

# Town of Riverview

## COUNCIL REPORT FORM



Presented to: Mayor and Town Council

Department: Colin Smith, CAO

Date: May 23, 2017

Subject: Rogue Business advertisement signs and portable signs

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### **BACKGROUND**

At the Committee of the Whole meeting on April 24, 2017, Councillor Coughlan brought forward his concern about the number of business signs, etc. that have been posted on NB Power poles in the Town of Riverview and requested that Public Works staff be asked to remove those signs. There were concerns expressed about the unsightly nature of these signs and members of Council wanted the signs removed. Members of Council also discussed how, in the past, Town staff had been directed to remove those signs. The Director of Economic Development also raised the issue of portable business signs and how that had been an issue discussed in the past by Council and residents. Portable business signs were going to be addressed in the last update of the Municipal Plan, but that was rejected because of the opposition from the business community. As CAO I indicated that before we take action, I would review past practice; confirm the Town's authority under the by-law; and bring this issue back for further discussion for Council.

#### ***In the past ...***

On a few occasions over the past ten years, due to complaints from Councillors regarding directional real estate signs and signs on NB poles, Public Works Staff were directed to remove those signs and store them at the garage for pick up from the realtors and business owners. Realtors were also reminded about the zoning by-law and how it only allowed real estate signs on the property for sale. After the Town did this each time there was a period of compliance gained however, the practice would eventually return.

From a staff perspective, the previous catalysis for why individuals wanted this issue addressed was real estate signs and competition concerns.

#### ***Portable Business Signs ...***

In 2010, the Town's By-law Committee, in consultation with the Economic Development Department and GMPDC planning staff, recommended an amendment to the zoning bylaw dealing with signage. The recommendations included permitting portable signs with a fee structure that would encourage businesses to invest in more permanent signage. As well, it was recommended that the downtown

Central Commercial zone not allow any portable signage, although none of these recommendations moved forward at the time due to pressure from the business community.

During the Town's review of its Municipal Development Plan in 2012, the Central Commercial zone was raised again. It was proposed that this zone adhere to a higher degree of design standards including signage. There was quite a bit of pushback from the business community at that time and ultimately, in 2013 when the time came to amend the Municipal Plan and Zoning By-law the Central Commercial zone was eliminated and the downtown area was given the same Suburban Commercial designation as other commercial areas within the Town. Once again the issue of an updated signage by-law faded away.

In 2015, the Moncton Urban Planning department undertook a sign by-law review that was driven by the issues that digital signs were causing in Moncton. This work led that department to raise the issue of doing a similar review in Riverview. We did begin to develop a survey in order to gain public feedback on the issue. The three key areas that were proposed for review were;

1. Portable signs
2. Digital signs
3. Billboard signs

This work was never achieved in 2016 but this type of review and work could be established as a priority in 2017. This process would include gaining input from the business community and residents.

#### ***Today issue ....***

While Town staff have not received any complaints from the public on business signs on power poles or portable signs this year, it is an issue that has come to the attention of some Councillors. From a staff perspective it is difficult to separate the issue of signs on power poles from portable signs. If we are given direction to remove or enforce a requirement on signs on power poles and not portable signs it would be expected we would receive criticism by the businesses impacted by that action. I.e. for example we are prepared to remove "Bob's Snowplowing sign", but we are not prepared to ask Kent or Superstore to remove their "weekly sale advertising sign".

While there are a number of locations where there are signs on power poles (snow removal signs; lawn care, etc.) the area that seems to be increasing in the Town these days are the growth in portable signs (sale signs at superstore; Riverview Market; Andrews Hockey school, etc.).

#### ***Compliance with the By-laws ...***

The Zoning by-law is silent on the issue of temporary signs on power poles so the Town's historical position has been that those signs are not allowed. As was stated earlier on two previous occasions the Town removed those signs, in particular focused on real estate signs, at the direction of Council. The Town also removes these types of signs on a regular basis when it has been deemed to be an obstruction to an intersection, and the Zoning by-law gives the Town clear authority to address that matter.

Of interest, the City of Moncton no longer deals with signs on power poles. In the past their Commissionaires removed the signs, however today their Director of By-law Enforcement is of the opinion that they are on NB Power property and it is not up to the City to remove them.

The Zoning By-law doesn't allow for portable signs in Riverview. Under 93(f), it states that "no sign, except a sandwich sign to a maximum of 1 sq.m, shall be placed or erected on a property unless the sign is permanently set into the ground or permanently affix to a building."

