



MINUTES
PUBLIC COUNCIL MEETING
June 25, 2013

Minutes of the Regular Meeting of Council held in the Council Chambers, Town Hall on June 25, 2013 at 7:39 p.m.

Members Present

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

Staff Present

Dawn Chaplin, CAO/Town Clerk
Tina Auchinleck-Ryan, Director of Community Services
Bernie Manning, Director of Public Works & Technical Services
Brian Winter, Director of Planning
Ann Picco, Executive Clerk

Regrets

Councillor Roche

Gallery

There were a total of 9 people in attendance.

Adoption of Agenda

211-13 Motion – Councillor Byrne / Councillor Smith

RESOLVED THAT that the Agenda be adopted, as presented.

Question called. Motion carried unanimously.

Adoption of Minutes

212-13 Motion – Councillor Tapper / Councillor Smith

RESOLVED THAT the Minutes of the June 10, 2013, Public Council Meeting be adopted, as presented.

Question called. Motion carried unanimously.

PROCLAMATIONS / PRESENTATIONS

None.

CORRESPONDENCE

1. Department of Transportation and Works – Painting of school crosswalk near Marine Drive/Torbay Road intersection. *For information purposes.*
2. Municipal Assessment Agency – Assessment News. *With regards to 2013 Board Elections Councillor Smith indicated that she's interested and it was noted that Councillor Roche is interested - CAO to check with MAA.*
3. Correspondence from business concerning proposed new building. *Deferred to the Planning and Land Use Development Committee.*

CORRESPONDENCE & ACTION REPORT

The Correspondence and Action Report was discussed and accepted as presented.

- Item No. 84 – Pine Ridge Creek Subdivision
Councillor Tapper reported that to date there's been progress; and he thanked staff for following up and for job well done.

COMMITTEE REPORTS

Economic Development

No report. Next meeting is scheduled for next Wednesday, July 3rd.

Finance

The Financial Report, dated June 10-20, 2013, was accepted, as presented. Councillor Tapper read out payroll and accounts payable information as per the report:

Payroll for the period of June 10-20, 2013, for 29 employees totalled \$58,635.84.

For the period of June 10-20, 2013, Accounts Payable invoices in the amount of \$167,555.44 were paid. These expenditures were within budget.

There are seven (7) Main Operating Invoices totalling \$103,978.96 for approval:

213-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay approve payment to Marine Institute of Memorial University, for Flashover training for the Fire Department, in the amount of \$6,102.00.

Question called. Motion carried unanimously.

214-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay approve payment to Newfound Disposal Systems, for Garbage Collection for June 2013, in the amount of \$40,429.37.

Question called. Motion carried unanimously.

CAO to confirm if the above is the last invoice for Newfound Disposal Systems.

215-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay approve payment to Newfoundland Design Associates, for engineering services, in the amount of \$8,071.21.

Question called. Motion carried unanimously.

216-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay approve payment to Newfoundland Power Co. Ltd., for Street lighting May 2013, in the amount of \$16,619.99.

Question called. Motion carried unanimously.

217-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay approve payment to Paquin Entertainment, for Down payment for Children’s Concert, in the amount of \$5,000.00.

Question called. Motion carried unanimously.

218-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay approve payment to Receiver General for Canada, for Payroll remittance for June 1-15, 2013, in the amount of \$20,029.44.

Question called. Motion carried unanimously.

219-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay approve payment to Sani Smart Waste Disposal Services, for Dumpsters for spring clean up, in the amount of \$7,726.95.

Question called. Motion carried unanimously.

Councillor Byrne questioned if the Town received any concrete containers. CAO confirmed they were received and stored at Camp Carey. Staff are in the process of sourcing the metal inserts for the containers.

There are no capital invoices for approval.

A copy of the current income and expense reports are included in the binder for Council's information.

