



**MINUTES**  
PUBLIC COUNCIL MEETING  
August 23, 2010

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Minutes of the Regular Meeting of Council held in the Council Chambers, Town Hall on August 23, 2010 at 7:30 p.m.

**Members Present**

Mayor Bob Codner  
Deputy Mayor Geoff Gallant  
Councillor Mike Byrne  
Councillor Peggy Roche  
Councilor Carol Ann Smith  
Councillor Ralph Tapper  
Councillor Brian Whitty

**Staff Present**

Dawn Chaplin, CAO/Town Clerk  
Ken Anthony, Director of Programs and Services  
Brian Winter, Development and Planning Officer

**Regrets**

Ann Picco, Executive Clerk

**Gallery**

There were a total of 6 people in attendance.

***Meeting was chaired by Mayor Codner***

340-10      **Adoption of Agenda**

Motion – Deputy Mayor Gallant/Councillor Tapper

**RESOLVED THAT** the Agenda be adopted, as presented.  
Question called. Motion carried unanimously.

341-10      **Adoption of Minutes**

Motion – Councillor Byrne/Councillor Smith

**RESOLVED THAT** the Minutes of the August 9, 2010, Public Council Meeting be adopted, as presented with the following changes:

Page 3, Business Outstanding Item #4: *As per Councillor Roche's* request that the CAO check .....

Page 7, Jack Byrne Arena: that the Arena Manager *was dismissed without cause* and the Board ....

Page 9, New Business – Councillor Byrne: that *the new tender will address repairs to be completed to Torbay Road from the Marine Drive to Middle Cove Road.*

Question called. Motion carried unanimously.

**PROCLAMATIONS / PRESENTATIONS** - None

**CORRESPONDENCE**

- 1) Torbay Environment and Trails Committee – request to increase the required minimum size for un-serviced lots in Torbay. *Councillor Smith advised this will be discussed under the Planning and Land Use Committee Report. COMPLETE.*
- 2) Municipalities Newfoundland and Labrador – 2010 resolutions and convention updates. *The Director of Programs and Services to have the 2009 footpath resolution and subsequent correspondence added to the next Recreation, Parks and Community Services Committee Meeting Agenda. B/F.*
- 3) Municipal Assessment Agency Inc. – Mail date for assessment notices. *For information purposes only. COMPLETE.*
- 4) Correspondence from resident regarding surveying of land. *Councillor Whitty advised this will be discussed under the Public Works Committee Report. COMPLETE.*
- 5) Correspondence from resident concerning speed bumps. *Councillor Whitty advised this will be discussed under the Public Works Committee Report. COMPLETE.*
- 6) Municipalities Newfoundland and Labrador – Memo to all municipalities from Councillor Debbie Hanlon, St. John's Director, regarding donations to Eastern Night. *Mayor Codner stated that the Town of Torbay has already provided a financial contribution. COMPLETE.*

**BUSINESS OUTSTANDING**

- 1) Correspondence from company concerning proposed installation of sewer line on Torbay Road. *Dealt with under Planning and Land Use Development Committee Minutes, dated August 19, 2010. COMPLETE.*
- 2) Correspondence from developer concerning Public Council Meeting June 14 2010 and Discussion of Road & Recreation Levies Phase 6 Forest Landing. *To be dealt with under the Planning and Land Use Committee Report. COMPLETE.*
- 3) Department of Environment and Conservation, Water Resources Management Division – Feasibility Study and Conceptual Cost for a Water Treatment Facility for Torbay / Correspondence from resident concerning South Pond. *CAO to follow up with consultants to*

- confirm timelines for next draft of report based on meeting with Provincial Government. B/F.*
- 4) Dumping of topsoil on Beach / Correspondence from the Department of Environment and Conservation, Water Resources Management Division – Infilling and Stabilization of Property Adjacent to Torbay Bight, Torbay, NL – **CAO confirmed that the Municipal Enforcement Officer has written the Department of Environment and Conservation seeking their position on the cleanup of the site. Council’s next steps will be determined based on a reply to the MEO’s letter. B/F.**
  - 5) Request for Update on Torbay Road Signage from Deputy Mayor Gallant. **The Development and Planning Officer is working on a policy. B/F.**
  - 6) Skateboard Park - Motion No. 128-10, from Minutes of Public Council Meeting of April 5, 2010, and Council’s discussion on Motion 250 – 09, from Minutes of Public Council Meeting of September 8, 2009 – **CAO is awaiting confirmation on RNC logistics visit to Kinsmen Centre. From there renovations will be completed. It is anticipated that this visit will take place within the next 2 weeks B/F.**
  - 7) Torbay Volunteer Fire Department – Public Works snow clearing policy – **A follow up meeting is to be scheduled once the Supervisor of Outside Operations contacts other municipalities to see how they deal with the issue. B/F**
  - 8) Water Shut-off in area of Patrick’s Path – damage to fire hydrant/bus backing over hydrant – **Director of Programs and Services to ensure repairs take place as soon as possible. B/F.**

