



MINUTES

**Of a Special Meeting of the Council of the City of Kenora
Wednesday, July 26, 2023
City Hall Council Chambers
4:00 p.m.**

Live Stream Recording: <https://kenora.civicweb.net/document/18724/?splitscreen=true&media=true>

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**With** Mayor A. Poirier in the Chair, Councillor Robert Bernie, Councillor G. Chaze (arrived at 4:15 p.m.), Councillor L. Moncrief, Councillor B. Manson, Councillor K. Van Belleghem

**Regrets:** Councillor L. Koch

**Staff:** Kyle Attanasio, CAO, Heather Pihulak, Director of Corporate Services/City Clerk, Janis Pochailo, Director of Planning & Building Services, Ryan Marsh, Director of Finance, Stace Gander, Director of Economic Growth & Recovery, Greg Breen, Director of Engineering & Infrastructure, Roberta Marsh, Director of Human Resources, Risk and Insurance, David Pratt, Director of Fire & Emergency Services

## **Call to Order**

Mayor Poirier called the meeting to order at 4:00 p.m.

## **Land Acknowledgment**

***Delivered by Councillor Van Belleghem***

As we gather, we recognize that we are on Treaty Three Lands which are steeped in rich Indigenous history and home to many First Nations and Metis people today. We continue to be thankful for the partnerships with Indigenous people.

We give thanks for the many blessings we enjoy in the City of Kenora. We seek wisdom in our minds, clearness in our thinking, truth in our speaking and always love in our hearts, so that we may try always to unite the Citizens of Kenora. Let these principles guide us in our decision making.

## **Special Welcome – Ambassador Summer Students**

Mayor Poirier welcomed our Ambassador Summer Students, Akbar Imran and Alexa Romas. The City is excited to have them part of our summer team here at the City and they are playing an important role in the City this summer. These students have been working hard walking our Harbourtown Centre, greeting our visitors and directing and assisting them as needed. They also stop in and check on our local businesses daily to assist in any way they can.

## **Public Information Notices as per By-law Number 160-2022**

Mayor Poirier then read the following notices:-

As required under Notice By-law #160-2022, Council hereby advises the public of its intention to adopt the following at today's meeting:-

- Amend its 2023 Operating & Capital Budget at its July 26, 2023 special meeting to reallocate funds in the amount of \$100,000.00 from newly generated recycling revenue currently being directed to the Operating Budget to the Capital Program Budget, which will offset the cost of a detailed bridge assessment of the Portage Bay bridge

### **Declaration of Pecuniary Interest & General Nature Thereof**

Mayor Poirier then asked if any Member of Council had any Declarations of Pecuniary Interest and the General Nature Thereof pertaining to any items as follows:-

- i) On Today's Agenda or from a previous Meeting
- ii) From a Meeting at which a Member was not in Attendance

Councillor Chaze declared a direct pecuniary interest on D09-23-02 and D14-23-07. Councillor Chaze is co-owner and broker of record of the brokerage involved in representing the applicant or applicant's agent. (declared upon his arrival to the meeting)

### **Planning Public Proceedings:**

#### **Official Plan Amendment File No. D09-23-02 – 43 Rabbit Lake Road Zoning Bylaw Amendment File No. D14-23-07 – 43 Rabbit Lake Road**

**Location:** 43 Rabbit Lake Road  
**Owner:** The Estate of Mary Jane Duncan  
**Agent:** McGowan Russell Group (Susan Russell)

### **Applicant Presentation(s)**

Mr. Keith Merkle, Edge Corp, and Susan Russel from McGowan Russell Group Inc. provided a brief overview of the project. This is the Duncan Farms residences. The Duncan family has owned that property over 120 years. 14.5 acres and think it is a great site because of many characteristics and great location. It is flat and has great topography and features.

Ms. Russel described that from an environmental impact lens, the characteristics make this development ideal. It has access to all municipal services. It is relatively flat with minimal rock and natural land drainage, existing preservation of forestry. Opportunities to naturalize the existing creek area that was largely converted for farming fields. Native trees throughout the property.

Two apartment buildings range in size 1-2 and 3 bedrooms. Over 100 units. 87 and 63 and those are town homes of two storey bungalow. 70 of those – total close to 300 residences. 217 units. Hoping to make them economical and cater to a wide range of residents. Parking there will be some taken away and create more of a park space. Requests from some to have play structure incorporated. Overall, 217 units and preserve park area that will have accessible trails through there.

Provincial Policy Statement and Official Plan gives clear criteria as to what is to be designated as residential use. The overview of the engagement that was undertaken. There

was a public meeting that was advertised, and flyers were delivered personally to residents and businesses within 120 meters. Information boards were displayed, and they collected comments at the meeting. Provided survey for participants to fill out held June 29<sup>th</sup>. There was 15 people in attendance at the meeting, and ten which completed the surveys. The survey results showed tremendous support for the development and none of the participants provided negative comments or opposition. Survey comments were all positive.

