

Public Meeting of Witless Bay Council

December 8, 2015

Attending: Mayor Sebastien Despres, Deputy Mayor Dena Wiseman, Councillors Kevin Smart, Albert Murphy, Ralph Carey

Absent: Councillors Rene Estrada and Ken Brinston

Recording: Geraldine Caul/Barb Harrigan

1. The meeting was called to order at 7:35 p.m. by Mayor Sebastien Despres.
2. **2015-288** Councillor Ralph Carey/Councillor Kevin Smart
Be it resolved Council adopt the Agenda of December 8, 2015.

Amendment: Deputy Mayor Dena Wiseman/Councillor Ralph Carey

Be it resolved Council amend the agenda to include:

Under 4 g – LED Lighting-CPAWS NL

Under 6 b – Snow clearing logs

Under 7 d – New driveway from Municipal Garage to Southern Shore Highway

Amendment carried unanimously.

Motion to adopt the agenda as amended carried unanimously.

3. **2015-289** Deputy Mayor Dena Wiseman/Councillor Ralph Carey
Be it resolved Council adopt the November 17, 2015 Minutes of Meeting as presented.
Motion carried unanimously.
4. Business Arising from Minutes:
 - a. Alleged conflict of interest – Kevin Smart. Councillor Smart asked if he could make a motion. Mayor Despres said he would introduce the item first. Councillor Murphy asked if Council could deal with this tonight because he said there is no quorum. Mayor Despres granted Councillor Smart his request to speak.

Councillor Smart announced that he would like to make the following public interest motion.

2015-290 Councillor Smart/Councillor Ralph Carey

“I make a public interest motion that Council officially accept and register the legal opinion of the Solicitor for the Town of Witless Bay, tabled at a meeting on October 28, 2015 as an official and final Council agenda entry on the matter contained in the legal opinion.

That no further motions regarding settled matters included in the legal opinion will be entered on any Council agenda for discussion to enable the Council and the community to move on with normal business. In this regard the wider public interest for continuing democratic Council decision making must be considered by Council.

That any councillor wishing to continue to challenge the matter must do so by application to the Supreme Court as is their right to do so. Any councillor continuing to disrupt Council on settled matters in the legal opinion will be subject to a Council vote to publicly sanction, and if the disruption continues, a vote of Council to seek dismissal from Council by means of Municipal Affairs Act Section 6 (1) (b) by the Minister, or alternatively through application to the Court.

That a substantial amount of public money has been consumed by this year long challenge despite Council votes and significant and numerous legal opinions citing no breach of legislation by individual councillors, and that no further funds will be made available by Council related to any challenge on these decided matters unless ordered to do so by the Court.”

2015-291 Amendment: Councillor Albert Murphy

Be it resolved that there is no quorum, and that Councillor Smart should have left the room once item 4a (Alleged conflict of interest-Kevin Smart) was introduced.

Discussion: Mayor Despres stated that Council has an opinion from Municipal Affairs, from the lawyer from Stewart McKelvey, and from Cox and Palmer, all stating that there is no conflict of interest and all stating that the matter has been settled already.

Amendment failed due to no seconder.

For the motion: Mayor Sebastien Despres, Deputy Mayor Dena Wiseman, Councillor Ralph Carey, and Councillor Kevin Smart.

Against the motion: Councillor Albert Murphy

Motion carried.

- b. Regional Emergency Management Plan – The Town of Witless Bay has been in the process of preparing its Regional Emergency Management Plan. Some time ago it was decided, in discussions with the Town of Bay Bulls and the three Local Service Districts that it would be best served if we did a regional plan. We have finalized the first draft and it is now ready for an approval in principle. Council has been presented with four drafts so far of the Shamrock Shore Regional Emergency Management Plan. The next step is to approve this draft in principle which will be submitted to Fire and Emergency Services for comments. Council was presented last week with a draft that was commented on by the director for fire and emergency services as well as two of their employees including Bill Collins.

2015-292 Councillor Albert Murphy/Councillor Kevin Smart

Be it resolved Council approve in principle the Shamrock Shore Regional Emergency Management Plan.

Motion carried unanimously.

