



MINUTES

PUBLIC COUNCIL MEETING January 26, 2009

Minutes of the Regular Meeting of Council held in the Council Chambers, Town Hall on January 26, 2009 at 7:40 p.m.

Members Present

Mayor Bob Codner
Deputy Mayor Thorne-Gosse
Councillor Peggy Roche
Councillor Jim Cantwell
Councillor Carol Ann Smith
Councillor Ralph Tapper

Staff Present

Dawn Chaplin, CAO/Town Clerk
Jacquie Berkshire, Executive Clerk
Ron Fleming, Director of Operations & Public Works
Brian Winter, Development & Planning Officer

Regrets

Councillor Mike Byrne

Meeting was chaired by Mayor Codner

012-09 Adoption of Agenda

Motion – Councillor Cantwell/Councillor Smith

RESOLVED THAT the Agenda be adopted as presented.

Question called. Motion carried unanimously.

013-09 Adoption of Minutes

Motion – Deputy Mayor Thorne-Gosse/Councillor Cantwell

RESOLVED THAT the Minutes be adopted with the following changes.

Page 1 – Staff Present – *Ron Fleming, Director of Operations & Public Works, Brian Winter, Development & Planning Officer.*

Page 2 – include *MP Jack Harris* in correspondences to Mayor Roche, Mayor Butt and Mayor Patten.

Question called. Motion carried unanimously

CORRESPONDENCE

- *Email Correspondence from Jonathan Sharpe, January 12, 2009* – FYI - Councillor Tapper advised he is available for the next meeting in Codroy Valley
- *Correspondence from the Town of Pouch Cove, January 13, 2009* - FYI
- *Correspondence from Tidy Towns NL, November 3, 2008* – Councillor Tapper, CAO and Supervisor of Recreation & Healthy Living met on Tidy Towns and want to apply for 2009. They are going to take a closer look at the report that recently came out and ask Supervisor of Recreation & Healthy Living to take a closer look at Communities in Bloom. They will report back to Council – B/F
- *Telephone Message from Anne Brazil re: Arena, January 13, 2009* – Mayor Codner suggested that this be passed on to the Arena Committee.
- *Correspondence from Town of Bauline, January 16, 2009* – Councillor Tapper stated that if there is interest in this initiative we should look at the next step – to get a meeting with the interested parties. Councillor Roche advised that she spoke with the Chair of the Northeast Avalon Joint Council meeting held in Petty Harbour Maddox Cove which was attended by Minister Diane Whalen and was advised that there is no plan for regional water in this area.
- *Email from Veronica Hayden – Seniors of Distinction Award, January 16, 2009* – CAO reported that Supervisor of Recreation & Healthy Living is looking after this.
- *Email from Torbay Fire Chief, January 18, 2009* - FYI
- *Correspondence from NLOWE, January 19, 2009* - FYI
- *MMSB Hazardous Waste Collection Community Results 2008* - FYI
- *The Telegram Horizons Community Profile advertising price list* – Councillor Smith stated that EDO might draft something for this profile. Councillor Roche asked about the use of the different logos the Town currently has. CAO advised that the Coat of Arms is the Official logo the Town uses however for promotion the Town will use the newly designed logo.

014-09 Motion – Councillor Smith/Councillor Roche

RESOLVED THAT the Town purchase the Banner Ad in the upcoming Horizons Community Profile in The Telegram.

Question called. Motion carried unanimously.

