

Home Based Business Committee: Report to Council

Introduction

Home based occupations and home based industries, collectively known as home based businesses (HBBs) have been operated in the Northern Rockies Regional Municipality (NRRM) for decades. In response to recent public and municipal concerns about the intensity and impacts of HBBs, and local business concerns about the effect of future regulations limiting HBBs, the Northern Rockies Regional Council established the Home Based Business Committee; a subcommittee of the Official Community Plan Steering Committee. The committee is comprised of local residents Walt Lutsiak, Rod Rombough, Andrea Lorenz, Ben Wall, Joanne Short, Percy Wright and Rick Seidel and is chaired by Regional Councillor Kim Eglinski. The committee's mandate is:

Working with community stakeholders and acting in an advisory capacity to Regional Council, this Subcommittee will make recommendations to Regional Council on proposed changes to Home Based Business (Home Occupation and Industry) requirements in Zoning Bylaw No. 729, 2008. The goal is to allow for orderly and appropriate business activities in residential areas of the municipality and ensure Regional Council's guidelines for residential and rural residential neighbourhoods and home based activities balance each other and not negatively impact the quality of life for surrounding property owners.

The eight recommendations included in this report are the fulfillment of the above mandate. The committee believes that by following these suggestions, the municipality can achieve an appropriate balance between business activity and rural residential quality of life.

As well as providing council with recommendations, this report provides a brief background of the events that led to the creation of the committee and a summary of some of the committee's discussions.

Background

Before considering the committee's deliberations and recommendations, it is important to understand the background on how the committee came to exist. The following timeline provides a summary of the events that led to the committee's creation.

- May 12th 2010: Council first instructs staff to look into the regulation and zoning of HBBs.

- August 9th 2010: Staff prepared and presented an evaluation report to Council which included several proposed regulation changes. On staff's recommendation, Council begins a consultation process, notifying rural residents and HBB owners.
- September 15th 2010: The NRRM hosts a public forum on the topic of HBBs, which is attended by well over 100 residents, many of whom are concerned about the future of the HBB sector.
- October 4th 2010: Council establishes a Home Based Business Committee as a sub-committee of the Official Community Plan committee and a request for applicants to be part of the committee is advertised.
- November 8th 2010: The composition of the HBB committee is announced by Council; all applicants are included on the committee.
- January 12th 2011: The HBB committee holds its first meeting.
- February 14th 2011: Council re-confirms the original mandate of the HBB committee and the facilitation of the committee meetings is altered. These actions are undertaken in response to concerns that committee members were not leading the process "in the driver's seat" and did not have a clear purpose.

Discussion

Over the course of several meetings the committee had in-depth and wide-ranging discussions about the HBB sector. This section summarizes some of the main topics the committee discussed, including items that did not generate consensus. It is hoped that this section will provide Regional Council with greater context around the committee's recommendations.

Importance of HBBs to Northern Rockies

One of the first issues discussed by committee was the importance of the HBB sector to the economic well being of the Fort Nelson area. One committee member pointed out that HBBs are not only economic drivers, but also significant contributors to community and charitable causes. Some members expressed their frustration with what they believed was an attempt to place undue regulations and limitations on HBBs. It was reported that some HBB owners were considering moving their operations out of the NRRM because they felt unduly targeted by the municipality. The committee chair clarified that it was never the municipality's goal to punish or eliminate HBBs, but rather to ensure that rural residential areas did not become de-facto industrial zones. Some committee members felt that there are a few examples where large, primarily non-local companies, were inappropriately using rural residential lands, but considered most existing HBBs reasonable.

Committee members described how many home based industries (often trucking companies) used to be located within Fort Nelson. Several years ago, the municipality insisted that these industries leave the town-site (for aesthetic and safety reasons), and encouraged them to relocate to rural residential areas. It was also brought to the committee's attention that the Old Alaska Highway used to function primarily as industrial lands before the new highway was constructed. Several committee members felt that this historical context must be understood, before making any decisions respecting the future of HBBs in the Fort Nelson area.

Land

The committee members devoted a significant amount of time discussing the issue of land available for commercial and industrial activities. Several committee members stated that the use of rural residential land is often the only option for operating a business, because existing industrial/commercial land is limited and cost prohibitive. There was a general consensus that the lack of affordable land is the primary reason for the level of industrial activity in the rural areas as there is simply nowhere else for these businesses to operate economically. One committee member stated that he would like to relocate his business, but that it was not financially possible with the current price of industrial land in the Fort Nelson area.

There was some discussion about what should be considered as affordable land, as a few committee members felt that current land prices were not overly unreasonable. Though the committee did not reach consensus on what price for land was affordable, it was agreed that there is a widely held perception in the community that local businesses are lacking affordable land.

The committee discussed the municipality being directly involved in purchasing and developing new lands for industrial development. Some committee members felt very strongly that the municipality should never be involved in property development or real estate. Other committee members felt that the municipality had to get involved when no private developers were willing to provide the land that community required to meet its needs.

Appropriate Operating Levels for HBBs

The committee discussed at length what constitutes an appropriate HBB. The committee chose not to define what is and is not an appropriate HBB, as different members had different perceptions on this matter. Instead the committee focussed on how to effectively regulate the HBB sector.

Staff expressed some concerns that, in the future, the existing legislation governing the nature, size and intensity of HBBS may be difficult to enforce effectively, due to limited and vague regulations. However, the committee was generally not in favour of increasing the regulations on HBBs (such as limiting the number of trucks or employees in rural residential zones). It was felt that limiting regulations would negatively impact

the growth of businesses and possibly create enforcement difficulties. The majority of the committee members felt that the existing legislative framework, as set out in the zoning, property maintenance and other NRRM bylaws, was largely sufficient to regulate the HBB sector.