As with most by-law enforcement issues, they are addressed in response to complaints. In particular, with the signs on power poles the Town does not receive a lot of complaints on this matter. With regards to the portable signs, the Town has attempted to address this issue twice in the past but previous Councils have stayed away from this issue due to the opposition from the business community.

**Legal Trend in Canada – Freedom of Expression ...**

When considering the banning or limiting of signs in our community we must take into consideration the Canadian Charter of Rights and Freedoms. Even though we have the legal authority to prohibit and regulate signs and other advertising devices on public and private property, we have to do so without unreasonably infringing on the constitutionally guaranteed right to freedom of expression. Section 2(b) of the Charter states that every individual has the fundamental "*freedom of thought, belief, opinion and expression; including freedom of the press and other media of communication*".

There have been many cases brought before various provincial appeals courts and some that have gone all the way to the Supreme Court arguing that signs whether business or private are to be allowed and municipalities do not have the right to remove them. In the majority of these cases, the municipalities have lost. Basically the municipality must prove that the objective being sought is "of sufficient importance to warrant overriding a constitutionally protected right or freedom".

**Options for Council...**

Actions	Pros/Cons
1) Direct Town staff to remove business <b><i>signs from power poles.</i></b>	<b>Pros:</b> -Addresses the concern raised at Council. -remove the perceived unsightly nature of those signs. <b>Cons:</b> -small businesses may feel the Town is not being business friendly and targeting them. -Lack of consultation.
2) Direct Town staff <b><i>to remove business signs from power poles and to require that all portable signs be removed by local business and portable sign companies</i></b>	<b>Pros:</b> - Addresses the concern raised at Council. -remove the perceived unsightly nature of those signs. -overall perception that you are treating all

	<p>businesses (big and small) equally.</p> <p><b>Cons:</b></p> <ul style="list-style-type: none"> <li>-negative reaction from local businesses that state “Riverview is not business friendly”.</li> <li>-enforcing a by-law that has “fallen under the radar for years” to allow businesses to use signs to promote their businesses.</li> <li>-Lack of consultation.</li> <li>-Do we know if we are addressing a widely held concern of Riverview residents?</li> <li>-removal of portable signs will be more difficult and will need the cooperation of the business, who may not want to cooperate. May result in by-law enforcement which may lead to legal process, etc.</li> </ul>
<p>3) Direct Town staff <b>to remove business signs from power poles and direct the Economic Development department to work with Planning on zoning requirements for portable signs</b></p>	<p><b>Pros:</b></p> <ul style="list-style-type: none"> <li>-Addresses the concern raised at Council.</li> <li>-remove the perceived unsightly nature of those signs.</li> <li>-provides time to develop clear approach to address portable signs in Riverview.</li> </ul> <p><b>Cons:</b></p> <ul style="list-style-type: none"> <li>-small businesses may feel the Town is not being business friendly and targeting them.</li> </ul>
<p>4) Direct Town staff to work with Urban Planning to <b>complete a full review of signage concerns</b> including small and portable business signs.</p>	<p><b>Pros:</b></p> <ul style="list-style-type: none"> <li>-Have a clear by-law in which the rules will be known and communicated.</li> <li>-Process would allow Town to gather input from the business community and residents.</li> <li>-Consistency with other communities.</li> </ul> <p><b>Cons:</b></p> <ul style="list-style-type: none"> <li>-Does not address the concerns raised by Council.</li> <li>-Process will take some time, may be seen as too slow a response.</li> </ul>
<p>5) Town to <b>take no action</b> as this issue is not deemed to be a community and Council priority at this time.</p>	<p><b>Pros</b></p> <ul style="list-style-type: none"> <li>-Staff time will not be dedicated to reviewing an issue that may not get support through Council if business community or others are opposed.</li> </ul> <p><b>Cons:</b></p> <ul style="list-style-type: none"> <li>- Does not address the concerns raised by Council.</li> </ul>

**CONSIDERATIONS**

Legal: Business could challenge us legally if they do not agree with our removal of their sign.

Financial: Financial costs to send PW Staff to collect all the signs. Review of By-laws would require times of Planning and Economic Development staff.

Policy: n/a

Stakeholders: Residents & business community

Strategic Plan: Service Excellence and Smart and Sustainable Growth

Interdepartmental Consultation: Economic Development, By-Law Enforcement; Town Planning: Public Works

Communication Plan: n/a

### **RECOMMENDATION FROM STAFF**

**That Council direct staff to complete a review of by-laws related to small advertising signs and portable signs and report back to Council with specific recommendations (Option 4).**