Councillor Chaze arrived at the meeting at 4:15 p.m.

Jeremiah Kopp, solicitor for EdgeCorp Group and consults on very complex issues. There are complex areas of the law that are rapidly evolving with land use planning decisions. Everyone's interests here is twofold. The first is to deliver high quality housing that Kenora badly needs. The second is to cooperate with Indigenous partners and communities and engagement is robust and come together with a vision of what the project looks like. These are mutually achievable goals. Moving the project forward while continuing consultations with the two First Nations. The two First Nations have opposed the development because in their view it is likely to have a negative effective on their Treaty Rights. EdgeCorp is more than willing to continue discussions with the First Nations and they continue to reach out to set additional meetings. It is just not practical to halt all land use and planning decision in the interim. The decision today won't impact whether those treaty use assets are impacted.

The Planning Advisory Committee ultimately recommended the approval of the redesignation to Council as the application is today, it does not pose any risk to the treaty assets. The proposed development is still subject to site plan approval and the proposed activity is what the First Nations is opposed to. That can continue to be worked out through this process. The decision before Council today is only about redesignation and rezoning. There is a way to move the project forward simultaneously while still working with the First Nations.

An important backdrop to all this is that EdgeCorp to date has complied with all obliged requirements under Ontario law. Additional obligations to First Nations will arise, but it doesn't displace the Official Plan and Provincial Policy.

The purpose and point and want to present before Council today is that these two goals do not have to be competing. It does not have to be separate and distinct that we work together. Committed to working together moving forward. Will continue to do so and continue to fulfil obligations under common law. This project will deliver much needed housing in the City of Kenora and will commit to continue to fulfil obligations under common law and the Planning Act.

### **City Planner Report/Rationale**

Janis Pochailo provided the planning report to Council in advance of the meeting. Council is considering a change to the Official Plan and Zoning bylaw that will enable future development on the property with 217 units but when talking about changes at the zoning level, its not tied to a project, its changing the land use from industrial to residential. That is the decision before Council today, whether it is a good decision to change the use of that land. The proponent has provided the criteria confirmation that it has been met.

The reason the criteria is in place is to ensure that there is sufficient industrial land in the City and the department has determined that there is sufficient industrial lands in the city and some could be surplus. Most of the industrial land is in the vicinity of the airport.

We can control some things by site plan control. We can look at archeologic information, require environmental information, we can ensure the development is safe and appropriate for the people of Kenora. We have no municipal concern from that point of view.

The concerns that colleague expressed at the Planning Advisory Committee meeting was the grey area in consultation. Those policies leave room for interpretation and leave the decision to rest with Council as to what is appropriate consultation in the City of Kenora and how do we want to proceed to have positive relations with our neighbours.

There has been correspondence received between the First Nations. Site plan control is an administrative process and does not come back to Council to advise that we have met their obligations. There will be a level of trust that it will happen. Our department will do everything can to ensure maintained. When looking at zoning amendments, weigh that and consider the engagement that has happened and have met minimum requirements. This is a decision for Council on how best we proceed. The Planning department does continue on this project to get it advanced and looking for direction from Council at this time.

### **Public Comment**

Any person may express his or her views of the amendment and a record will be kept of all comments.

Mr. John Barr lives at 131 Rabbit Lake Road. Have owned and lived on the property, which is 370 meters east of proposed development, for 50 years. Support the applications for the amendments for a number of reasons. The Duncan Farms property is zoned highway commercial and if you left it highway commercial, you could have that as a truck stop if you wanted to. If you wanted to look at other potential uses, a training centre, but the reality is that there are other sites that are zoned institutional. Given the relatively flat topography and availability to services, local services, and distance to downtown, one would reasonably conclude that this is best served as residential development on the property. The Planning Advisory Committee agreed with that position.

We constantly hear about the need for housing and lack of appropriate housing. The rezoning of the property would see construction of housing that is badly needed and attractive to working professionals. Market housing geared to entry level purchasing within the range of \$350,000 to \$400,000. In addition, the PAC meeting confirmed that the development is a gated community with no gates. These types of developments pay a fee and takes care of plowing, street lights, etc. the possibility of the development will be a stepping stone for improvements to Rabbit Lake Road and Rabbit Lake area and recreational attractions it already enjoys.

### **Questions of Council**

Any member of Council may ask questions of both the applicant and City Planner.

Councillor Manson requested to understand what it is the First Nations is asking the proponent to do to satisfy the First Nations.

Duty to consult ultimately rests with the Crown, the Federal and Provincial government. The proponent wants to continue to have further discussions, and these conversations are important, but does take time. Speaking with latest correspondence, it is more time. They want to have another conversation with Council and the developer so are seeking more time.

