

**THE CORPORATION OF THE MUNICIPALITY OF NEEBING**  
**MINUTES OF THE SPECIAL MEETING OF COUNCIL,**  
**SITTING AS COMMITTEE OF THE WHOLE**

Held at the Municipal Office  
On Wednesday, July 31, 2019

**PRESENT:** Mayor Erwin Butikofer  
Councillor at Large Gordon Cuthbertson  
Crooks Councillor Brian Wright  
Scoble Councillor Brian Kurikka  
Pearson Councillor Gary Gardner

**REGRETS:** Blake Councillor Mark Thibert  
Pardee Councillor Curtis Coulson

Rosalie A. Evans, Solicitor-Clerk

**1. PRELIMINARY MATTERS:**

- (a) Call to Order: Mayor Butikofer called the meeting to order at 5:40 p.m.
- (b) Attendance: Attendance was recorded.
- (c) Declarations of Interest:

No declarations of interest were brought forward.

**2. APPLICATION TO AMEND THE OFFICIAL PLAN (SCHEDULE "B" MAPPING) AND AMENDED APPLICATION TO AMEND THE COMPREHENSIVE ZONING BY-LAW 2017-035:**

**2.1 Report from Solicitor/Clerk regarding the Amended Application**

The Solicitor-Clerk overviewed the report. She advised that the Ministry of Municipal Affairs and Housing ("MMAH") had not as yet provided "one window" comments, but that she had received a telephone call that afternoon from Mr. Robert Eady, who provided a thumbnail-sketch outline of what the comments would say. He advised that the formal comments, which would contain far more detail, would be "forthcoming".

The Solicitor-Clerk provided an outline of the Provincial comments, which were set out in 6 key points.

As a background, over-arching comment, it is noted that the MMAH considers this property to be in a "prime agricultural area" as defined in the PPS.

- 1. PPS 2.3.3.1: In prime agricultural areas, the only permitted uses and activities are agricultural uses, agriculture-related uses and on-farm diversified uses. A medical clinic does not fall within these types of uses. The MMAH disagrees with Administration's description of the area as a "node of commercial activity". Rather, the Ministry states all of the uses are agriculture-related. So, it is a "node of agriculture-related activity". The Solicitor-Clerk indicated she did not share that opinion, but understands that others do.

2. PPS 2.3.3.3: Any new land uses must comply with the minimum distance separation formulae. No analysis has been undertaken to demonstrate compliance.

The Solicitor-Clerk stated she believes that this application would fall under MDS I, which provides the minimum distance separation between proposed new development and **any existing livestock barns, manure storages and/or anaerobic digesters**.

Municipalities are responsible for ensuring that the requirements of MDS are met when reviewing land use planning applications or building permits. Some municipalities will ask an applicant to provide the information necessary for the municipality to complete the calculation of MDS. In other cases, a municipality may request that an applicant provide a calculated MDS setback. The MMAH comments will state that an MDS analysis is required. The Solicitor-Clerk suggested that this input could be addressed through an additional condition for removal of the "H" holding symbol from the by-law, in the event that Committee was prepared to recommend that Council approve the amended application.

3. PPS 2.3.6.1: Where non-agricultural uses are proposed in prime agricultural areas, the developer must establish that:
  - The land is not a "specialty crop area"
  - MDS is complied with
  - There is an identified need within the planning horizon to have additional land be designated to accommodate this use
  - Alternative locations have been evaluated and it has been concluded that there are no reasonable alternative locations either avoiding prime agricultural land altogether, or moving to lands with lower agricultural priorities.

The MMAH states this analysis must be undertaken.

The Solicitor-Clerk explained the definition of "specialty crop area" as set out in the PPS. She also expressed her opinion that this site represents a site within a prime agricultural land area which has "lower agricultural priorities".