Bylaw Enforcement

An issue that generated significant discussion amongst committee members was bylaw enforcement. The committee originally requested that staff provide examples of problems they encountered while trying to enforce the existing HBB legislation. Staff reported back that because they had not been practicing active enforcement, there were few, if any, examples of enforcement issues with regards to HBBs. This understanding began a discussion about how bylaw enforcement should be undertaken going forward. Some committee members argued that enforcement should be strictly complaint driven, while others believed that a complaint-based system is not effective, and would pit neighbour against neighbour. The committee did agree that the municipality needed to do a better job of educating the public about the rules governing HBBs.

Committee Recommendations

1. That the Northern Rockies affirm the importance of HBBs in the Fort Nelson area.

The committee encourages Regional Council to clearly state its support for the continued existence of HBB in the Fort Nelson area. With rumours and concerns about the HBB sector's future circling throughout in the community, it is especially important for the Municipality to officially clarify its position.

2. That the Northern Rockies not make any significant changes to the existing HBB legislation.

It is the consensus of the committee that the current legislation regulating HBBs is largely acceptable and appropriate to the needs of rural business owners and residents. The committee acknowledges that some minor bylaw fine-tuning should occur on occasion, but major changes, such as many of those proposed in the HBB evaluation report prepared by staff, are not in the best interest of the community.

If the municipality does encounter future administration/enforcement issues that require significant changes to the legislation, these changes should be preceded by meaningful consultation with rural residents and HBB owners.

3. That the Northern Rockies couple HBB bylaw enforcement with bylaw education.

The committee urges NRRM to better educate residents about the regulations governing HBB operations. This educational approach will lessen the tension between residents and enforcement staff as the municipality shifts from complaint-based enforcement to active enforcement. When a HBB is in contravention of the bylaws, the committee would like to see municipal staff approach business owners to inform, educate, and offer compliance suggestions before more punitive (i.e. tickets or stop work orders) are considered. The committee believes that this focus on education over enforcement will ensure greater bylaw compliance in the long-term from all but the most serious offenders.

4. That the Northern Rockies take actions to address the perceived lack of affordable land.

It is the opinion of the committee that the lack (or perceived lack) of affordable industrial and commercial land is a primary factor creating the levels of activity that has raised the concerns of staff, council and members of the public. Without additional, attainable land, industrial activity will only intensify in rural residential areas. The committee urges Regional Council to take steps to make more affordable industrial/commercial land available, at prices affordable to local businesses.

The committee acknowledges that businesses do reach a level of activity where it would be appropriate for them to relocate out of the residential areas. However, when there is nowhere for these businesses to go, it would be unfair to penalize them for continuing to operate in their current locations.

5. That the Northern Rockies investigate options for designating the existing rural residential areas as a development permit area.

It is the consensus of the committee that a development permit area, or something similar, would be beneficial for rural residents and business owners. If, for example, a HBB owner wanted to construct more accessory buildings than are currently allowed under the bylaw, he/she would be able to apply to Regional Council for a variance to do so. The committee believes that this change would give HBB owners more flexibility to conduct business, but would also ensure neighbours and the municipality would have a say. Typical advertising for a variance (lot signs, notices mailed to neighbours and newspaper announcements) should apply. Due to the size of rural residential lots and the potential impacts of increased business operations, the committee believes that the NRRM should use a larger geographic radius for determining which neighbours receive a mailed notice in the new development permit area.

6. That the Northern Rockies amend the zoning bylaw to limit HBBs to a single lot.

The committee recognizes that there are concerns about large, primarily non-local, businesses operating significant industrial enterprises in rural residential area with a residence tacked on as an afterthought. To limit the growth of this phenomenon, the committee recommends that Regional Council amend necessary legislation to prohibit HBBs from operating on more than one (1) lot. Though this recommendation may not close all loopholes, the committee believes limiting HBBs to a single lot will help ensure that the use of rural residential land remains available for home-based industries/occupations but not inappropriately large industrial operations.

7. That the Northern Rockies amend the zoning bylaw to include a new rural residential zone, which prohibits Home Based Industries.

The committee understands that some residents have raised concerns about HBB activities impacting their enjoyment of their properties. To mitigate this concern, the committee recommends that Regional Council amend the zoning bylaw and Official Community Plan by creating a new rural residential zone within which no home-based industry can be operated. This new zone would allow residents to be free from the impacts of a neighbour's home-based industry (i.e. noise, truck traffic etc). The committee does believe that residents in this new zone should be permitted to operate a home-based occupation, similar to what residents are allowed to do in urban residential neighbourhoods, but not home industries.

The new zone could be applied to a new rural subdivision area, or an existing rural neighbourhood. However, if Regional Council decides to designate an existing rural neighbourhood under this new zone, the committee believes that the affected residents must be meaningfully consulted beforehand.

8. That the Northern Rockies amend the zoning bylaw by moving definitions into the zone specific sections.

The committee found that the current organization of the zoning bylaw to be difficult to use. Specifically, having the bylaw definitions in a separate section splits the rules on what can occur in any particular zone into two areas in the bylaw; in the definition section and in the various zone specific sections. For residents not accustomed to dealing with legislation this can cause confusion and uncertainty. The committee recommends that Regional Council move relevant definitions into the sections of the bylaw that describe the zone specific regulations. This change would provide an easy to access, "one-stop-shop" for residents and developers seeking information about what they can and cannot do in any particular zone.