- *Public Hearing – Municipal Plan Amendment No. 11, 2008 & Development Regulations Amendment No. 27, 2008* – FYI
- *Public Consultation Municipal Plan Amendment NO. 13, 2009 and Development Regulations Amendment NO. 29, 2009* – FYI

- *Notice of Appeal Board Hearing - Shirley Thorne* – FYI
- *Notice of Appeal Board Hearing – Gordon & Ann Young* – FYI
- *Correspondence re: Review of Documentation Concerning South Pond, October 9, 2008* – FYI
- *Correspondence from The Town of Flatrock, January 20, 2009* – Councillor Smith enquired as to whether we should have a letter drafted to the Towns confirming their acceptance or rejection.
- *Correspondence re: Construction of the Torbay Bypass and Necessary upgrading of Indian Meal Line, January 20, 2009* - FYI

BUSINESS OUTSTANDING

- *Procedure for release of 155 future serviced lots* – Development & Planning Officer advised that the deadline was January 23, 2009. DPO or CAO will review this and it will now go to Committee and then back to Council. - B/F
- *Correspondence re: Proposed Development Regulations Amendments No.'s 10 and 25 for Moores Valley Road* – Councillor Tapper advised that we received correspondence in February 2008 from East Coast Trail objecting to this amendment. Councillor Smith stated we are waiting on a reply from Municipal Affairs. Development and Planning Officer has been talking with them and advised that they will be replying. He stated that the intent of the letter was to obtain what provincial interest there is. - B/F
- *Tappers Cove Road ownership* – Councillor Cantwell advised that there is nothing new to report. Waiting for MHA. The gates are locked and will continue to be until April. This is to be posted on the Town of Torbay website. - B/F
- *Mayor Codner will speak with university representatives regarding the possibility of an archeological dig at the Battery site.* – Mayor advised there is still nothing new to report on this issue. - B/F
- *Forest Landing – Phase One Issues* – Councillor Smith advised that the Development Committee will bring forth a recommendation. - B/F
- *Regional Water* – B/F
- *Jones Pond Trail* – Councillor Tapper advised that other issues have gotten second opinion and he is wondering if we should get second opinion on this and have another lawyer look at it. Councillor Smith suggested we have this addressed at Convention to get a resolution. Councillor Cantwell doesn't understand why we cannot enforce our regulations for this Trail. Mayor Codner feels the problem is the way the regulations are written. As the Town is only responsible for anything that falls under the Highway Traffic Act and not trails and footpaths. We have been advised that these are not under our jurisdiction. - B/F

015-09 Motion – Councillor Tapper/Deputy Mayor Thorne-Gosse

RESOLVED THAT the Town pass this file to another solicitor to seek clarification and resolution.

Question called. Motion carried unanimously.

- *Neighborhood Pace Car Program* – CAO to forward letter. Has letter drafted. Has called and spoken with Town - B/F

- *Hillside Festival (06/07) Website* – Councillor Smith advised that the changes should be made to the Hillside Festival shortly. CAO to see clarification on additional photos.
- *CAO to advise regarding Memorandum of Agreement on the Transmittal of Information – Date of Birth and 2 signatories* – CAO still waiting on confirmation. - B/F
- *Request that Tract Consulting address the lack of Torbay presence at the Kiosk - Letter has been sent* – CAO advised that she has heard nothing from Councillor Butt to date. CAO to attend upcoming meeting - B/F

COMMITTEE REPORTS

016-09 Motion – Councillor Cantwell/Deputy Mayor Thorne-Gosse

RESOLVED THAT To have the Town’s consultant, Newfoundland Design, compile and interpret information from all known sources pertinent to the South Pond Water Supply and to meet with the Department of Environment to discuss the future potential of the water supply at an approximate cost of \$1000.

Question called. Motion carried unanimously

017-09 Motion – Deputy Mayor Thorne-Gosse/Councillor Cantwell

RESOLVED THAT To renew the Garbage Collection contract for 2009 with Newfound Disposal in an amount as per the 2007 contract entered into with Newfound Disposal. All terms and conditions remain unchanged with the exception of the increase in the tipping fees effective April 1, 2009 as imposed by the City of St. John’s Regional Landfill Authority.

Question called. Motion carried unanimously

018-09 Motion – Deputy Mayor Thorne-Gosse/Councillor Roche

RESOLVED THAT To have garbage collection start time changed to 7:30 am from the current 8:00 am. Contractor to pay all expenses related to notification of residents as determined by the Town. Current Garbage Regulations to be updated to reflect this change. Change to become effective April 1, 2009.