Kelsie Van Belleghem everything hearing from EdgeCorp, appreciate the time and effort to delve into this and continue the relationship. There is not a specific ask, but concerns around road and access as well as Rabbit Lake Road improvements. We are not making a decision on this development, but on rezoning and the bylaws. There are improvements for Rabbit Lake Road scheduled for 2026.

Councillor Moncrief – using the terms consultation and engagement interchangeable and don't believe it's the same. Specifically tell us the difference. The Provincial Policy Statement requires us to engage and coordinate on land use planning matters. The word coordinate is an interesting choice. Our Official Plan talks about appropriate and adequate opportunities to participate in planning process. Very vague terminology. We have had opportunities and legislated opportunities, which have been met. We have a public process and have received letters. The minimum requirements have been met and Official Plan states recognize the cultural values and heritage of First Nations and Metis population and engage Grand Council Treaty 3 and have invited their engagement. We have done these things, and if Council is satisfied that these requirements have been met you have the right to make this decision. We are on a changing landscape, and we are trying hard to recognize and respect our neighbours. No one is saying this is an easy decision. Going forward, if the Planning Department feels this is awkward process, we should consider those changes at the time to improve that.

Engagement doesn't mean approval or non-approval.

No other questions.

Councillor Chaze arrived late to the meeting, and now declared his pecuniary interest as noted above.

## **Special Council Presentations/Deputations**

### **Rural Roads Report Presentation – Stantec**

Mark Edgar from Stantec Engineering presented the rural roads report to Council. The northern roads study is essentially all the roads north of the bypass. There is approximately 117 kms of roads.

The report is still in draft form and once it is finalized, it can be publicly posted and will come to the September Committee of the Whole meeting for receipt by resolution.

### **D09-23-02 & D14-23-07 – 43 Rabbit Lake Road**

#### **1. Moved by L. Moncrief, Seconded by K. Van Belleghem & Carried:-**

That applications D09-23-02 and D14-23-07 to amend the Official Plan designation of the subject property 43 Rabbit Lake Road from Industrial Development Area to Residential

Development Area and to change the zoning of the subject property from "HC" Highway Commercial Zone to "R3" Residential – Third Density Zone be hereby approved; and further

That three readings be given to two bylaws for this purpose.

**Councillor Chaze Abstained.**

**Discussion:** Council would like to see Administration come up with procedures on how we will work through these in a cohesive, respectful and engaging way in the future. We at the Council table are here for four years, and people at the table will change and we need to embed in our systems and procedures and act on that.

**Budget Amendment – Portage Bay Bridge Study**

**2. Moved by K. Van Belleghem, Seconded by L. Moncrief & Carried:-**

That Council hereby approves a budget amendment, in the amount of \$100,000.00, to facilitate advancing the detailed assessment of the required maintenance, repair and potential replacement of the Portage Bay Bridge, and further

That in accordance with Notice By-law Number 160-2022, public notice is hereby given that Council intends to amend its 2023 Operating & Capital Budget at its July 26, 2023 special meeting to reallocate funds in the amount of \$100,000.00 from newly generated recycling revenue currently being directed to the Operating Budget to the Capital Program Budget, which will offset the cost of this detailed bridge assessment; and further

That Council give three readings to a by-law to amend the 2023 budget for this purpose.

**Bylaws**

**3. Moved by B. Manson, Seconded by R. Bernie & Carried:-**

That the following By-laws be now read a First & Second Time, and approved in their present form and presented for Third & Final Reading:~

#107-2023 - D09-23-02 – Official Plan Amendment – 43 Rabbit Lake Road

#108-2023 – D14-23-07 – Zoning Bylaw Amendment – 43 Rabbit Lake Road

**Bylaws**

**3a. Moved by R. Bernie, Seconded by L. Moncrief & Carried:-**

That the following By-law be now read a First & Second Time, and approved in its present form and presented for Third & Final Reading:~

#109-2023 – Budget Amendment – Portage Bay Bridge Study

**Adjourn to Closed Meeting**

**4. Moved by G. Chaze, Seconded by K. Van Belleghem & Carried:-**

That pursuant to Section 239 of the Municipal Act, 2001, as amended, authorization for Council to move into a Closed Session at 5:13 p.m. to discuss items pertaining to the following:-

- i) Disposition of Land (3 matters-dispose of municipal land, partnership of municipal land, request for municipal land)

**Close of Meeting**

**5. Moved by R. Bernie, Seconded B. Manson & Carried:-**

That this meeting be now declared closed at 8:25 p.m.

**The Corporation of the City of Kenora**

**Confirmed As Written This .....Day**

**Of.....2023**

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**Mayor**

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**City Clerk**