4. PPS 2.3.6.2: Any impacts on existing agricultural operations and lands must be identified and mitigative measures proposed. (This would address traffic, noise, and other potential concerns.) The MMAH states this analysis must be undertaken. The Solicitor-Clerk suggested that this input could be addressed through an additional condition for removal of the "H" holding symbol from the by-law, in the event that Committee was prepared to recommend that Council approve the amended application.
5. PPS 2.3.5: The only time that land can be removed from prime agricultural areas is to establish or expand a settlement area (meeting appropriate tests in policy 1.1.3.8) and that is not what we are doing here. The Solicitor-Clerk outlined for those present what a "settlement area" is, and that Neebing has no "settlement areas" at present, and it is not Council's intention to propose one.

6. Neebing's Official Plan policies need to be addressed, specifically 2.17 (requirement to buffer incompatible land uses); 6.9.4 (requirement for site plan control) and rural land use policies (flexibility is permitted in rural areas, but not in agricultural areas).

The Solicitor-Clerk asked Mr. Eady whether there would be comments with respect to Administration's conclusion that the Northern Growth Plan policies supersede the Provincial Policy Statement unless there are concerns relating to the environment or human health. Mr. Eady indicated that the MMAH does not disagree with that statement, but it is not going to be addressed in the comments that we will receive.

The Solicitor-Clerk asked Mr. Eady whether the circulation for "one window" comments had included the Ministry of Northern Development and Mines. He responded that he did not believe that it did, but that he would confirm that.

## 2.2 Public Meeting Relating to the Application

### (a) Presentation by Applicant

The Applicant, Joseph Zawada, was asked if he wished to make opening remarks. Although he made some comments, they did not address the amended application directly. No members of Council had questions of the Applicant. This portion of the meeting was concluded at 6:04 p.m.

### (b) Submissions of persons opposed or in favour of the Amended Application

As there were no further questions from members of Council, Mayor Butikofer called for anyone present in the gallery who wished to speak in favour of the application.

Mr. Ziggy Polkowski addressed the assembly to re-assert his support for the application. He felt it would support additional medical doctors who would be able to take on patients who currently do not have a family doctor. He believes that young families moving in to Neebing would be users of the clinic. He stated that in his "17 years in politics" he had "never heard of a more important" development for Neebing.

Ms. Barb Rankin advised that she is in favour of a medical clinic because it is good for all residents. In weighing the loss of hay production and medical care, she comes down in favour of medical care. She asked whether the Applicant would address the number of patients that the clinic would be able to manage, and whether nurse practitioners would be included.

Mrs. Mildred Koukusa spoke in favour of the clinic and stated that others in her family were in support as well.

There being no further speakers in favour of the clinic, Mayor Butikofer called for anyone present in the gallery who wished to speak in opposition to the clinic.

Mr. Ben Breukelman reminded the assembly that he had submitted comments previously, and stood by them. He was pleased the Province agreed with comments that he and others had previously made – that prime agricultural land should be protected. He agrees with the Province, and not the Solicitor-Clerk, that the property is within a node of agricultural, not commercial, activity. He asked Council to consider how this re-zoning would impact neighbours, particularly, the Thunder Bay Co-op.

Mr. Darren Fisk, manager of the Thunder Bay Co-op, reminded members present of his letter dated February 28<sup>th</sup>. He stated he agreed with the summary of the MMAH comments provided by the Solicitor-Clerk. Because of the category of the soil present, he would equate this site to one of a “specialty crop area”. He provided his opinion that the Thunder Bay Co-op is an agricultural business. Mr. Fisk responded to questions from members of the Committee.

Mr. Ed Breukelman expressed his opposition to the clinic. He feels it is not needed in the area because it would be on prime farm land. He feels that allowing the change would set a precedent. He suggested that the industrial park in Murillo would be a better location for the medical clinic. Mr. Breukelman seeks detail on what services the proposed clinic would offer. He expressed his opinion that the area is currently very busy with farm-related traffic. Mr. Breukelman responded to questions from members of the Committee.