## **COMMITTEE REPORTS**

**Economic Development** - no report or motions.

### **Finance**

342-10      Motion – Councillor Tapper / Councillor Roche

**RESOLVED THAT** due to an error in the processing of the 2005 tax sale and based on a legal opinion, that property taxes for the period of 2006-2009 in the amount of \$613.80 be refunded to the current owner of 883A Torbay Road.

Question called. Motion carried unanimously.

343-10      Motion – Councillor Tapper / Deputy Mayor Gallant

**RESOLVED THAT** due to an error in the processing of the 2005 tax sale and based on a legal opinion, that \$25,000 be cashed from the tax sale GIC and this amount be returned to the purchaser of 883A Torbay Road. As a result, ownership of said property will be reverted to the owner on file prior to the 2005 tax sale.

Question called. Motion carried unanimously.

344-10      Motion – Councillor Tapper / Councillor Roche

**RESOLVED THAT** the Town of Torbay approve the Financial Report, dated August 9-20, 2010, as presented.

Question called. Motion carried unanimously.

**Human Resources and Administration** - no report or motions.

**Planning and Land Use**

Road Improvement and Recreation Levies

Councillor Roche puts forth her notice of motion dated June 24, 2010 as all members of Council are in attendance. All members of Council agreed that this is a very important issue and required the input of all Council before a vote was taken. Hence the reason was it was deferred until tonight's Council meeting. All members stated their opinion before the vote is taken.

Councillor Roche state that levies should not be used to balance the budget and when the levy process was discussed, there was no mention of retroactive. Councillor Byrne agreed with Councillor Roche and also stated that the developer was not informed up front. Deputy Mayor Gallant stated he respects the opinion of Councillors Byrne and Roche but the levies are part of the budget, the fees are not excessive and an approval in principle is not a final approval. The town was within its right to impose the levies at the execution of the development agreement. Councillor Whitty asked what are the levies designed for and he does not agree with them being used as part of the main operating budget. Councillor Smith agrees with the Deputy Mayor, the levies were used to balance the budget for 2010 and the income for 2010 was approved by all Council as part of the budget process. Councillor Smith stated she will not support the motion. Councillor Tapper read a prepared statement. Councillor Tapper stated he has thought a lot about this issue, has spoken to various members of Council and staff and references a letter dated April 28, 2009, point #23 regarding the development process. The Town clearly outlines a development process in writing and according to Mr. Mahon this has never been adhered to. We must follow process. Mayor Codner stated that the key issue is timing and we should not penalize developments in the works. As for Mr. Pittman's legal opinion, the Mayor feels he is not offering an opinion one way or the other. Mayor Codner will be supporting the motion put forth by Councillor Roche.

345-10      Motion – Councillor Roche / Councillor Byrne

**RESOLVED THAT** the \$1000.00 levies for road improvement and the \$400.00 levies for recreation be applied only to those residential projects approved effective January 1, 2010.

Question called. Motion failed as a 2/3's majority is required for a financial matter.  
For motion: Mayor Codner, Councillor Byrne, Councillor Roche, and Councillor Whitty.  
Against motion: Deputy Mayor Gallant, Councillor Smith, and Councillor Tapper.

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346-10      Motion – Councillor Smith / Councillor Byrne

**RESOLVED THAT** the Town of Torbay approve the Minutes of the Planning and Land Use Development Committee Meeting dated August 19, 2010 as presented.

Question called. Motion carried unanimously.

347-10      Motion – Councillor Smith / Councillor Roche

**RESOLVED THAT** the Town of Torbay give 62745 Newfoundland & Labrador Limited approval to rezone the parcel of property (314 Indian Meal Line) land as described on the proposal drawing from Hawco King Renouf Ltd. dated July 2010, Job No. 10-474. This land is partially zoned Residential Infill (RI) and partially Rural (RUR), the Rural area of the property is to be rezoned from Rural (RUR) to Residential Large Lot (RLL). The applicant will pay for the cost of the amendment up front before any work is started by the Town's Planning Consultant.

Question called. Motion carried unanimously.