Equipment Tenders

CAO advised committee that four equipment tenders were recently advertised, with tenders closing on May 31, 2013. Acquisition of a backhoe, loader, excavator and water/sewer utility truck are budgeted items for 2013. She stated that she spoke to the bank to confirm financing terms for each piece of equipment. It was noted that no bids were received for the water/sewer truck, so a re-tender will occur. CAO also confirmed she was seeking legal clarification on the backhoe and loader tenders and motions to award would be brought forward once the legal clarification was confirmed. As per the Municipalities Act, the Town requires approval from the Department of Municipal Affairs for financing. As all tenders were within budget, committee agreed to bring forth a recommendation to Council to award the respective tenders. CAO confirmed that as a result of the acquisition of new equipment, old members of the fleet would be auctioned off. It was the consensus of Finance Committee, that the auction proceeds would be utilized to pay down the new loans.

220-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay award tender number 2013005 – excavator and utility transport trailer to Atlantic Powertrain and Equipment Inc. in the amount of \$121,862.19 plus HST. Tender award is subject to the approval of the Department of Municipal Affairs and confirmation of financing with RBC Royal Bank.

Question called. Motion carried unanimously.

221-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay award tender number 2013003 – 4x4 rubber tire backhoe to Tormont CAT in the amount of \$94,400.00 plus HST. Tender award is subject to the approval of the Department of Municipal Affairs and confirmation of financing with RBC Royal Bank.

Question called. Motion carried unanimously.

222-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay finance the acquisition of the excavator, utility transport trailer and 4x4 rubber tire backhoe over a 5 year (60 month) term with RBC Royal Bank. Interest rate to be set at 3.2%, with a monthly payment of \$4412.75. By combining the two loans, the town will save \$2622.60 over the life of the term. Financing is subject to the Department of Municipal Affairs approval.

Question called. Motion carried unanimously.

Donation Requests

Finance Committee reviewed five donation requests and agreed to bring forth recommendations to Council on the dollar value of the donation requests. Motions of Council are required.

223-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay donate \$1000.00 to Special Olympics.

Question called. Motion carried unanimously.

224-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay become a community member in the Wooden Boat Museum of Newfoundland and Labrador at an annual cost of \$30.00.

Question called. Motion carried unanimously.

225-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay donate \$250.00 to Kids Help Phone.

Question called. Motion carried unanimously.

226-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay sponsor the regatta crew (coxswain Graham Roche), at a cost of \$450.00.

Question called. Motion carried unanimously.

227-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay donate \$300.00 to Easter Seals Newfoundland and Labrador.

Question called. Motion carried unanimously.

Mayor Codner left the Public Council Chambers at 7:54 p.m., as it was determined that he was in a conflict of interest. Deputy Mayor Gallant took over as Chair at 7:54 p.m.

Councillor Tapper discussed a recent request for donation from the Boys Under 16 Soccer Team. See below motion.

228-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay donate \$500.00 to the Under 16 Boys Soccer Team.

Question called. Motion carried unanimously.

Mayor Codner returned to the Public Council Chambers at 7:55 p.m. and resumed as Chair.

Pumper #1 Auction

CAO confirmed the proceeds of the pumper #1 auction totaled \$10,424.25. Fire Chief McGrath requested the proceeds be put in trust for future capital acquisition (specifically for fire department vehicles or trucks). Committee agreed with the request. Once the monies are placed in trust, a motion of Council will be required to utilize in the future. A motion of Council is required to place the monies in trust.

229-13 Motion – Councillor Tapper / Deputy Mayor Gallant

RESOLVED THAT the Town of Torbay place the proceeds from the auction of pumper #1, in the amount of \$10,424.25 in trust. This money is to be used in the future for the sole purpose of acquiring fire department vehicles or trucks. A motion of Council is required to utilize the money at a future date.

Question called. Motion carried unanimously.

Signage Tender

CAO requested that the town re-tender signs for the upper Three Corner Pond Park and Motion Playground - supply only. CAO confirmed with the Director of Public Works that staff resources can install due to the recent acquisition of an excavator. Committee were in agreement with this approach. CAO will speak with the Director of Community Services to confirm a re-tender for supply only.

GIS Program

CAO confirmed we had 50 residents avail of the Guaranteed Income Support Program. This discount resulted in a total reduction of \$14,193.94 in property tax income for the Town of Torbay in 2013.