Dr. Christina Mol commented that, although the subject property alone may be small, it is part of a contiguous area of prime agricultural land that stretches from Oliver Paipoonge into Neebing. She referenced the huge rise in interest in local food and agricultural products. This property would be a prime area for vegetable production or for orchards. She referenced the first Canadian Pommellier certified. Apples are a high value crop. She felt that cider production could provide as many jobs as a medical clinic.

Mrs. Wilma Mol referenced her two previous written submissions. She stated she is not opposed to a medical clinic in general – but not on this particular site because of the agricultural soil. She is opposed to a business that invites people to come into the agricultural area – where – in comparison – the dairy business ships its products away from the area. She felt the driveway location had been moved to avoid requirements of the Ministry of Transportation. She expressed concern that increased traffic caused by the clinic would mean alterations to the intersection would be required in future at Neebing taxpayers’ expense.

Mrs. Mol referenced the letter submitted previously by the Thunder Bay area food strategy. She referenced a recent article in the magazine “Better Farming” and commended it to members’ reading. She expressed concerns with “regular” traffic mixing on the roads in this area with farm vehicle traffic. She and other members of her family have witnessed “near misses” that could have been serious accidents because people are too impatient to follow traffic rules when trying to avoid slow-moving farm vehicles. Mrs. Mol responded to questions from Committee members.

Mrs. Amy Breukelman asked council to look at this very carefully. Provincial policy states that alternative locations must be evaluated. She asked Council to look around this huge township and find another site for the clinic. Mrs. Breukelman submitted a letter to the Clerk for Council’s consideration.

Ms. Sandra Meyer advised she is present representing the Thunder Bay Federation of Agriculture. The Federation would support a medical clinic, but not at this location. She reiterated that the Province considers the property part of a prime agricultural area, and that 18 acres is a lot of farm land to lose. She referenced the letter she had previously submitted. She urged the assembly to require the MDS analysis – which exists to protect farmers and their non-farming neighbours.

This portion of the meeting concluded at 6:54 p.m.

(c) Further Comments by Applicant

There being no further persons present wishing to speak, Mayor Butikofer asked the Applicant whether he wished to respond to comments or questions raised.

Mr. Zawada advised that the clinic will provide services to the public to assist in keeping people healthy. He feels that the re-zoning is the first step, and once that process has concluded, recruitment of doctors would take place. He feels the clinic would be beneficial to the community.

(d) Debate By Committee – Recommendation to Council

Mayor Butikofer expressed his views in favour of the clinic. It would be a “cornerstone” for the community.

Councillor Cuthbertson advised those present that the only commercially zoned land in Neebing at present is the old “Cloud River Trading Post” site, which would not be suitable for the clinic.

Councillor Wright advised those present that he had worked in the grain industry for many years, and considers agriculture to be very important. He thanked everyone for coming, whether they spoke in favour or against the development. He expressed his view that this is a very difficult decision. Considering the community as a whole, however, he feels the clinic would be beneficial.

Mayor Butikofer called for a motion with respect to the applications before Council.

Rec. No. 2019-07-003

Moved by: Councillor Wright

Seconded by: Councillor Gardner

BE IT RESOLVED THAT, with respect to Mr. Zawada’s application for an amendment to the Neebing Official Plan, Committee of the Whole recommends that the Council approve the application, as follows:

**THAT, a public meeting having been held with respect to the application by Joseph Zawada relative to property municipally known as "3935 Highway 61", and legally described as Part of the North Part of Lot 10, Concession One, in the Municipality of Neebing (geographic Blake Township) and the District of Thunder Bay, being Part 1 on Reference Plan of Survey 55R-3438, excluding Part 1 on Reference Plan of Survey 55R-4425, Schedule "B" to Neebing's Official Plan be amended to change the designation on the map for this property from "Agricultural" to "Rural";**

