



***MINUTES***  
PUBLIC COUNCIL MEETING  
March 5, 2012

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Minutes of the Regular Meeting of Council held in the Council Chambers, Town Hall on March 5, 2012 at 7:37 p.m.

**Members Present**

Mayor Bob Codner  
Deputy Mayor Geoff Gallant  
Councillor Mike Byrne  
Councillor Peggy Roche  
Councillor Ralph Tapper  
Councillor Brian Whitty

**Staff Present**

Dawn Chaplin, CAO/Town Clerk  
Bernard P. Manning, Director of Public Works & Technical Services  
Brian Winter, Development and Planning Officer  
Ann Picco, Executive Clerk

**Regrets**

Councillor Carol Ann Smith

**Gallery**

There were a total of 5 people in attendance.

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

078-12      **Adoption of Agenda**

Motion – Councillor Byrne / Councillor Roche

**RESOLVED THAT** the Agenda be adopted, as presented.

Question called. Motion carried unanimously.

**Adoption of Minutes**

079-12      Motion – Councillor Roche / Councillor Tapper

**RESOLVED THAT** the Minutes of the February 20, 2012, Public Council Meeting be adopted, as presented.

Question called. Motion carried unanimously.

**PROCLAMATIONS / PRESENTATIONS** - None

**CORRESPONDENCE**

Before reviewing correspondence, Mayor Codner brought up issues of signs in the Town being defaced and illegal dumping. He asked if the Town could offer a payout of an award for any information leading to conviction and arrest of anyone committing such acts. Council agreed that they should take a proactive approach and send a message that we are not going to tolerate these types of activities and behavior. See motion below:

080-12      Motion – Deputy Mayor Gallant / Councillor Byrne

**RESOLVED THAT** the Town of Torbay offer a \$1,000.00 reward for information leading to conviction and arrest of anyone defacing signs and illegal dumping within the Town's limits of Torbay.

Question called. Motion carried unanimously.

1. East Coast Trail Association – 2012 Tely Hike. *For Information Purposes.*
2. Stewardship Association of Municipalities (SAM) – Member Survey. *Deputy Mayor Gallant advised that he is President of SAM and Councillor Tapper is on the Executive Committee, as Treasurer. One of the items brought up at the last AGM was that, as SAM is evolving, they want to poll their members to see if they want SAM to take a more active role between AGMS and to get involved a little more by being more vocal.*
3. Councillor Tapper – Notice of Motion concerning Heritage Zone. *Councillor Tapper read aloud:  
The Town of Torbay is known for its historical features and beautiful landscapes. The 2009 Torbay Heritage Plan Survey Results indicates that over 90% of those surveyed thought preserving heritage was important. The oldest area of our Town has to be given more visibility as a heritage treasure. As a means of preserving the areas such as The Big Beach, Lower Street, Moores Valley Road, The Bite, Tappers Cove, they must be incorporated into a special Heritage Zone. See motion below:*

081-12      Motion – Councillor Tapper / Deputy Mayor Gallant

**RESOLVED THAT** the Town of Torbay task the Torbay Heritage Committee with researching and recommending a Heritage Zone, including identifying boundaries and outlining policy administration, for the approval of Council and that new zone be entrenched within our Municipal Plan as part of the Five Year Review in 2012.

Question called. Motion defeated.

For Motion: Deputy Mayor Gallant, Councillor Tapper, Councillor Whitty

Against Motion: Mayor, Councillor Byrne, Councillor Roche

Council discussed the above Motion, 081-12. It was advised that the Heritage Committee is enthusiastic and excited to proceed with a Heritage Zone. It was discussed that this matter should be communicated through the Committee's Liaison, rather than through a Motion of Council, as Committee is already looking into this matter. Council Members also indicated that the motion should be carried to indicate Council's support and to ensure that it's actioned; it's important that this be discussed and actioned during the Municipal Plan review.

4. Councillor Tapper – Notice of Motion concerning undertaking of work at 28 Lower Street. ***Councillor Tapper read aloud:***  
***A resident of 28 Lower Street first notified our Public Works Staff in the Fall of 2010 that there was excessive water flowing in nearby Western Island Pond Brook that could lead to property damage. After several site visits by Town Staff and Engineers from NL Design who confirmed that preventive measures could be taken, the resident was notified the Town had finally approved the work to be undertaken in 2011 and a cost estimate was received from a construction firm. This issue was again recently discussed at Council meetings and referred back to the Public Works Committee, but no action has been taken. See Motion below:***

082-12      Motion – Councillor Tapper / Councillor Whitty

**RESOLVED THAT** the Town of Torbay undertake the work at 28 Lower Street as soon as possible with the expense covered within the 2012 Public Works budget and at the same time direct staff to explore the possibilities of recovering the cost from the provincial government since the area is within a river conservation buffer zone.