Work Plan Meetings

CAO confirmed she would be meeting with senior staff in the coming weeks to review work plans and department budgets as at June 30, 2013. Any requests for reallocation of funds would come back to Finance Committee for review and recommendation.

ACOA Funding

CAO has confirmed that the federal government has committed \$150,000 to a recreation infrastructure project in the town. EDO is following up with the provincial government to confirm their support, which in turn would determine the town's level of contribution. More details to follow.

Human Resources and Administration

Councillor Byrne gave an overview of items discussed under the Human Resources and Administrative Committee Meeting, dated June 11, 2013.

Items discussed in the report included:

April 1, 2013 Council Meeting

Committee discussed the April 1, 2013 Council meeting in relation to the building application report, potential conflict of interest and request to defer the report. All Members of Council need to ensure they are not in conflict before any council vote is taken. If they do not and vote in conflict, then as per The Municipalities Act, their council seat will be vacated immediately.

As Council makes the final decision on procedure, it is the committee's recommendation that in the future if such an issue should arise again, that the matter be deferred until potential conflict of interest is confirmed.

Council Meetings

Committee discussed protocol and procedure as it pertains to Council meetings – public, private and at the committee level. A discussion was also held on protocol regarding Council communications with staff.

Committee asked CAO to speak with staff to re-confirm the process for quorum and minutes for committee meetings. Committee agreed that updates should not be included in the council package as they could be confused as committee meeting minutes.

Committee requested that CAO draft a rules and procedure policy for Council meetings and to have in place for the new council.

2013 Municipal Elections

As per Memo from CAO Dawn Chaplin, dated June 21, 2013, September 24, 2013 is Election Day in municipalities throughout Newfoundland and Labrador. Council is required as per legislation to pass several motions regarding the election process.

230-13 Motion – Councillor Byrne / Councillor Smith

RESOLVED THAT As per Section 13 of The Municipal Elections Act and in the event that the Chief Administrative Officer is unable to perform her duties on Election Day, that the Town of Torbay appoint the Executive Clerk as the alternate returning officer for the September 24, 2013 municipal election in the Town of Torbay.

Question called. Motion carried unanimously.

231-13 Motion – Councillor Byrne / Councillor Smith

RESOLVED THAT As per Section 14 of The Municipal Elections Act, that the Town of Torbay designate August 29, 2013 from 8am to 8pm as nomination day for the September 24, 2013 municipal election in the Town of Torbay.

Question called. Motion carried unanimously.

232-13 Motion – Councillor Byrne / Deputy Mayor Gallant

RESOLVED THAT As per Section 26 of The Municipal Elections Act, that the Town of Torbay set September 12, 2013 from 8am to 8pm as the advance poll for the September 24, 2013 municipal election in the Town of Torbay.

Question called. Motion carried unanimously.

Planning and Land Use

Councillor Smith gave an overview of items discussed under the Planning and Land Use Development Committee Meeting, dated June 12, 2013.

Items discussed in the report included:

1. Development Proposals
 - a) Application to construct accessory building at 5 Country Drive
 - Director of Planning doing some further investigation into the proposal.
 - b) Proposed powder coating business at 7 Edgewater Lane
 - Director of Planning seeking environmental and personal safety information on proposal.
 - c) Proposed new daycare building adjacent to existing day care building at 5 Watts Pond Road
 - As per Motion 060-13, any further proposals, including commercial, deferred until six-month or 12-month study is completed to determine water capacity.
 - Council further discussed water availability/capacity and impacts to the Town in relation to development and businesses. Long term planning for