**AND, FURTHER, THAT the necessary by-law be presented to the Municipal Council for ratification;**

**AND, FURTHER, BE IT RESOLVED THAT, with respect to Mr. Zawada's application for a site-specific amendment to the Comprehensive Zoning By-law, Committee of the Whole recommends that the Council approve the application, as follows:**

**THAT, a public meeting having been held with respect to the application by Joseph Zawada relative to property municipally known as "3935 Highway 61", and legally described as Part of the North Part of Lot 10, Concession One, in the Municipality of Neebing (geographic Blake Township) and the District of Thunder Bay, being Part 1 on Reference Plan of Survey 55R-3438, excluding Part 1 on Reference Plan of Survey 55R-4425, Schedule "B" to Neebing's Zoning By-law Number 2017-030, be amended to change the zoning shown on the map for this property from "Agricultural" to a dual zone, "Rural" and "General Commercial", with a "special condition" label BL-16, all subject to the "H" hold provision;**

**AND, FURTHER, that, subject to the "H" hold provision, Special Condition # BL-16 be added to the text of the By-law as Section 5.3.16, as follows:**

**The property to which this special condition applies, referred to as the "Subject Property" is legally described as Part of the North Part of Lot 10, Concession One, in the Municipality of Neebing (geographic Blake Township) and the District of Thunder Bay, being Part 1 on Reference Plan of Survey 55R-3438, excluding Part 1 on Reference Plan of Survey 55R-4425.**

**On August 7, 2019, the Subject Property had municipal address 3935 Highway 61, and Assessment Roll Number 58-01-030-006-03501-0000.**

**The Subject Property has dual zoning, both "Rural" and "General Commercial".**

**Except where they contravene the provisions of this special condition, the provisions of this By-law that apply to lots in the Rural Zone apply to this lot.**

**The General Commercial Zone is applied to this lot together with the Rural Zone for the purpose of allowing development of a portion of the north part of the lot as a medical clinic.**

No person shall use this lot, or erect, alter or use any building or structure for any purpose, except in accordance with the regulations set out in this Section 5.3.16.

A medical clinic is permitted on that portion of the Subject Property illustrated in Schedule "A" to this By-law Number 2019-031.

Access to the medical clinic shall be from Boundary Drive West.

Separation is to be maintained between the existing Rural Residential use on the property and the medical clinic, and the two uses on the lot are not to share an access driveway to any highway.

The medical clinic shall have a maximum floor area of three hundred (300m<sup>2</sup>) square meters.

Setbacks imposed by senior orders of government must be adhered to.

The medical clinic may contain retail operations, either stand-alone, or as accessory uses to the uses set out in the next paragraph of this Special Condition, for pharmacies or for the retail sale of home health care supports to assist persons with disabilities with functional requirements and/or to facilitate such persons remaining in their homes.

The medical clinic may contain offices for any or all of the following medical practices:

- (1) general practitioners;
- (2) medical specialists, excluding any set out in the following paragraph;
- (3) physiotherapists;
- (4) chiropractors;
- (5) naturopaths;
- (6) dentists;
- (7) nurse practitioners;
- (8) midwives or doulas; or
- (9) pharmacists.

The medical clinic may not contain medical facilities wherein patients remain on the premises overnight, adult or child day care facilities, abortion clinics, sanatoria, hospice facilities or methadone clinics.

In addition to the permitted uses listed above, accessory uses, including laboratories, x-ray facilities, patient waiting rooms and physiotherapy equipment centers are permitted.

AND FURTHER, THAT, the special "H" hold provision be applied to the amending by-law, to be lifted at such time as the owner enters into a site plan agreement for the proposed medical clinic, which provides detail relating to the siting of the

building or buildings on the property, access and egress, exterior finishing, signage, landscaping and parking.

and that the necessary by-law be presented to the Municipal Council for ratification.