Question called. Motion carried.

For Motion: Deputy Mayor Gallant, Councillor Byrne, Councillor Roche, Councillor Tapper, Councillor Whitty

Against Motion: Mayor Codner

Councillor Tapper and CAO provided an overview of actions and timelines leading up to this motion, including associated costs. Council discussed other properties affected, or that could be affected, by flooding and that fall into this same category. Council discussed development and climate change, which could affect flooding; and completion of a flood plain analysis was discussed to determine affected properties.

5. Councillor Tapper – Notice of Motion concerning rezoning and Municipal Plan Review. ***This motion was deferred.***
6. Department of Transportation and Works – provision of culvert at spillway and Bullocks Town Road. ***For Information Purposes – Department committed to culvert.***
7. Business Logistics Services – St. John's Urban Region Regional Plan Amendment No. 3, 2011. ***For Information Purposes.***
8. Correspondence from Daycare requesting exemption from business tax and Information from other towns concerning Daycare Commercial, Business, and General Business Tax. ***Research was done with other towns, and most are charging full mill rate. There was no commitment***

*concerning taxes when the owner came to the Town; and, they are operating at full capacity. Other businesses in Torbay are also paying full rate. Council agreed to leave as is in the short term.*

9. Multiple Sclerosis Society of Canada – Multiple Sclerosis Walk. *For Information Purposes. Mayor advised this is an annual walk that we do every year; and, anyone can come along.*

### **CORRESPONDENCE & ACTION REPORT**

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

*Mayor asked that the matter of land expropriations be included on the report. This concerns residents who have had their land expropriated in relation to the Bypass Road. He advised he discussed this with an official from the Department of Transportation and Works, and they made a commitment to resolve by March, 2012. He's forwarding more emails to the Department, tomorrow, March 6<sup>th</sup>, to confirm process and timelines.*

### **COMMITTEE REPORTS**

#### **Economic Development**

No Report.

#### **Finance**

The Financial Report, dated February 20 – March 2, 2012, was accepted, as presented. Councillor Tapper read out payroll and accounts payable information as per the report:

Payroll for the period of February 20 – March 2, 2012, for 29 employees totaled \$57,868.19.

For the period of February 20 – March 2, 2012, Accounts Payable invoices in the amount of \$179,183.56 were paid. These expenditures were within budget.

There are four (4) Main Operating Invoices totaling \$120,276.59 for approval.

083-12      Motion – Councillor Tapper / Deputy Mayor Gallant

**RESOLVED THAT** the Town of Torbay approve payment to City of St. John's, for 911 Service and City Back up Response, in the amount of \$59,537.83.

Question called. Motion carried unanimously.

084-12      Motion – Councillor Tapper / Deputy Mayor Gallant

**RESOLVED THAT** the Town of Torbay approve payment to Clarke’s Trucking and Excavating, for Sand for Ice Control, in the amount of \$25,027.81.

Question called. Motion carried unanimously.

085-12      Motion – Councillor Tapper / Deputy Mayor Gallant

**RESOLVED THAT** the Town of Torbay approve payment to Ultramar Limited, for Diesel for Depot Tanks, in the amount of \$6,569.00.

Question called. Motion carried unanimously.

086-12      Motion – Councillor Tapper / Deputy Mayor Gallant

**RESOLVED THAT** the Town of Torbay approve payment to Workers’ Compensation, for Payroll Assessment for 2012, in the amount of \$29,141.95.

Question called. Motion carried unanimously.

There are no Capital Invoices for approval.

A copy of the current income and expense reports were included for Council’s information.

087-12      Motion – Councillor Tapper / Councillor Byrne

**RESOLVED THAT** further to Motion 068-12, that the Town of Torbay finance the acquisition of a new unit 1050 rescue pumper as per Fire and Emergency Services Tender #16 2011 / 2012. Financing will be with RBC Royal Bank. The term of the loan will be 5 years (60 months) with a monthly payment of \$4,067.00. The financing is subject to the approval of the Department of Municipal Affairs.

Question called. Motion carried unanimously.

### **Human Resources and Administration**

Councillor Byrne gave an overview of items discussed at the Human Resources and Administration Committee Meeting, dated February 21, 2012.

