

Public Meeting of Witless Bay Town Council
December 10, 2013

Attending: Mayor Sébastien Després, Deputy Mayor Jeff Swain, Councillors René Estrada, Dena Wiseman, Kevin Smart, Ralph Carey, Tommy Crocker

Recording: Geraldine Caul/Barb Harrigan

1. The meeting was called to order 7:32 p.m. by Mayor Sébastien Després.

2. **2013-243** - Jeff Swain/Kevin Smart
Be it resolved Council adopt the Agenda of December 10, 2013

Amendment: Dena Wiseman/Kevin Smart

Be it resolved Council adopt the Agenda of December 10, 2013 as amended to include under Finance c) Resolution - Capital Works Phase II.

Amendment carried unanimously.

Motion carried unanimously.

3. **2013-244** - Tommy Crocker/Ralph Carey
Be it resolved Council adopt the Minutes of Meeting of November 26, 2013.

Motion carried unanimously.

4. Business Arising from Minutes:

a) Notice of motion to ratify proposed Regulations on Permits - Sébastien called for a motion on this item.

2013-245 - Dena Wiseman/Tommy Crocker

Be it resolved Council table the ratification of proposed Regulations on Permits for further review.

Discussion: Dena explained she wasn't comfortable with adding a dollar value on the Proposed Regulations on Permits #3 which stated in part, "*Development applications which conform to the specifications and requirements of the Town Plan, which are in full compliance with the town's development regulations, and which are less than or equal to \$5,000 in value, may be processed without delay after a thorough review by the Town Clerk-Manager.*" Dena said she wanted to compare such a regulation with other towns and to discuss it with the Town Planner. It was noted by the Mayor that the Planner would charge a fee for this service.

Motion carried unanimously.

b) Notice of motion to ratify proposed regulations governing requests of support of Council. Sébastien read each item of the last page of the document, and Council agreed to one change, revising item "I" to remove the last part of the sentence, "*or the day-to-day administrative costs of an organization*". The revised Regulations are follows:

A. An "Association" shall be considered as a group of persons who have come together to share a common passion and achieve a common goal. Associations must have a clearly defined purpose that does not conflict with the Mission, Vision, Values, Goals, or Objectives of Council. The association must intend to carry out activities that do not infringe any federal, provincial, municipal or other regulations and which will not interfere with the business of the Town. The association must not infringe on the rights and privileges of others, including the rights of privacy and of freedom of expression. An association is a separate legal entity from the Council, subject to its own rights and obligations. The commitments of an association are the responsibility of its members, and under no circumstances shall Council be held liable for their actions.

B. In order to receive support or funds from Witless Bay's Council, an association must have been ratified by Council. Associations seeking ratification by Council must submit a duly completed "Association Ratification Form." For an

association to be ratified, at least 20% of its membership must reside in Witless Bay. If this condition is not met, the association must demonstrate that a minimum of 20% of the association's activities directly benefit the Town of Witless Bay and its residents.

C. The financial contributions that the Council may grant to an association should not constitute the association's only source of income. Associations must finance themselves through their members' contributions and other regular channels. Only when such sources of income prove insufficient will the Council consider granting financial support.

D. Approval or rejection of funding requests is at the discretion of the Finance Committee, subject to approval of Council.

E. Associations seeking funding from council must submit a duly completed Funding Request Form.

F. In order to receive funds, the association must hold a bank account in the legal name of the association, and must not have any outstanding debts with Council.

G. Funds must be used towards serving the residents of Witless Bay.

H. Funds must not be used for the private use of a few individuals.

I. Council will not disburse funds for direct donation to charity, or the cost of alcohol served at any event.

J. Any association receiving funds from Council must list the Town of Witless Bay as a sponsor in all advertising for the event or project for which the association received funding.

K. Applications for financial support will be evaluated according to the following criteria:

- Does the intent of the support requested fit within Council's mandate?
- How does the support requested contribute to the success of the association's event or project?
- How do residents of Witless Bay benefit from the event or project?
- How much external fundraising has the association done?

2013-246 - Ralph Carey/René Estrada

Be it resolved Council adopt the Proposed Regulations governing requests of support of Council.

Motion carried unanimously.

- c) Notice of motion to rescind motions omnibus relating to Rules of Procedure - Sébastien explained that Council adopted a number of Rules of Procedure but did not rescind others that predated current council.

2013-247 - Ralph Carey/Dena Wiseman

Be it resolved Council rescind motions omnibus relating to Rules of Procedure relating to public meetings of Council predating current Council.