348-10      Motion – Councillor Smith / Councillor Byrne

**RESOLVED THAT** the Town of Torbay give Watts Pond Development Ltd. approval to rezone the parcel of property (1537-1547 Torbay Road) as described on the proposal drawing from Mae Design Limited dated August 2010, Project No. 2010.133. This land is partially zoned Mixed Development (MIX) and partially Residential Subdivision Area Serviced (RSA-S), the Residential Subdivision Area Serviced area of the property is to be rezoned to Residential Medium Density (RMD). The applicant will pay for the cost of the amendment up front before any work is started by the Town's Planning Consultant.

Question called. Motion carried unanimously.

349-10      Motion – Councillor Smith / Councillor Roche

**RESOLVED THAT** the Town of Torbay give Barrox Holdings approval in principle so they can continue with phase 4 of their development. All normal conditions for developing in the Town will be met. With the addition of written approval/review from the Town of Portugal Cove-St. Philip's in relation to the portion of the two lots that are within their Town's boundaries.

Question called. Motion carried unanimously.

350-10      Motion – Councillor Smith / Councillor Roche

**RESOLVED THAT** the Town of Torbay accept the name ‘White Rocks Drive’ as the name for the new street in phase 4 Eagle Ridge Nest, this name will first be approved by the 911 system.

Question called. Motion carried unanimously.

351-10      Motion – Councillor Smith / Councillor Byrne

**RESOLVED THAT** the Town of Torbay give 11446 Newfoundland & Labrador Limited approval to continue with their proposed development and construction of a Plaza Building with 8 suites for commercial use on the corner of Torbay Road and Piperstock Place. All conditions of their previous approval letter dated May 14, 2007 will have to be fulfilled before a building permit is given along with any other current conditions.

Question called. Motion carried unanimously.

352-10      Motion – Councillor Smith / Councillor Roche

**RESOLVED THAT** the Town of Torbay give 10804 NFLD Ltd. approval in principal to continue with design work and engineering as described in their proposal dated July 6, 2010 and drawing provided by Dynamic Development Services Ltd. dated June 2010. Approval from all required Government Agencies and review by the Town’s Engineers is required before a permit to commence work is released.

Question called. Motion carried unanimously.

353-10      Motion – Councillor Smith / Councillor Byrne

**RESOLVED THAT** the Town of Torbay issue a stop work order on 414 Pine Line due to the fact the property owner failed to follow Town policies.

Question called. Motion carried unanimously.

Councillor Whitty and Development and Planning Officer Brian Winter leave chambers at 8:33pm as they may be in a conflict of interest.

354-10      Motion – Councillor Smith / Councillor Roche

**RESOLVED THAT** the Town of Torbay approve the Building Application Report, dated August 20, 2010 as presented.

Question called. Motion carried unanimously.

Councillor Whitty and Development and Planning Officer Brian Winter return to chambers at 8:35pm.

355-10      Motion – Councillor Smith / Councillor Byrne

**RESOLVED THAT** the Town of Torbay approve the Business Application Report, dated August 20, 2010 as presented.

Question called. Motion carried unanimously.

**Public Works**

356-10      Motion – Councillor Whitty / Councillor Smith

**RESOLVED THAT** the Town of Torbay approve the minutes of the Public Works Committee Meeting dated August 19, 2010 as presented.

Question called. Motion carried unanimously.

357-10      Motion – Councillor Whitty / Councillor Smith

**RESOLVED THAT** the Town of Torbay tender for the “supply and delivery” of one (1) new Tandem Axle Dump Truck.

Question called. Motion carried unanimously.

358-10      Motion – Councillor Whitty / Councillor Smith

**RESOLVED THAT** the Town of Torbay rescind motion 260-10 from the minutes of the Public Council Meeting dated June 14, 2010, as the civic address is incorrect.

Question called. Motion carried unanimously.

359-10      Motion – Councillor Whitty / Councillor Smith

**RESOLVED THAT** the Town of Torbay as per the Occupancy and Maintenance Regulations serve a clean up/removal order to the resident at #52 Quarry Road. It is the Town’s policy that this Clean Up/Removal be completed within 30 days of the date of the order; or the Town will carry out the work after that time and bill back to the resident.

Question called. Motion carried unanimously.

**Parks, Recreation and Community Services**

360-10      Motion – Deputy Mayor Gallant / Councillor Byrne

**RESOLVED THAT** the Town of Torbay approve the Minutes of the Parks, Recreation and Community Services Committee Meeting, dated August 18, 2010, as presented.

Question called. Motion carried unanimously.

Councillor Smith requested that more details be included regarding special events and programs.

361-10      Deputy Mayor Gallant / Councillor Tapper

**RESOLVED THAT** the Town of Torbay approve a donation of \$500.00 towards the Big Bike Ride taking place on September 11, 2010 at approximate time 4:30pm.