Items discussed in the Report included:

- Seniority List - the public works seniority list was posted on January 30, 2012 as per the collective agreement. It will be reposted following resolution of one challenge.
- Sports and Wellness Coordinator - Committee members provided feedback on the draft job description. It was agreed that CAO and the Supervisor of Recreation and Healthy Living

will take the lead on the hiring process. The hiring of this seasonal position is a recommendation from the Recreation Master Plan and is a budgeted item for 2012. Once interviews are complete, a recommendation will come back to Committee for their review and their recommendation back to Council.

- Organizational Chart Review - It was agreed by Committee members present that this matter be deferred to the next Committee meeting in order for all members to be present. Recommendations will then come back to Council.
- Personal/Professional Growth Plans - CAO confirmed that staff members have submitted their 2012 growth plans. CAO will be meeting with each staff member over the coming weeks to review and discuss further.

### **Planning and Land Use**

Councillor Byrne asked if anyone had any questions on items included in the Planning and Land Use Development Committee Meeting, dated March 1, 2012.

Council discussed the following:

1. Development Proposals

- a) Discretionary Use Advertisement for proposed clock making work shop at 10 Brixham Crescent.
  - Development and Planning Officer to check covenant with the developer before proceeding with recommendation.
- b) Proposal from the property owner of 35A Marine Drive to subdivide the property to develop 3 fully serviced building lots.
  - Council discussed that proposal may impact Town's allotment/plans. Eastern School District have also looked at the property, as well. Before Town negotiates with the property owner, need to see what Eastern School District's intent is. Mayor Codner to arrange meeting with officials from Eastern School District.
- c) Revised proposal for Motion Drive Estates Phase III.
  - Deputy Mayor discussed holding public meetings concerning green space allocations.
  - Information forwarded to Recreation Department with proposed layout.
  - Recreation Committee to provide comments to the Planning and Land Use Development Committee within 14 days, then make a recommendation to Council.

Councillor Tapper discussed property at 1429 – 1439 Torbay Road, corner of Torbay Road and Mannings Hill.

- People are questioning how developer can fit two houses on property there. Access to the homes were discussed. Development and Planning Officer advised that two access permits were granted by the Department of Transportation and Works. Development and Planning Officer to check into further and bring back to Council.

Councillor Byrne discussed items included in the report, as follows:

4. Other Items
  - a) Draft Backfilling Policy and b) Draft Signage Policy  
Councillor Byrne requested that comments be forwarded to the Development and Planning Officer.
  - g) Flood Plain Analysis  
Rescinding of Motion 069-12. Chair asked that this Motion be rescinded, so that other avenues can be explored. Committee are not doubting or questioning the skills of the Town's engineers; they would just like to further research. Council discussed doing a full review/analysis of the Town, rather than in specific areas. The flood plain analysis can't be completed until the Spring, so this would provide an opportunity for the Town to do further research. See motion 088-12 below.
  - h) Committee Meeting Time  
Timelines for reports are tight for the Development and Planning Officer. Discussion was held regarding whether we can possibly move meetings back to Wednesday night. Human Resources and Administration to review this request and report back to Committee.

088-12      Motion – Councillor Byrne / Deputy Mayor Gallant

**RESOLVED THAT** the Town of Torbay rescind Motion 069-12 which states “that the Town of Torbay make no delay in moving forward, and engage Newfoundland Design Associates Ltd. to proceed with the Flood plain Analysis.” This will give staff to proceed with further investigation into the best possible way to move forward with a Flood Plain Analysis.

Question called. Motion carried.

For Motion: Deputy Mayor Gallant, Councillor Byrne, Councillor Tapper, Councillor Whitty

Against Motion: Mayor Codner, Councillor Roche

089-12      Motion – Councillor Byrne / Councillor Roche

**RESOLVED THAT** the Town of Torbay approve Scenic View Drive as the street name for the street that will run North of Flora Drive in Phase 1 of KMB Holding Development. This name has been approved through the 911 system.

Question called. Motion carried unanimously.

**Application:** 9663-12  
**Location:** Portion of 97-103 Country Drive  
**Proposal:** Single Family Dwelling  
**Zoning:** Residential Medium Density (RMD)

090-12 Motion – Councillor Byrne / Councillor Roche

**RESOLVED THAT** the Town of Torbay approve Application 9663-12, under the Applications for Approval section of the Building Application Report, dated March 2, 2012, subject to the following conditions:

1. The development shall meet the normal building requirements of the Town.
2. The property shall be serviced with municipal water and sewer services. This lot was included in the infill water study.
3. The development is subject to refundable security deposits for road damage and water and sewer connection in accordance with Council Policy.
4. Applicant to provide a Plot Plan showing the proposed location of the new residence.

Question called. Motion carried unanimously.