Motion carried unanimously.

- d) Notice of motion relating to document storage & management and records protections solutions - Sébastien briefly explained the proposal from RICOH saying it was a requirement to have document protection and that this was the least expensive method to use. He said there were 3 decisions Council had to make: 1. Whether or not Council wants go this route, 2. What package Council would sign up for, and 3. What type of machine Council would lease, if indeed Council chooses to lease. He also noted Council could engage in a tender process but that RICOH is the only producer of machines that has embedded function on the cloud with offices in Newfoundland. This resulted in a further discussion on the municipal requirement for public tendering, and Council's decision to request 3 quotes.

2013-248 - Jeff Swain/Dena Wiseman

Be it resolved Council table this item and request 3 quotes for a document storage and management and records protection solutions proposals.

Motion carried unanimously.

- e) **Notice of Motion** – To change the frequency of public meetings. Sébastien explained that Council has been meeting every two weeks, but have made a decision to hold the public meetings on a monthly basis. He announced that the next town meeting will be held on January 7, 2014 and following that, they will be held every second Tuesday of the month.
- f) **BBBAA** - Sébastien reported that at a meeting the previous Tuesday, Council presented the BBBAA with its motion to subsume the association, but the BBBAA representatives present made it clear that this is not an option they would be willing to consider. Further, if the Bay Bulls and Witless Bay joint Councils hired a Regional Recreation Director themselves, there was still the issue of Council's overseeing the administration. Sébastien said the meeting concluded with an agreement that Witless Bay and Bay Bulls would finance the BBBAA's RRD position according to the terms laid out in the Memorandum of Understanding prepared by the BBBAA.

Memorandum of Understanding (MOU)

**Parties – Town of Bay Bulls, Town of Witless Bay and Bay Bulls-Bauline Athletic Association
December 4, 2013**

Financial Contribution:

Towns of Bay Bulls & Witless Bay - \$37,000
Contribution Schedule - \$18,500 x 2 (Jan 1, 2014 and July 1, 2014)

Detailed Breakdown of the \$74,000

1. \$55,000 for RRD position – includes base, MERC, health, cell, office phone, travel and training
 2. \$8000 Part Time bookkeeper
 3. \$6,200 Insurance /Worker's Comp
 4. \$2,300 Annual Financial Statement
 5. \$2,500 Office Operating
- Total \$74,000

Term:

4 Years (Jan 2014- Jan -2018)

Opt out of or "Change in Responsibility" Clause:

If at any time during the 4 years, both towns choose to incorporate the Regional Recreation Director position into its municipal office operations, both towns must mutually agree to do so. Once that notice is given in writing by both towns to the BBBAA to assume the responsibility of the Regional Recreation Director and the structure is mutually agreed upon between both the Town of Bay Bulls and the Town of Witless Bay; notice of such action is to be served 12 months prior to the transition effective date.

Formation of Temporary Committee:

To ensure accountability to both councils all 3 parties will delegate 1 (one) representative to sit on a temporary working committee whose mandate will be to develop accountability guidelines that are to be adhered to by all 3 parties, but in particular the BBBAA. This committee are to have these guidelines in place and adopted by all parties no later than March 1, 2014

Sébastien Després	Patrick O'Driscoll	Scott Penney
Mayor, Town of Witless Bay	Mayor, Town of Bay Bulls	Chair, Bay Bulls Bauline Athletic Assoc.

Sébastien called for a motion to accept the Memorandum of Agreement.

2013-249 - Jeff Swain/Ralph Carey

Be it resolved Council accept the Memorandum of Agreement for the Town of Bay Bulls, the Town of Witless Bay, and Bay Bulls-Bauline Athletic Association dated Dec. 4, 2013.

Discussion: Kevin Smart said Council should have access to their financials, and Dena responded saying access to their financials is available. Sébastien explained that he received an email from the BBBAA who expressed an issue with Council discussing their reluctance to provide financials. He said this interpretation may have resulted from a story in a local newspaper. Sébastien clarified that the BBBAA have been forthright with the current Council. Sébastien explained that while he felt that the terms set out in the MOU did not give Council the control he felt was warranted, this was the only option that would allow the full suite of existing programs to carry on.

Motion carried unanimously.

- g) Motion to accept tender for repairs to Tamarack Drive -

2013-250 - Jeff Swain/Ralph Carey

Be it resolved Council accept the tender of \$1073.50 (HST included) to repair Tamarack Drive.

Motion carried unanimously.

- h) Motion to accept tender for Class A spreading for area between Felix's and Tourism site.