- c. FFAW’s Rural Works Program – At the recent MNL Conference, FFAW presented a plan called the Rural Works Commitment, at the small town’s caucus. We discussed at the last public meeting that it would be presented at this meeting. It’s a pledge that the FFAW invites us to make. Mayor Despres said, in his opinion, it makes sense for Witless Bay to participate because we are one of the few surviving towns with a fully functional crab plant on the southern shore and its’ one of our good employers and a major sources for our industrial use. The Pledge states:

The Town of ____ accepts that:

The economic base of rural Newfoundland and Labrador, centered on a growing fishery and a vibrant tourism industry, has incredible potential. A strong and sustainable inshore fishery is based upon two important principles:

- 1 Adjacency, which allows the people of rural Newfoundland and Labrador to be the primary beneficiaries of the resource in the adjacent waters; and
- 1 Owner-Operator, which requires owners of fishing licenses to personally harvest the quota attached to that license.

The fishery is very important to my town and/or region by providing jobs and income to residents and creating locally generated wealth that fuels the local and regional economy.

The fishery is currently valued at more than \$1 billion annually, with the potential for an additional \$400-\$500 million in annual value when the new cod fishery fully develops.

The challenges to rural Newfoundland and Labrador, as they pertain to the fishery, are related to the management of the fishery at the provincial and federal level.

The following hurdles prevent rural Newfoundland and Labrador from meeting its current and future economic potential:

- 1 The federal government's neglect in applying adjacency as the primary management tool in the allocation of fish quotas, particularly with respect to northern shrimp and the growing groundfish fisheries (cod, halibut, turbot).
- 1 The ongoing demographic challenges in rural NL, where a shortage of working age adults threatens economic growth.
- 1 The lack of attention and investment at the provincial and federal level to properly develop and capitalize upon the economic opportunities presented by the current and future fishery.

Commits to:

Joining the Rural Works Coalition, which is committed to building a stronger and more sustainable rural economy around and repurposed and better managed fishery.

Speaking out against the issues that harm rural economic sustainability and growth.

Speaking out in support of the ideas and solutions put forward by the Rural Works coalition to help build a stronger and more sustainable rural economy.

Actively participate in the Rural Works coalition by attending events, lobbying provincial and federal politicians, engaging in letter writing campaigns, and, in general, being positive and proactive in matters related to building a strong and sustainable rural economy.

Posting this signed commitment in a clear and conspicuous location in the town office.

2015-293 Councillor Ralph Carey/Councillor Kevin Smart

Be it resolved Council adopt the Rural Works Commitment Pledge.

Motion carried unanimously.

- d. Southern Shore Arena Financial Statement – Mayor Despres explained that at the last meeting, Council asked for the arena's numbers, which were submitted to the Town. He said that Council has budgeted the same amount for the stabilization fund as in the previous year. Council can review the material and no decision needs to be made since the annual contribution for 2015 has already been given.
- e. 170 Gallows Cove Road – Councillor Ralph Carey indicated that the applicant was in the room and asked that he clarify what he wanted to do. The applicant explained that he has been doing some work on his property over the years, which has resulted in the placement of several stock piles. He said he wanted combine the stockpiles and deposit them, along with other branches and excess material, in a depression that is located on the top of his land, then level off the site to basically tidy up his land. He said he would not be digging any holes.

2015-294 Councillor Albert Murphy/Councillor Ralph Carey

Be it resolved Council approve applicant's request to tidy up the site and dispose of the excess material on his land.

Motion carried unanimously.

- f. 232 Gallows Cove Road – Councillor Ralph Carey reported that he looked at this property, along with the engineer, and the problem is that road is tipped, and in it a piece of pavement has been cut out, so any water that runs towards it is above the existing surface and catches the water. Councillor Carey suggested it be placed on a patching list for the spring. The engineer didn't feel it was an immediate concern.

Mayor Despres noted that this road is being applied for under the 90/10 Capital Works program.

2015-295 Councillor Ralph Carey/Councillor Kevin Smart

Be it resolved Council start a patching list for next spring and place 232 Gallows Cove Road a priority for repairs if the Town isn't successful in obtaining Capital Works funding for this road.

Motion carried unanimously.

- g. LED lighting – CPAWS NL – Mayor Despres explained that Council met with CPAWS NL who has received a grant to install up to 20 LED lights in the town. A number of researchers have suggested that these lights are more efficient in terms of not attracting wildlife. They give off a different color light which doesn't attract birds. CPAWS NL is proposing that we install 20 lights in the most problematic locations in terms of what's currently attracting birds to see if it has an impact. We can also see how well they serve the town so we could eventually consider installing more. They have been installed in all ten of Canada's provinces, six places which are in NL and they seem to be working very well. The lights are about \$800 each and their lifespan is estimated to be 10 years.