- the entire North East Avalon was also discussed, as well as regional capacity.
- Director of Planning noted that there's no formal application, which is why above is not referenced in the Building and Application Report, dated June 21, 2013.
- d) Proposal from property owner at Torbay Road to construct commercial building for convenience store
- Application dealt with under Building Application Report, dated June 21, 2013, Application 9994-13.
- e) Proposal from property owner at Charles Lane to have 4-lot unserviced development re-approved
- Motion to follow.
- f) Proposal from property owner at Reddy Drive to develop 7 semi-serviced lots
- Director of Planning to advise applicant that the development would have to be fully serviced.
- g) Proposal from property owner of 1150 Torbay Road to construct single family dwelling
- Application dealt with under Building Application Report, dated June 21, 2013, Application 9986-13.
- h) Proposal from property owner at 228 Indian Meal Line to subdivide property and construct a single family dwelling
- Director of Planning to contact applicant for additional information.
- i) Latest proposal for development at Doyle's and Quigley's Lane
- Advising applicant to submit more formal application for consideration.
2. Five Year Review Items
- a) Additional information for consideration under the five year review – Country Drive.
3. Correspondence
- a) Letter from resident of 38 Cordelia Crescent – dealt with correspondence.
- b) Letter from Concerned Citizens Group concerning refund of appeal fee for Motion Drive Estates appeal
- Councillor Tapper indicated that he had requested at a previous Council Meeting that Committee bring back a recommendation to Council, as correspondence was addressed to Mayor and Councillors.
 - Councillor Smith advised that the CAO and Director of Planning had meeting on amendment process with the Department of Municipal Affairs; and, had asked for clarification on this matter, as well – the Department's Director of Planning Land Use confirmed that the Chair of the Concerned Citizens Group has written the Department seeking further clarification. No further action to be undertaken until we receive reply from the Department.
 - Council further discussed the matter, indicating that there has been no direction from the Department of Municipal Affairs to refund fee.

CAO to determine and confirm if recommendation should be brought back for all Council to vote on.

- c) Request from developer to erect sign to advertise proposed development
Director of Planning to inform property owner to submit a formal application.
4. Other Items
- a) New Signage and Advertisement Regulations
 - Motion to follow.
 - b) Location of accessory building located at 52 Reddy Drive
 - Director of Planning is investigating building queries and location.
 - c) Outstanding items from Correspondence and Action Report
 - Director of Planning dealing with items from the report.
1. Development Proposals
- e) Proposal from Property Owner at Charles Lane to have a previously approved 4-lot unserved development re-approved.

233-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT that the Town of Torbay give property owner of Civic 6 Charles Lane approval in principal so he can proceed with engineering and design work on the proposed 4 lot unserved subdivision off Charles Lane as described on his proposed development drawing. No permits will be issued until all current standard conditions for developing within the Town of Torbay are met and a Development Agreement is signed. As per normal procedure the proposal will be sent to the Public Works Department and Recreation Department for review.

Question called. Motion carried unanimously.

4. Other Items
- a) New Signage and Advertisement Regulations

234-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT that the Town of Torbay adopt the Signage and Advertisement Regulations pursuant Section 414 1. (rr) of the Municipalities Act, Chapter M-24, S.N. 1999. These regulations will come into effect on August 1, 2013, and will be referenced into the Municipal Plan currently under review.

Question called. Motion carried unanimously.

Building Applications Approved

As per the Building Application Report, dated June 21, 2013, the following applications were approved subject to the normal conditions and requirements for building within the Town of Torbay:

<i>Application Number</i>	<i>Location</i>	<i>Proposal</i>
9992-13	2 Edgewater Lane	Second Driveway Access and Culvert
9997-13	304-306 Bauline Line	General Repairs
9999-13	103-111 Upper Evening's Path	General Repairs
10001-13	194-196 Marine Drive	General Repairs
10004-13	5-11 Doyle's & Quigley's Lane	Replace Existing Patio
10005-13	19 Cox Marsh Road	16' x 20' Accessory Building

Building Applications for Approval

Application: 9725-12
Location: 38 Whiteway Pond Road (Portion of 38-40 Whiteway Pond Road)
Proposal: Single Family Dwelling
Zoning: Residential Infill (RI)

235-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 9725-12, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following condition:

1. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Application: 9992-13
Location: 2 Edgewater Lane
Proposal: 912 SF Accessory Building,
Zoning: RLL (Residential Large Lot)

236-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 9992-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following conditions:

1. The use of the accessory building is restricted to residential accessory use.

2. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Application: 9993-13
Location: 18 Edgewater Lane
Proposal: 22' x 28' Accessory Building,
Zoning: RLL (Residential Large Lot)

237-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 9993-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following conditions:

1. The use of the accessory building is restricted to residential accessory use.
2. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Application: 9994-13
Location: Portion of 1537-1547 Torbay Road
Proposal: 1500 square foot Commercial Building – Convenience Store
Zoning: Mixed Development Land Use Zone (MIX)

238-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 9994-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following conditions:

1. The project shall conform to the requirements of the Mixed Development (MIX) Land Use Zone of the Torbay Development
2. The project shall meet the normal building requirements of the Town.
3. Approval from the following Government Agencies is required:
 - a. Service NL (Fire and Life Safety Division)
 - b. Service NL (Accessibility Division)
 - c. Service NL (Operations Division)

Question called. Motion carried unanimously.