2013-251 - Jeff Swain/Ralph Carey

Be it resolved Council accept tender for repairs to area between Felix's and Tourism site.

For the motion: 0

Against the motion: Sébastien Després, Jeff Swain, René Estrada, Ralph Carey, Kevin Smart, Tommy Crocker, Dena Wiseman

Motion failed.

Discussion: It was noted that the Town would be paying a quoted cost of \$1225.00 which consisted of 3 loads of Class A for a pothole.

2013-252 - Tommy Crocker/Jeff Swain

Be it resolved Council reject the current bid of \$1225.00 and re-tender.

Motion carried unanimously.

2013-253 - Jeff Swain/René Estrada

Be it resolved Council authorize Public Works & Compliance to review the next quote and make a decision on carrying out the work if the bid is acceptable.

Motion carried unanimously.

- l) Correspondence regarding excavations without permits and contamination concerns - Ralph reported that the resident wasn't drinking the water since the incident occurred, but that she was satisfied that Council was addressing the issue.

Sébastien added that the resident made 3 suggestions to Council in her correspondence which Council had already included in the proposed Regulations on Permits.

- j) Meeting with Jamie Hunt of Municipal Affairs - Dena reported that this meeting was relating to the \$100,000 municipal capital works already granted towards the Recreation area, but we just needed to get a prime consultant in place. She explained how Council was hoping to put the funding toward the septic and if there were money remaining, it would be used for fencing and landscaping. She said Council met with Tom Kendall, the town's engineer earlier, and this project is now proceeding. Work relating to the septic will commence within the next week or two.

- k) Responsible authority for replacing/repairing culverts within the town - The Town engineer confirmed the authority lies with the town, unless the culverts are on brooks, streams, etc, whereby they then become the authority of the Dept. of Environment & Labour - There was a brief discussion with a question of who is responsible for floods caused by culverts onto private property. The mayor confirmed that culverts and ditches require permits from Council. It was suggested the town contact the property owner to get information on the process of how the culvert was initially installed, and ultimately how Council can address the flooding on the lower side of the road.

- l) Subdivision proposal for Gull Pond Road - Discussion on the authority of Council to accept the proposal - "If the proposed development does not conform to the Plan or Regulations, the application must be refused" (Witless Bay Town Plan 5.0 Implementation, Development Control). Sébastien explained that two meetings ago Council agreed to view a proposal for subdivision on

Gull Pond Road, and that it was reconsidered at the last meeting, but according to the town regulations, and because of the moratorium on subdivisions, Council cannot accept the proposal. Dena confirmed through conversations with the Town Planner that Council should not have made the motions that were made at two previous meetings for several reasons, including: The moratorium; the motion regarding smaller phases (since the Town must look at the project as a whole); and Council's expectation that the developer follow the regulations in the proposed Town Plan, which is not yet in effect.

2013-254 - Dena Wiseman/Ralph Carey

Be it resolved **Council rescind motions 2013-202 and 2013-219** due to the Town's inability to enforce regulations of the new Town Plan when the old Town Plan is still in effect, proposals having to be considered based on the overall plan, and the existence of a moratorium on subdivisions.

Discussion: There was a question of whether the motions rescinded would be in effect only while the new town plan was under review, and it was confirmed by Dena that once the new town plan was approved, people could bring in new proposals for Council to consider.

Sébastien added that all proposals must conform to the town plan, which includes appropriate zoning. He said that the way the current Town Plan reads, rezoning is an option in most cases except subdivisions. He explained that the proposed Town Plan does not have the same clause so Council will eventually have the power to consider this.

For the motion: Sébastien Després, Dena Wiseman, Kevin Smart, Tommy Crocker, Ralph Carey

Against the motion: René Estrada, Jeff Swain

Motion carried.

- m) Vote for Avalon Director (Municipal Assessment Agency) - Council participated in a secret vote which resulted in Debbie Quilty being selected.
- n) Crown Land - Southern Shore Highway -

2013-255 - Ralph Carey/Tommy Crocker

Be it resolved Council approve Municipal Recommendation for Crown Land application on Southern Shore Highway.

Motion carried unanimously.

5. General Business:

- a) CPAWS - Sébastien read the letter from CPAWS (See Appendix A).

2013-256 - Kevin Smart/Dena Wiseman

Be it resolved Council provide a letter of support to CPAWS allowing them to proceed jointly with NL Power to investigate the use of light hoods on streetlights where needed.