**Application:** 9664-12  
**Location:** 34 Patrick's Path  
**Proposal:** Single Family Dwelling  
**Zoning:** Residential Medium Density (RMD)

091-12 Motion – Councillor Byrne / Councillor Roche

**RESOLVED THAT** the Town of Torbay approve Application 9664-12, under the Applications for Approval section of the Building Application Report, dated March 2, 2012, subject to the following conditions:

1. The development shall meet the normal building requirements of the Town.
2. The property shall be serviced with municipal water and sewer services. This lot was included in the infill water study.
3. The development is subject to refundable security deposits for road damage and water and sewer connection in accordance with Council Policy.
4. Applicant to provide a Plot Plan showing the proposed location of the new residence.



Question called. Motion carried unanimously.

**Application:** C1027-12  
**Location:** 412-454 Bauline Line  
**Proposal:** Residential Development  
**Zoning:** Residential Infill (RI)

092-12 Motion – Councillor Byrne / Councillor Roche

**RESOLVED THAT** the Town of Torbay approve Application C1027-12, under the Crown Land Application Report, dated March 2, 2012, to obtain crown land at 412-454 Bauline Line.

Question called. Motion carried unanimously.

### **Public Works**

No report.

### **Parks, Recreation and Community Services**

Deputy Mayor Gallant gave an overview of items discussed at the Recreation Committee Meeting, dated February 29, 2012.

Items discussed in the Report included:

- Open Space report - will be up on the website for everyone's review online soon.
- Beautification Plan – ongoing. Going to Public Works work plan to complete.
- Signage Strategy – Shipped on March 2<sup>nd</sup>.
- Marine Drive – there's some conflict there concerning land and proposed recreation wellness centre.
- Liquor License – Kinsmen Centre – Motion 093-12 is below.
- Kinsmen Centre – Church – No problem as per fee structure, outlined for winter and summer.
- Eat Great and Participate – Torbay was pilot for booklet, Celebrating our Success. Included were quotes for SRHL, Lorne Tucker - Jack Byrne Arena, and Mayor Codner.
- Follow the Leader – Mayor and Deputy Mayor are participating in monthly challenges.
- Adopt Healthy Living Policy – Motion 094-12 is below.
- Charity Cup – Reminder that the event is on March 24<sup>th</sup>.

093-12 Motion – Deputy Mayor Gallant / Councillor Byrne

**RESOLVED THAT** to minimize risk and liability to the Town of Torbay, as it pertains to alcohol related rentals at the Kinsmen Community Centre, that the Town of Torbay have all alcohol related rentals, effective April 1, 2012, to require a special events license.

Question called. Motion carried unanimously.

094-12 Motion – Deputy Mayor Gallant / Councillor Tapper

**RESOLVED THAT** the Town of Torbay adopt the Healthy Eating Policy, for Town Operated Community Events, effective April 1, 2012.

Question called. Motion carried unanimously.

### **Technical Services**

No report.

## **SPECIAL COMMITTEES OF COUNCIL**

### **2012 Celebrations**

Councillor Tapper gave an overview of items discussed at the Torbay250 Special Committee Meeting, dated March 1, 2012.

Items discussed in the Report included:

- Committee had some new members show up for the first meeting – brought them up to date concerning schedules.
- The Great Big Sea concert contract sign signed on February 17<sup>th</sup>.
- The Official Launch of Torbay250 is on March 23<sup>rd</sup> at the Kinsmen Centre at 1:00. Allan Doyle will be there; and will be covered by the media.
- Everything on schedule. Events are pinpointed as to what month they will be held - in process of getting dates finalized.
- Hillside Festival is on Canada Day, July 1<sup>st</sup>.
- St. Patrick's Day concert is on Saturday, March 10<sup>th</sup> at 7:00 p.m. at the high school. Mayor Codner is bringing greetings.
- The next meeting is at 7:00 p.m. on Monday, March 12<sup>th</sup>.

Deputy Mayor requested that Council get Outlook invites for all events. Events will be going up on the website as well and on printed material.

### **By Pass Road**

No report.

**LIAISON COMMITTEES**

**Heritage/Museum**

Councillor Byrne gave an overview of items discussed at the Torbay Heritage Meeting, dated January 29, 2012.

Items discussed in the Report included:

- He noted that Minutes are usually a month behind.
- Torbay250 Special Events Coordinator was in attendance – great effort put forth by him.
- Discussed Constitution – met with solicitor and forwarded information for Committee in putting together the Constitution.
- Key areas discussed were donations and constitution.