Application: 9995-13
Location: 87-95 Whitty's Lane
Proposal: 22' x 24' Accessory Building
Zoning: RI (Residential Infill)

239-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 9995-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following conditions:

1. The use of the accessory building is restricted to residential accessory use.
2. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Application: 9996-13
Location: 64-68 North Pond Road
Proposal: 20' x 24' Accessory Building
Zoning: RMD (Residential Medium Density)

240-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 9996-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following conditions:

1. The use of the accessory building is restricted to residential accessory use.
2. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Application: 9998-13
Location: 12 Anstey Cove Lane
Proposal: Single Family Dwelling
Zoning: Residential Medium Density (RMD)

241-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 9998-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following condition:

1. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Application: 10000-13
Location: Humpity Marsh Road/Indian Meal Line
Proposal: Temporary Sign for Proposed Residential Subdivision
Zoning: Residential Infill (RI)

242-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 10000-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following conditions:

1. All normal conditions and requirements for building within the Town of Torbay.
2. Approval required from Service NL for sign location.

Question called. Motion carried unanimously.

Application: 10002-13
Location: Portion of 66-70 Country Drive
Proposal: Single Family Dwelling
Zoning: Residential Medium Density (RMD)

243-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 10002-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following condition:

1. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Application: 10003-13
Location: 60-62 Upper Evening's Path
Proposal: Single Family Dwelling
Zoning: Residential Infill (RI)

244-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 10003-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following condition:

1. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Application: 10006-13
Location: 1304 Torbay Road
Proposal: 14' x 22' Accessory Building
Zoning: Mixed Development

245-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 10006-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following conditions:

1. The use of the accessory building is restricted to residential accessory use.
2. All normal conditions and requirements for building within the Town of Torbay.
3. The location of the proposed accessory building to be confirmed prior to the issuance of a building permit.

Question called. Motion carried unanimously.

Application: 10007-13
Location: Portion of 54-58 Country Drive
Proposal: Demolition of Existing Accessory Building and Construction of Single Family Dwelling
Zoning: Residential Medium Density (RMD)

246-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 10007-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following conditions:

1. All normal conditions and requirements for building within the Town of Torbay.
2. Removal of existing accessory building.

Question called. Motion carried unanimously.

Application: 10008-13
Location: 1399-1405 Torbay
Proposal: Exterior Renovations to Commercial Building (windows, doors, siding, eaves trough, etc.)
Zoning: Mixed Development (MIX)

247-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 10008-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following condition:

1. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Application: 10009-13
Location: 21 Manning's Hill (Portion of 21-25 Manning's Hill)
Proposal: Single Family Dwelling
Zoning: Residential Medium Density (RMD)

248-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 10009-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following conditions:

1. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Application: 10010-13
Location: 5 Hickey's Place (Portion of 21-25 Manning's Hill)
Proposal: Single Family Dwelling
Zoning: Residential Medium Density (RMD)

249-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 10010-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following condition:

1. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Application: 10011-13
Location: Portion of 595 Indian Meal Line (Parcel A)
Proposal: Single Family Dwelling
Zoning: Residential Infill (RI)

250-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 10011-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following condition:

1. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Application: 10012-13
Location: Portion of 595 Indian Meal Line (Parcel B)
Proposal: Single Family Dwelling
Zoning: Residential Infill (RI)

251-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 10012-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following condition:

1. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Application: 10013-13
Location: 2 Pinch Creek Place
Proposal: 912 SF Accessory Building
Zoning: RLL (Residential Large Lot)

252-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 10013-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following conditions:

1. The use of the accessory building is restricted to residential accessory use.
2. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Application: 10014-13
Location: 87-89 Morris Avenue
Proposal: Single Family Dwelling
Zoning: Residential Infill (RI)

253-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay approve Application 10014-13, under the Applications for Approval section of the Building Application Report, dated June 21, 2013, subject to the following condition:

1. All normal conditions and requirements for building within the Town of Torbay.

Question called. Motion carried unanimously.