AND FURTHER, Committee recommends that Council clearly state its reasoning for the approval of these applications, being:

- Overall, Council is satisfied that the application represents “good planning”;
- Although the Provincial Policy Statement contains several policies relating to the preservation of “agricultural” official plan designations and zones on properties such as this one, with very rich soil, the size and configuration of the property, together with its proximity to highway use and commercial/quasi-industrial use, prevent agricultural uses on any kind of decent scale;
- Although the Provincial Policy Statement contains many policies opposed to the conversion of agricultural land for other uses, the Northern Growth Plan contains many policies that support the application, *and the Northern Growth Plan is to take precedence over the Provincial Policy Statement unless there are health and safety risks to people, or environmental risks, neither of which apply to this application;*
- While the Council does not consider conversion of agricultural land to non-agricultural uses to be appropriate as a general rule, in weighing the merits of the retention of the agricultural designation and zone to the merits of the development of a medical clinic, the latter is seen as an appropriate circumstance in which to do so, taking all of the factors and policies into consideration; and
- The approval of this Application is based on its individual merit and is not a precedent for any future development applications, each of which will also be analyzed based on their individual merit.

Before further debate occurred, a resolution was moved to amend the recommendation.

Res. No. 2019-07-004

Moved by: Councillor Cuthbertson

Seconded by: Councillor Wright

BE IT RESOLVED THAT, the motion on the floor be amended to include, as one of the conditions of the removal of the “H” holding provision, that the Applicant undertake the required MDS I analysis.

**CARRIED ✓**



There being no further debate, Mayor Butikofer called for a vote on the main motion, as amended:

Rec. No. 2019-07-003

Moved by: Councillor Wright  
Seconded by: Councillor Gardner

BE IT RESOLVED THAT, with respect to Mr. Zawada's application for an amendment to the Neebing Official Plan, Committee of the Whole recommends that the Council approve the application, as follows:

THAT, a public meeting having been held with respect to the application by Joseph Zawada relative to property municipally known as "3935 Highway 61", and legally described as Part of the North Part of Lot 10, Concession One, in the Municipality of Neebing (geographic Blake Township) and the District of Thunder Bay, being Part 1 on Reference Plan of Survey 55R-3438, excluding Part 1 on Reference Plan of Survey 55R-4425, Schedule "B" to Neebing's Official Plan be amended to change the designation on the map for this property from "Agricultural" to "Rural";

AND, FURTHER, THAT the necessary by-law be presented to the Municipal Council for ratification;

AND, FURTHER, BE IT RESOLVED THAT, with respect to Mr. Zawada's application for a site-specific amendment to the Comprehensive Zoning By-law, Committee of the Whole recommends that the Council approve the application, as follows:

THAT, a public meeting having been held with respect to the application by Joseph Zawada relative to property municipally known as "3935 Highway 61", and legally described as Part of the North Part of Lot 10, Concession One, in the Municipality of Neebing (geographic Blake Township) and the District of Thunder Bay, being Part 1 on Reference Plan of Survey 55R-3438, excluding Part 1 on Reference Plan of Survey 55R-4425, Schedule "B" to Neebing's Zoning By-law Number 2017-030, be amended to change the zoning shown on the map for this property from "Agricultural" to a dual zone, "Rural" and "General Commercial", with a "special condition" label BL-16, all subject to the "H" hold provision;

AND, FURTHER, that, subject to the "H" hold provision, Special Condition # BL-16 be added to the text of the By-law as Section 5.3.16, as follows:

The property to which this special condition applies, referred to as the "Subject Property" is legally described as Part of the North Part of Lot 10, Concession One, in the Municipality of Neebing (geographic Blake Township) and the District of Thunder Bay, being Part 1 on Reference Plan of Survey 55R-3438, excluding Part 1 on Reference Plan of Survey 55R-4425.

On August 7, 2019, the Subject Property had municipal address 3935 Highway 61, and Assessment Roll Number 58-01-030-006-03501-0000.