Question called. Motion carried. Councillor Cantwell against Motion.

019-09 Motion – Deputy Mayor Thorne-Gosse/Councillor Cantwell

RESOLVED THAT To enter into negotiations with the landowners between Cannonmarsh Road and Hiscock’s Lane as to purchase land in order to connect these streets.

Question called. Motion carried unanimously.

020-09 Motion – Councillor Cantwell/Councillor Roche

RESOLVED THAT To notify residents along Indian Meal Line that any culverts crossing their property that is not located within a Municipal or Provincial right of way is considered a private structure. These structures are required to be maintained by the property owner and that that they may be liable for any flooding as a result of improper maintenance of these structures.

Question called. Motion carried unanimously.

Councillor Smith asked if any residents might be surprised by this while others may be prepared. Councillor Smith also suggested that as a courtesy the residents should be advised and then a letter should follow as per Director of Operations & Public Works. Councillor Cantwell advised that some private residents may not be aware. Director of Operations & Public Works to put together a list.

021-09 Motion – Deputy Mayor Thorne-Gosse/Councillor Cantwell

RESOLVED THAT A motion to complete a water pressure study on Bridge Road. The cost of \$5500 is to be recovered from the Developer of the subdivision off Bridge Road.

Question called. Motion carried unanimously.

Mayor Codner stepped out of chambers at 8:17 p.m. Deputy Mayor Thorne-Gosse stepped in as Chair. In the event he might be in a conflict.

022-09 Motion – Deputy Mayor Thorne-Gosse/Councillor Cantwell

RESOLVED THAT To notify the board of directors of the Torbay Kinsmen Manor on Brown's Lane that the Town will no longer be collecting garbage at this facility effective April 1, 2009.

Question called. Motion carried unanimously.

Mayor Codner returned to chambers at 8:20 p.m.

023-09 Motion – Deputy Mayor Thorne-Gosse/Councillor Cantwell

RESOLVED THAT based on discussions at the Public Works Committee Meeting on January 19, 2009 and new information on the state of the Town's infrastructure the Town of Torbay rescind Motion 300-08 from Minutes of December 15, 2008 (**RESOLVED THAT** the Town of Torbay issue Expressions of Interest advertisement in 2009 for the provision of auditing, legal, planning and engineering services for the Town. Terms and period coverage to be determined based on the fact a municipal election will be held in the fall of 2009).

Question called. Motion carried. Mayor Codner and Councillor Roche against Motion.

024-08 Motion – Deputy Mayor Thorne-Gosse/Councillor Cantwell.

RESOLVED THAT due to additional information at the Public Works Committee meeting on January 19, 2009 the CAO proceed to expressions of Interest for the provision of services to the Town such as Legal, Auditing, Planning and Engineering.

Question called. Motion Carried. Mayor Codner and Councillor Roche against motion.

025-08 Motion – Deputy Mayor Thorne-Gosse/Councillor Cantwell.

RESOLVED THAT due to the findings of the recent Public Works Committee meeting dated January 19, 2009 effective immediately Director of Operations will attend all Development Committee Meetings as an active member to the Committee and serve as a resource person.

Question called. Motion Carried. Mayor Codner and Councillor Roche against motion.

Councillor Roche advised that she was not clear on this. Deputy Mayor Thorne-Gosse responded that this has been brought up several times that these two committees should share information.

026-08 Motion – Deputy Mayor Thorne-Gosse/Councillor Cantwell.

RESOLVED THAT effective immediately the town request the services of an engineer to inspect all culverts, easements, etc, to ensure they are in accordance with the Town regulations.

Question called. Motion Carried unanimously.

Building Applications

027-09 Motion – Councillor Cantwell/Councillor Tapper

RESOLVED THAT Council rescind the approval for Building Application number 8877-08 from November 17, 2008 pertaining to 599 Indian Meal Line.

Question called. Motion carried unanimously.

028-09 Motion – Councillor Cantwell/Councillor Tapper

RESOLVED THAT Council give Portugal Cove-St. Phillip's permission to collect property and building tax for the entire property at 599 Indian Meal Line.