Building Applications to be Refused

Application: 9986-13
Location: Portion of 1150 Torbay Road
Proposal: Single Family Dwelling
Zoning: Mixed Development -- Residential Infill (RI)

254-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the Town of Torbay refuse Application 9986-13, under the Applications to be Refused section of the Building Application Report, dated June 21, 2013, for the following reasons:

1. The property only has enough frontage to accommodate the existing building lot.
2. The current home is considered a legal non-conforming use because of it excessive setback. Therefore Regulation 49 3(f) & 3 (g) should apply.

49. Non-Conforming Use

- (3) A building, structure or development that does not conform to a scheme, plan or regulations made under the Act that is allowed to continue under subsection (1)
 - (f) where the non-conformance is with respect to the standards included in these development regulations, shall not be expanded if the expansion would increase the non-conformity;
 - (g) where a building, structure or development does not meet the development standards included in development regulations, the building, structure or development shall not be expanded if the expansion would increase the non-conformity and an expansion must comply with the development standards applicable to that building, structure or development.
3. As per Regulation 73 (a) & (c)

73. Issue of Permit Subject to Considerations:

A permit shall not be issued when, in the opinion of the Authority, the development of a subdivision does not contribute to the orderly growth of the municipality and does not demonstrate sound design principles. In considering an application, the Authority shall, without limiting the generality of the foregoing, consider:

- (a) the location of the land;
- (c) the provisions of the Plan and Regulations affecting the site

Question called. Motion failed.

For Motion: Councillor Smith and Councillor Byrne

Against Motion: Mayor Codner, Deputy Mayor Gallant, Councillor Tapper, and Councillor Whitty

Council discussed the above motion including history of site and buildings pertaining to the property, Regulation 49 and Regulation 73. Deputy Mayor Gallant referred to Regulation 49 (3) (h) – “where the building or structure is primarily zoned and used for residential purposes, may, in accordance with the municipal plan and regulations, be repaired or rebuilt where 50% or more of the value of that building or structure is destroyed.” It was noted that the Town’s Planning Consultant reviewed application and concluded that the Town could not move forward with this application as it’s not compliant with regulations. History of previous structures on the property, grandfathering, previous decisions of Council relating to this property in 1982, back lot

development, and other regulations that may pertain to this property for approval were discussed for consideration. See motion below.

Application: 9986-13
Location: Portion of 1150 Torbay Road
Proposal: Single Family Dwelling
Zoning: Mixed Development - Residential Infill (RI)

255-13 Motion – Councillor Tapper / Councillor Whitty

RESOLVED THAT the Town of Torbay approve Application 9986-13, to construct a Single Family Dwelling at Portion of 1150 Torbay Road, subject to all normal building conditions within the Town of Torbay. Council agreed to the established setback of 37 meters.

Question called. Motion carried.

For Motion: Mayor Codner, Deputy Mayor Gallant, Councillor Tapper, and Councillor Whitty.

Against Motion: Councillor Smith and Councillor Byrne.

Councillor Smith discussed impact to existing resident on property, including matters of safety in the event of an emergency situation, the Town's regulations, and non-conforming lots/use. She advised that we have a non-conforming lot and will approve a second non-conforming lot on same piece of property. She further indicated that this Council is being non-consistent and this is matter is connected to buying votes, as municipal election is upcoming.

Councillor Tapper called Point of Order, indicating that majority of Council rules and requesting that Councillor Smith apologize to Council for her comments. Mayor Codner advised that Point of Order was well taken, indicating that decision of Council is majority.

Councillor Tapper put forth a motion, seconded by Councillor Whitty that Councillor Smith apologize to the Mayor and Council for statement that she made.