**Jack Byrne Arena**

Amendments to the Constitution of the Jack Byrne Arena - Deputy Mayor gave an overview of items discussed in the Report, including:

- There is a meeting coming up soon - deadline for comments for amendments. Did contact Chair Power for extension to deadline date on feedback. Councillor Tapper has forwarded items that we may want to look at.
- Section 2.2 – Qualifications - whether or not elected council members or residents should be members of Board.
- Section 2.5 – Term of Office – can be appointed for two terms – Board removed term limits. Decision needs to be made if Torbay wants to have term limits or not. Had conversation with Chair Power – questioned new constitution and signing authorities.

Deputy Mayor to schedule a meeting with Council Members to determine the Town's interests and confirm matter relating to constitution signing authorities.

*Councillor Roche left the Public Councillor Chambers at 9:30 p.m.*

**Northeast Avalon Joint Council**

Councillor Whitty advised that the next meeting is on March 19<sup>th</sup> in Flatrock. Hoping to engage the Minister of the Department of Municipal Affairs.

**Northeast Avalon Regional Plan**

No report. Plan is with the Department of Municipal affairs.

### **Torbay Harbour Authority**

Councillor Byrne advised that there was no meeting; but, he wanted to bring to everyone's attention that someone is cutting wood in the Conservation Zone in Tapper's Cove. He visited the area with Chairperson of Harbour Authority. The trees are cut very close to the road. Pictures were taken and forwarded to the Municipal Enforcement Officer. CAO to forward pictures to Mayor Codner. Would like to see a meeting arranged with DFO and Harbour Authority on situation of road to see if they can make positive changes, for all of Torbay.

### **Torbay Volunteer Fire Department**

Councillor Byrne gave an overview of items discussed in the Torbay Volunteer Fire Department Meeting Notes, dated February 27, 2012.

Items discussed in the report included:

- Received correspondence from Fire and Emergency Services as to what Fire Fighters can do when arriving on a scene. Fire Department Members are first responders. They are only permitted to give initial first aid. See motion 095-12 below.
- There have been six calls since the last meeting.
- Six new recruits since Christmas. They're advised by Chief that they are to respond to calls, but not participate until basic training is done.
- Honorariums for 2012 will be on payroll - mandated by the Government, not the Town.
- Training Report – included times and dates Fire Fighters are out and extensive training program.
- The Department was pleased that motion passed at the Council Meeting of March 5, 2012, concerning acquisition of new emergency vehicle.

095-12      Motion – Councillor Byrne / Councillor Tapper

**RESOLVED THAT** as per Section 183 of the Municipalities Act, the October 11, 2011 memo from Fire Commissioner Fred Hollett and clarification received from the Town's insurance provider on November 21, 2011, that the Torbay Volunteer Fire Department operates for the purpose of fire fighting, fire prevention and first response to emergency medical services only.

Question called. Motion carried unanimously.

### **Urban Municipalities Committee**

No report.

**NEW BUSINESS**

**Mayor Codner** - Pass

**Deputy Mayor Gallant**

Deputy Mayor Gallant thanked everyone who showed up to the recent Public Hearing last Thursday concerning developments and amendments. He thanked the Provincial Government in making sure the Town had a second hearing and that everyone's voices were heard.

**Councillor Byrne**

Councillor Byrne discussed the mural at Tapper's Cove. He advised that it does need work; and, asked if it could be included in the 2012 Torbay250 events – maybe students can get involved and come up with a similar theme.

Councillor Byrne thanked Mayor Codner for representing the Town well – he recently saw a news clip on the Eat Great and Participate event and thanked him for his extra time and effort.

**Councillor Roche** - Pass

**Councillor Smith** - Absent

**Councillor Tapper**

Medal of Bravery - Ian Wheeler, a resident of Torbay, was recently awarded with the Medal of Bravery from the Governor General of Canada, which he received on February 24<sup>th</sup>. He's being awarded for his accomplishment in rescuing the only survivor of the downed Cougar Sikorsky helicopter in March of 2009. Mayor Codner to write letter to Mr. Wheeler.

Flooded Wells - Councillor Tapper advised a resident had indicated that some people had their wells flooded and believed it was in relation to a development located at Indian Meal Line.

Bridge Road Property – a senior resident provided her story at the recent public hearing last week; and provided pictures. This is a critical area when looking at the Flood Plain Analysis. There are rocks there already in place, protecting the road. The residents' property is washing away, and nothing has been changed to rectify this situation over the past 30 years since they have been living there.

**Councillor Whitty** - Pass

**ADJOURNMENT**

096-12      Motion – Councillor Byrne / Deputy Mayor Gallant

**RESOLVED THAT** the meeting be adjourned at 9:47 p.m., as there was no further business.

Question called. Motion carried unanimously.

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*Mayor*

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*CAO/Town Clerk*