Question called. Motion carried unanimously.

029-09 Motion – Councillor Cantwell/Councillor Tapper

RESOLVED THAT Council rescind the motion to refuse Building Application Number 8885-08 dated December 1, 2008 pertaining to 144-148 Bauline Line.

Question called. Motion carried unanimously.

030 -09 Motion – Councillor Cantwell/Councillor Tapper

RESOLVED THAT Council defer Building Application Number 8885-08 pertaining to 144-148 Bauline Line pending a review of the property/application by the Department of Environment and the Department of Health.

Question called. Motion carried unanimously.

031 -09 Motion – Councillor Cantwell/Deputy Mayor Thorne-Gosse.

RESOLVED THAT that Council rescind the motion to defer Building Application number 8632-08 dated May 5, 2008 pertaining to 6 Cherrywood Drive.

Question called. Motion carried. Mayor Codner against Motion.

032 -09 Motion – Councillor Cantwell/Councillor Smith

RESOLVED THAT Council approve Building Application number 8632-08 pertaining to 6 Cherrywood Drive. As per advice of Stewart McKelvey Law Office.

Question called. Motion carried. Mayor Codner against Motion.

033 -09 Motion – Councillor Cantwell/Councillor Tapper

RESOLVED THAT Council approve the Building Application Report dated January 23, 2009 as presented.

Question called. Motion carried unanimously.

Financial Report

034-09 Motion – Councillor Tapper/Councillor Roche.

RESOLVED THAT CAO review the Application for Minimum Property Tax as it pertains to the Budget.

Question called. Motion carried unanimously.

035-09 Motion – Councillor Cantwell/Deputy Mayor Thorne-Gosse

RESOLVED THAT the January 12-23, 2009 Financial Report be deferred to the next Council Meeting on February 9, 2009 due to a power interruption that created computer issues that affected the accuracy of the Financial Report.

Question called. Motion carried unanimously.

036-09 Motion – Councillor Cantwell/Deputy Mayor Thorne-Gosse

RESOLVED THAT all bills be paid to January 23, 2009 to avoid interest.
Question called. Motion carried unanimously.

Personnel & Training Committee - Nothing to report.

Recreation Committee

Deputy Mayor Thorne-Gosse wanted to remind everyone about the Charity Hockey Game taking place on Sunday, February 1 at 3:00 p.m. Everyone Welcome.

Councillor Tapper advised that meetings with the consultant and community groups as well as a public meeting with 16 in attendance regarding the Recreation Master Plan were held recently. There were good ideas brought forward at the meetings. There is a survey on the Towns website and so far there have been about 100 hits. Deputy Mayor encourages people to participate.

Strategic Planning Committee

Economic Development Officer met with CAO and has developed a Terms of Reference which will go to the Committee and then advertised for Expressions of Interest.

Development Committee – Nothing to report

SPECIAL COMMITTEES OF COUNCIL

By-Pass Road – as per correspondence

Communications - Nothing to report in Councillor Byrne's absence.

Regional Waste Management – Nothing to report.

Northeast Avalon Regional Plan

Meeting scheduled for January 27, 2009. Mayor Codner and Development & Planning Officer to attend.

LIAISON COMMITTEES

Arena

Councillor Smith advised she had two (2) residents approach here with concerns regarding the walking track. She stated that walkers were impeded by spectators who chose to not use the seats in the stands however instead stood around the track leaning over the railing. She feels that signs should be erected to have spectators watching events be seated. She also stated that the distance around the track should be posted so those using the track will know the distance they are walking. She asked that these concerns be brought forward to the Board of Directors.

Capital Coast Development Alliance

Councillor Roche advised that she was speaking with Derek Curtis and he is willing to assist the Town with any initiatives. CAO will check to see if they have officially changed to their new name.