Amendment: Jeff Swain/Tommy Crocker

Be it resolved Council provide a letter of support to CPAWS allowing them to proceed jointly with NL Power to investigate the use of light hoods on streetlights where needed, providing it does not affect the functioning efficiency of lights.

Amendment carried unanimously.

Motion carried unanimously.

- b) Motion to extend rules in order to extend the deadline for submissions for the Jan. 7/14 public meeting's agenda by 24 hours - Sébastien explained that the town hall will be closed from December 23 to January 2 and suggested the deadline be extended.

2013-257 - Dena Wiseman/René Estrada

Be it resolved Council suspend the rules and extend deadline for agenda submissions for January 7th meeting to Friday, January 3, 2014.

Motion carried unanimously.

- c) Independent Consultants Group Ltd. - Development/Control Officer proposal - Sébastien said he spoke to the other two mayors and they are still interested in this project. It was noted that the intent of this proposal is to offer support to 3 councils. This would involve developing a scope for the position, identifying potential funding model, possible government support, and defining a structure to manage it. Independent Consultants Group Ltd. proposed to facilitate a meeting with the 3 councils and if an agreement was reached, to ultimately begin the project early in the new year at a cost of \$2011, which would be \$670.33 per town, assuming cost would be split by 1/3.

2013-258 - René Estrada/Jeff Swain

Be it resolved Council pursue the proposal for Development/Control Officer further and meet with the other mayors to determine whether there is a mutual interest to proceed with the project.

Discussion: There was a question on whether this project would fall under the Public Tendering Act, and Council determined they would need to call for a tender. Text removed per motion 2014-002

Amendment - Jeff Swain/Dena Wiseman

Be it resolved Council meet with the other mayors to determine whether there is a mutual interest in proceeding with the project, and should there be an agreement to move forward, Council seek three quotes.

Amendment carried unanimously.

Motion carried unanimously.

6. Presentations by Individuals or Groups - No submissions received.
7. Committee Reports - Finance:
- a-b) Both Cash Flow Analysis Report and Payables were information only items.
- c) Resolution for Capital Works, Track Road Phase II -

2013-259 - Jeff Swain/René Estrada

Be it resolved Council apply to the Dept. of Municipal Affairs for Capital Works Funding of Track Road Phase II, (Project estimated cost \$720,000, Town's share \$132,000). Be it further resolved Council agree to fund the town's portion with capitalized interest through a Line of Credit, and upon finalization of the project the Town roll the Line of Credit amount with capitalized interest into a five year term loan.

Motion carried unanimously.

Committee Reports - Public Works & Compliance:

- a) Quarry Renewal South of Witless Bay Line -

2013-260 - Jeff Swain Tommy Crocker

Be it resolved Council approval renewal of Quarry South of Witless Bay Line for 2014.

Motion carried unanimously.

- b) Residential dwelling Northside Track -

There were discussions relating to how the proposed pre-fabricated structure might be comparable to a mobile home since the town had a regulation prohibiting mobile homes in certain

places. There was also the question of whether Council felt the pre-fab structure was visually and generally accepted on Northside Track based on the Town's regulatory requirements, and whether the structure's size was within the town's regulations.

2013-261 - Jeff Swain/Tommy Crocker

Be it resolved Council approve in principle pre-fabricated dwelling on Northside Track pending clarification that the size meets the town's requirement, and that it allows for the required 3 metre side yard, and subject to approval from Services NL.

Motion carried unanimously.

c) Residential dwelling Gull Pond Road -

2013-262 - Jeff Swain/Tommy Crocker

Be it resolved Council approve in principle residential dwelling on Gull Pond Road, subject to approval from Services NL.

Motion carried unanimously.

d) New business 367 Southern Shore Highway -

2013-263 - Jeff Swain/Tommy Crocker

Be it resolved Council approve in principle application to operate a business (Southern Shore Eye Care Professionals) on 367 Southern Shore Highway, subject to approval from Services NL, any additional government departments, and the Witless Bay Fire Department.

Motion carried unanimously.

e) Subdivision proposal Bear's Cove Road -

2013-264 - Dena Wiseman/Kevin Smart

Be it resolved Council deny revisiting proposal for subdivision on Bear's Cove Road until the Town Plan Review is completed.

For the motion: Sébastien Després, Dena Wiseman, Kevin Smart, Tommy Crocker, Ralph Carey

Against the motion: René Estrada, Jeff Swain

Motion carried.

8. **2013-265**

Jeff Swain/René Estrada

Be it resolved Council adjourn the public meeting at 9:45 p.m.

Motion carried unanimously.

Council: _____

Town Clerk: _____