard | 30 metres |
| h) | Minimum Separation to Sensitive Land Use | 150 metres |
| i) | Where a lot line of a lot containing a Medical Marihuana Production Facility abuts a sensitive land use, then that part of said lot directly adjoining such lot line shall be used for no purpose other than a planting strip having a minimum width of 1.5 metres, measured perpendicularly to <u>said</u> lot line. | |
| j) | Outside storage of goods, materials or other supplies is not permitted. | |
| k) | Where a building or structure consists of more than 40% glass and where artificial lighting is required an opaque fence shall be provided and maintained adjacent to every portion of any lot line that abuts a sensitive land use. | |
| l) | 1 parking space shall be provided for every employee on the largest shift. | |
| m) | Servicing for the facility shall be designed by a Qualified Professional, identifying the source of irrigation water, water quantities required and the effects of same on the groundwater table and nearby wells. | |

Permitted in the following zones:

Rural, Agricultural, Light and Heavy Industrial and the Gateway Zone