Environment

Councillor Tapper advised that the next meeting will be held on February 3, 2009. He also advised there was a meeting last week on the Recreation Master Plan and there was some confusion regarding information that had not been passed to Council i.e. Trail and Outdoor Classroom. Councillor Tapper did present to CAO information on this and will give her a copy of both the report and the disc in the event anyone would like to review it. Councillor Smith advised that she was not happy to hear about the outdoor classroom after what the neighborhood had been through with the Gazebo. She wanted to know she is not in support of this venture. Councillors Roche and Cantwell voiced that they are not in support either. Councillor Tapper advised he was not asking for support.

Heritage/Tourism

Councillor Roche reported that there was a meeting held on January 19, 2009. She reported that it was a very good meeting and the Town's EDO lead the meeting. Some discussion around need for renovations, newly proposed multi use facility. Projects upcoming, master plan is under way. She advised that Councillor Byrne will give a better update upon his return at the next meeting.

Hillside Festival

Councillor Smith advised that the committee had rescheduled their meeting to January 27, 2009.

North East Avalon Joint Council

Councillor Roche reported that there was a meeting on January 21, 2009 in Petty Harbour/Maddox Cove. Councillor Roche was not in attendance due to another commitment. The next meeting will be held on March 18, 2009 in Logy Bay-Middle Cove- Outer Cove.

School

Councillor Tapper advised that the High School would be meeting on January 27, 2009 and the Elementary School meeting is scheduled for February 4, 2009. He advised that he has the document provided by the Department of Education in the event anyone would like to review it.

Torbay Volunteer Fire Department

Deputy Mayor Thorne-Gosse advised that the Fire Department Executive want to meet with the full council on their Budget. CAO to follow up to schedule a meeting. Deputy Mayor Thorne-Gosse advised that the Fire Department Executive want to meet with the full council on their Budget. CAO to follow up to schedule a meeting.

Urban Municipalities Committee

Deputy Mayor Thorne-Gosse reported that the next UMC meeting will be held February 27-28 in St. John's, NL.

NEW BUSINESS

Mayor Codner

Mayor Codner wanted to extend a thank you on behalf of himself and his family on everyone's kindness on the passing of his mother.

Deputy Mayor Thorne-Gosse - Pass

Councillor Byrne - Absent

Councillor Cantwell

Motion – refer to Building Report

Councillor Roche

Recreation Strategic Plan – discussed under Recreation Committee

Councillor Smith - Pass

Councillor Tapper

A Gallows Cove Road resident wrote a letter last year regarding snow clearing issues Councillor Tapper advised the resident has contacted him again by email and has yet to receive a reply to his concerns. CAO to review records and will advise. B/F

Councillor Tapper asked CAO for clarification on his challenge of the chair at the January 9, 2009 council meeting. CAO advised that she had asked Municipal Affairs for clarification and they replied to her by email advising the Mayor can only be removed if there is a conflict of interest.

037-09 Motion – Councillor Tapper/Councillor Smith

RESOLVED THAT CAO write the Minister of the Department of Municipal Affairs asking that she respond in writing explaining her department's staff interpretation of the Rules of Order relating to Challenge of Chair within municipal meetings outside the established guidelines of conflict of interest.

Question called. Motion carried unanimously.

Deputy Mayor Thorne-Gosse advised that she spoke with Ivan Pickett at Municipal Affairs and he advised that they do not get into interpretation and we should follow Roberts Rules of Order.

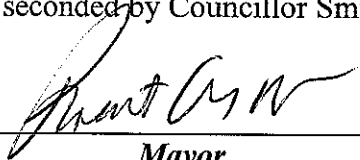
038-09 Motion – Councillor Tapper/Councillor Smith

RESOLVED THAT CAO in consultation with Committees continue to review and implement with the approval of Council enhanced procedures and process to ensure full transparency and open communications with all department of the Town including Council Chamber Business which will further benefit our residents, visitors, council and staff..

Question called. Motion Deferred.

ADJOURNMENT

As there was no further business the meeting adjourned at 9:20 p.m. on a motion by Councillor Cantwell and seconded by Councillor Smith



Mayor



CAO/Town Clerk