The Subject Property has dual zoning, both "Rural" and "General Commercial".

Except where they contravene the provisions of this special condition, the provisions of this By-law that apply to lots in the Rural Zone apply to this lot.

The General Commercial Zone is applied to this lot together with the Rural Zone for the purpose of allowing development of a portion of the north part of the lot as a medical clinic.

No person shall use this lot, or erect, alter or use any building or structure for any purpose, except in accordance with the regulations set out in this Section 5.3.16.

A medical clinic is permitted on that portion of the Subject Property illustrated in Schedule "A" to this By-law Number 2019-031.

Access to the medical clinic shall be from Boundary Drive West.

Separation is to be maintained between the existing Rural Residential use on the property and the medical clinic, and the two uses on the lot are not to share an access driveway to any highway.

The medical clinic shall have a maximum floor area of three hundred (300m<sup>2</sup>) square meters.

Setbacks imposed by senior orders of government must be adhered to.

The medical clinic may contain retail operations, either stand-alone, or as accessory uses to the uses set out in the next paragraph of this Special Condition, for pharmacies or for the retail sale of home health care supports to assist persons with disabilities with functional requirements and/or to facilitate such persons remaining in their homes.

The medical clinic may contain offices for any or all of the following medical practices:

- (10) general practitioners;
- (11) medical specialists, excluding any set out in the following paragraph;
- (12) physiotherapists;
- (13) chiropractors;
- (14) naturopaths;
- (15) dentists;
- (16) nurse practitioners;
- (17) midwives or doulas; or
- (18) pharmacists.

The medical clinic may not contain medical facilities wherein patients remain on the premises overnight, adult or child day care facilities, abortion clinics, sanatoria, hospice facilities or methadone clinics.

In addition to the permitted uses listed above, accessory uses, including laboratories, x-ray facilities, patient waiting rooms and physiotherapy equipment centers are permitted.

AND FURTHER, THAT, the special "H" hold provision be applied to the amending by-law, to be lifted at such time as the owner:

- (a) enters into a site plan agreement for the proposed medical clinic, which provides detail relating to the siting of the building or buildings on the property, access and egress, exterior finishing, signage, landscaping and parking; and
- (b) supplies a MDS I formula analysis for the development that is acceptable to the Council;

and that the necessary by-law be presented to the Municipal Council for ratification.

AND FURTHER, Committee recommends that Council clearly state its reasoning for the approval of these applications, being:

- Overall, Council is satisfied that the application represents "good planning";
- Although the Provincial Policy Statement contains several policies relating to the preservation of "agricultural" official plan designations and zones on properties such as this one, with very rich soil, the size and configuration of the property, together with its proximity to highway use and commercial/quasi-industrial use, prevent agricultural uses on any kind of decent scale;
- Although the Provincial Policy Statement contains many policies opposed to the conversion of agricultural land for other uses, the Northern Growth Plan contains many policies that support the application, *and the Northern Growth Plan is to take precedence over the Provincial Policy Statement unless there are health and safety risks to people, or environmental risks, neither of which apply to this application;*
- While the Council does not consider conversion of agricultural land to non-agricultural uses to be appropriate as a general rule, in weighing the merits of the retention of the agricultural designation and zone to the merits of the development of a medical clinic, the latter is seen as an appropriate circumstance in which to do so, taking all of the factors and policies into consideration; and

- The approval of this Application is based on its individual merit and is not a precedent for any future development applications, each of which will also be analyzed based on their individual merit.

**CARRIED ✓**


**3. ADJOURN THE MEETING:**

There being no further business to attend to, Mayor Butikofer adjourned the meeting at 7:10 p.m.

**SPECIAL MEETING OF COUNCIL, SITTING AS COMMITTEE OF THE WHOLE**



Erwin Butikofer  
MAYOR



Rosalie A. Evans  
SOLICITOR-CLERK