Councillor Smith called Point of Order, indicating that Council cannot make a motion for an apology. Mayor Codner advised that the Point of Order was well taken, indicating motion to be deferred to the next Council Meeting for research.

Councillor Tapper withdrew motion and serviced a Notice of Motion on this matter for the next Council Meeting.

Public Works

Councillor Whitty gave an overview of items discussed under the Public Works Update, dated June 19, 2013.

Items discussed in the report included:

- Convent Lane/North Pond Rd.
 - Preliminary documents have been submitted to Municipal affairs for approval.
- Equipment
 - Tenders for both a Rubber Tire Backhoe and Excavator with trailer have been recommended and forwarded to finance committee for approval.
- Solid Waste & Recycling Tender
 - The Solid Waste and Recycling tender has been reviewed and a recommendation has been forwarded to finance committee for approval.
- North Pond Gate
 - New gate installation for July 1, 2013.
 - Councillor Smith noted that there was a 30 day notice issued for installation of gate. Gate could possibly be in place before July 1st, but not before the 30-day notice expires.
- Hydrant Flushing
 - The Public Works Department has completed our new bi-annual Hydrant Flushing Program. The second phase of flushing will commence in the fall for three weeks.
- Depot Site
 - Due to planning concerns with the selected site at South Pond, the Public Works Department has begun investigations on alternate sites within the Town.

Recreation, Parks and Community Services

Deputy Mayor Gallant gave an overview of items discussed under the Department of Community Services Committee Minutes, dated June 18, 2013.

Items discussed in the report included:

- Town Centre
 - The Director of Community Services reported that she and CAO have had discussions with the Lawyer on the next steps for the Town centre. Director has begun the process to have the land assessment report updated to the current market value as the previous one was completed in 2010. Once completed, it will be brought back to Council.
- Signage
 - Director discussed signage for Upper Three Corner and Motion to move forward for a tender for supply only for these two locations. Other discussion was that the main entrance signage/Bypass could be done in another budget. Also some discussion on the type of sign for the main entrance; light up sign and would be good to have one with more wording for announcements.

- The Director also reported notes from Tract that they are hoping to advise status of Crown Lands Applications – one or these areas is in close proximity of one future sign.
- Trails
 - Director reported that a visit to eight homes was done on June 5th, 2013, by both the DCS and DOP to discuss with the landowners our intentions of making the trail three meters wide as opposed to the current 1.83 meters as per Grand Concourse recommendations. Will follow up with some outstanding land owners.
 - Timelines for development of trail and estimates will be provided for next meeting.
- Multi-Purpose Sport Facility Upper Three Corner
 - Looking to put a new building at Upper Three Corner Pond in area of soccer field. Exploring avenues of funding.
- Provincial Wellness Funding
 - Funding was received in the amount of \$12,500.00.
- Big and Small / Treehouse TV & YTV Characters along with Markus, Douglas John and Oucho the Monkey from Treehouse
 - Big & Small and Treehouse Friends will be coming September 8, 2013 to the Jack Byrne Arena.
 - Thank you to SEA Contracting for their generous sponsorship and continued support of programs.
- Concerns with Kinsmen Center
 - There are some concerns with poor parking habits and some issues at the Kinsmen grounds. Looking at camera on the building.
 - Deputy Mayor noted that did receive an email complimenting teenagers for their good behavior at that site and glad the skateboard park is there. The Enforcement Office to visit in the day and evening and notify RNC so they're aware.
- Upcoming Events
- Other
 - Dog Park – More potential sites; and, he noted the importance of one in the community.
 - Playground – steps will be added to the small hill to assist those who find it difficult to walk up the hill.

Technical Services

No report.

SPECIAL COMMITTEES OF COUNCIL

None.

LIAISON COMMITTEES

Heritage/Museum

No report.

Jack Byrne Arena

Councillor Smith questioned Item No. 101 of the Correspondence and Action Report, dated June 25, 2013 – Recent ball hockey tournament and asked Deputy Mayor Gallant for an update. Deputy Mayor advised there has been no meeting since, but will follow up on this matter.

Northeast Avalon Joint Council

Councillor Whitty reported that a meeting was being held tonight, however, he was unable to attend.

Northeast Avalon Regional Plan

No report.