Question called. Motion carried unanimously.

Deputy Mayor stated that this money can be found within the current Recreation budget.

**Technical Services** - no report or motions.

**SPECIAL COMMITTEES OF COUNCIL**

**2012 Celebrations** - no report or motions.

**By Pass Road**

Mayor Codner stated that the Town should hold a public meeting to make the residents aware of the outstanding items from the Town's perspective as it relates to the By Pass Road and the Department's request for the town to assume ownership and responsibility of Torbay Road once the By Pass Road is open. Mayor Codner suggested a date of Wednesday, September 1, 2010 at 7:30pm for the public meeting. Council will meet on Thursday, August 26, 2010 to discuss and confirm the approach for the meeting.

Councillor Smith stated that it is very short notice to residents and this meeting will not have the ability to affect change. Councillor Smith requested a copy of the proposal submitted to Government and all minutes of By Pass Road Committee Meeting Minutes.

Councillor Tapper suggested that the Mayor should call the open line radio show to promote the public meeting and discuss the issues. Councillor Tapper confirmed that a proposal was submitted to Government but no negotiations had taken place.

Deputy Mayor Gallant stated we must discuss the By Pass Road and all its related issues now.



**LIAISON COMMITTEES**

**Heritage/Museum**

Councillor Byrne advised that there has been no formal Committee meeting. There has been an interview regarding the 1762 Taking of Torbay Play on Radio Canada International. Councillor Byrne requested that this interview be posted on the Town's website so all residents can listen.

**Jack Byrne Arena** - no report.

**Northeast Avalon Joint Council** - no report.

**Northeast Avalon Regional Plan**

Mayor Codner advised that the Leadership and Technical Committees will be meeting on September 9, 2010.

**Torbay Volunteer Fire Department**

Councillor Byrne advised that a meeting was held on Monday, August 16<sup>th</sup> with the Mayor, CAO, Director of Programs and Services, Supervisor of Outside Operations, and Executive of the Fire Department to discuss open air burning regulations, driveways – snow clearing issues, and the Volunteer Fire Department Constitution.

More research needs to be conducted regarding the snow clearing issue. Chief will also be writing a letter regarding this matter.

The Mayor, CAO and Fire Chief McGrath signed the Fire Department Constitution and the Open Air Burning Regulations.

362-10      Motion – Councillor Byrne / Councillor Roche

**RESOLVED THAT** the Town of Torbay adopt the Open Air Burning Regulations as presented.

Question called. Motion carried unanimously.

Councillor Byrne advised there have been nine calls since the last meeting. NL Power has expressed some concerns with the traffic light warning system in front of the Town Hall/Fire Hall. The Municipal Enforcement Officer is working with Fire Chief McGrath to resolve.

**Urban Municipalities Committee** – no report.

**NEW BUSINESS**

**Mayor Codner** - Pass

**Deputy Mayor Gallant**

Deputy Mayor Gallant wanted to thank Councillor Smith as Chair of Planning and Land Use for the meeting held last week to discuss planning and recreation issues and how the two committees can work together.

**Councillor Byrne**

Councillor Byrne wanted to thank the Hillside Festival Committee for their planning related to this year's event, to residents that attended events and to staff for their work behind the scenes.

Councillor Byrne requested that the 2011 budget notices be circulated to Departments as early as possible.

**Councillor Roche**

Councillor Roche stated that the 10 days of Hillside Festival were a tremendous success. A thank you to Council and staff, in particular Councillors Tapper and Whitty, Staff Ed Brennan, Jeff Lawlor, Tina Auchinleck-Ryan and Steve Martin for their input and support.

**Councillor Smith** - Pass

**Councillor Tapper**

Councillor Tapper stated that there are many issues surrounding development in the Town of Torbay. We have to be communicating more about this as a Council.

363-10      Motion – Councillor Tapper/ Deputy Mayor Gallant

**RESOLVED THAT** the Town of Torbay plan a Council-staff session to discuss development within the Town of Torbay.

Question called. Motion carried unanimously.

**Councillor Whitty**

Councillor Whitty inquired about the status of Camp Carey and if it is available for rental. Deputy Mayor Gallant stated this would be discussed at the next Recreation, Parks and Community Services Committee meeting.

**ADJOURNMENT**

364-10      Motion –Councillor Smith / Deputy Mayor Gallant

**RESOLVED THAT** the meeting be adjourned at 9:25p.m., as there was no further business.

Question called. Motion carried unanimously.

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*Mayor*

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*CAO/Town Clerk*