Torbay Harbour Authority

Councillor Byrne reported that most of the construction work at Tappers Cove is complete. A lot of fill had to be trucked out, which the contractor is taking care of.

The Food Fishery is coming up and all preparations looks good – the contractor should be gone by this time.

Torbay Volunteer Fire Department

Councillor Byrne provided an overview of items discussed under the Torbay Volunteer Fire Department Meeting Notes, dated June 17, 2013.

Items discussed in the report included:

- There have been seven (7) calls since the last meeting.
- The number of calls has dramatically dropped this year, and hoping the numbers will stay low. The Department is up to 81 calls now.
- The Department is having a booth at the St. John's Regatta again this year. They're in the process of organizing this and would be great for all residents to get out and support.
- Fire Fighter John Callahan received an award in his job – Community Service by Real Estate Company.
- Compressor is fixed.
- Fire Fighters will be in attendance at the Canada Day/July 1st Service.
- CAO advised that the UPS back-up system for power outages has been installed. She will notify the Fire Chief on this as well.

Urban Municipalities Committee

No report.

NEW BUSINESS

Mayor Codner

Mayor Codner provided information from weekly RNC report. The RNC have indicated they have been targeting cell phone usage and did catch a lot of violators.

Deputy Mayor Gallant

Deputy Mayor Gallant discussed the Motion Estates appeal. He read Section 44 of the Urban Rural Planning Act, referencing payment to the appellant by Council, and he read aloud the conclusion section of the appeal. Section 44 of the Urban Rural Planning Act explains in detail matter of payment to the appellant by Council, advising the Town should refund the fee as the appeal was successful.

Deputy Mayor put forth a motion that the Town of Torbay officially recognize and adopt the position and move forward with the understanding the appeal of Motion 158-12 (Motion Phase 3) was granted to the Concerned Citizens of Torbay by the Eastern Appeal Board. The motion was not seconded.

Deputy Mayor asked if the legal fees were paid by the Town or the Developer.

Councillor Smith called Point of Order, indicating that there was a motion on the floor. Mayor Codner advised Point of Order was well taken, indicating to wait for decision from the Department of Municipal Affairs – CAO to bring back details.

Deputy Mayor Gallant thanked Torbay Staff for providing information to him – speaking with media on issues. Staff are informative and helpful.

Councillor Byrne

Councillor Byrne discussed a recent discussion by a caller on a radio show - complaint of garbage accumulation on the Bypass Road. He advised that there are areas on the road that need to be cleaned up and he questioned if the Town could do anything such as put up signage or place video camera in the area.

Mayor Codner indicated that he did hear this as well, indicating there was very little garbage there when checked.

Councillor Smith noted that a Clean Up Order has been issued for a property off the Bypass Road.

Councillor Roche - Absent

Councillor Smith

Councillor Smith thanked both Council Members and Staff who supported her in the 2013 Walk for Diabetes.

She congratulated Councillor Whitty on his recent retirement, indicating that he has retired from his school teaching career. She wished him all the best in retirement.

Councillor Smith advised that she received two separate calls concerning Doyle's & Quigley's Lane being blocked off/impassable due to recent events at the Holy Trinity Elementary School. She discussed safety concerns, as an emergency vehicle would not have been able to get through. She questioned if Staff could enforce parking regulations – if barricades could be used to protect the sides of the road and if alternate parking could be provided for people who want to attend school events.

Director of Planning noted that the Municipal Enforcement Officer did visit that area and put notices on the vehicles – some vehicles were given warning tickets. He also noted that the principal of the school was aware of the matter and sent out notice to parents concerning parking.

Councillor Smith questioned how to enforce for future events or if the Town could work with the school on advanced notices for parent invited sessions. It's also a safety concern for the kids. The Town's Municipal Enforcement Officer will work with the school when it re-opens the first week of September.

Councillor Tapper - Pass

Councillor Whitty - Pass

ADJOURNMENT

256-13 Motion – Councillor Smith / Councillor Byrne

RESOLVED THAT the meeting be adjourned at 9:40 p.m., as there was no further business.

Question called. Motion carried unanimously.

Mayor

CAO/Town Clerk