2015-296 Councillor Kevin Smart/Councillor Ralph Carey

Be it resolved Council accept CPAWS offer and work with them in selecting an appropriate location for these lights.

Discussion: Councillor Murphy asked who would be responsible for the cost of replacing the lights.

Mayor Despres responded that the Town would be responsible, but if in 10 years the lights go, Council has the option of switching back to normal lighting.

Motion carried unanimously.

5. New Business:

- a. Budget – Mayor Despres reported that Council met with the town's accountant earlier tonight and it was decided we would lower the residential mill rate to 4.5. He said there were a series of other changes made to reallocate funds because Council didn't have the final numbers for our capital works projects last month when the budget was addressed.

2015-297 Deputy Mayor Dena Wiseman/Councillor Albert Murphy

Be it resolved Council reduce the 2016 residential mil rate to 4.5 mils, and to reallocate expenditures as discussed, for the purpose of lessening the burden on taxpayers.

Motion carried unanimously.

- b. Appeal – Gallows Cove Road – Mayor Despres explained that Council had previously approved an application for a gazebo at the end of Gallows Cove area, which was appealed by a resident. The Eastern Regional Appeal Board determined that Council may have the authority to approve the application, so they didn't make a decision relating to whether the Town has the authority to do

so. However, the Board found that the Town did not comply with sections 90 and 32 of the Town's Development Regulations, and therefore, they vacated the Town's decision for approval of the gazebo. In order for Council to reconsider it according to the law, we need to publish a discretionary use notice in a locally circulated newspaper that complies with section 32 of the town's development regulations. The town must consider any comments or objections received as a result of the public advertisement prior to making a decision per section 90 of the Town's regulations. In summary, the order is that we have to reverse our decision (rescind the motion that approved the development), and pay the appeal filing fee of \$113.

2015-298 Councillor Ralph Carey/Councillor Kevin Smart

Be it resolved that Council **rescind motion #2015-193**.

For the motion: Mayor Sebastien Despres, Deputy Mayor Dena Wiseman, Councillors Kevin Smart and Ralph Carey.

Against: Councillor Albert Murphy

Motion carried.

Mayor Despres explained that the status of this application now is it is as if we just received the application. We have been asked to meet with the applicant before any decision is made on it, which is what Council is planning to do.

2015-299 Deputy Mayor Dena Wiseman/Councillor Ralph Carey

Be it resolved Council defer the application for a gazebo until Council meets with the applicant.

Motion carried unanimously.

- c. Request for release of all legal opinions on Conflict of Interest –

2015-300 Deputy Mayor Dena Wiseman/Councillor Ralph Carey

Be it resolved that Council release to the public any and all legal opinions and advice given by lawyers hired by the Town, relating to the alleged Town Plan or snow clearing conflict of interests, including but not limited to the following from lawyer Stephen Penney on May 1, May 12, and May 26, 2015, and from lawyer Peter Shea on September 4, October 28, and December 8, 2015, and that Council include them as an Appendix to the Minutes of this meeting so they will be posted on the Town's website.

Motion carried unanimously.

- d. MIGA training session presentation Conflict of Interest – Councillor Ralph Carey reported that he attended this training session and presented it to Council as information. It was noted that the documentation contains more additional information than what is provided in the Municipal Councilors' Handbook and the Municipalities Act.
- e. Alleged Conflict of Interest – Adoption of the Town Plan, Councillors Wiseman and Carey – Councillor Murphy stated that there is currently no quorum to deal with this item.

Mayor Despres explained that the motion that was passed earlier in this meeting defeats this one.

6. Finance:

- a. Income Statement and payables – This is presented for information purpose, and the public was provided with a copy the payables.

- b. Snow clearing logs –

2015-301 Councillor Ralph Carey/Deputy Mayor Dena Wiseman

Be it resolved Council pay the contractor for the invoices presented.

Discussion: Councillor Carey noted that Witless Bay is the only municipality that pays contractors to load salt and sand. He said we pay for the salt and the sand but shouldn't be paying contractors to load the material. Councillor Carey suggested that when the snow clearing contract tender is ready to be tendered again, Council should consider this information.

Mayor Despres said that this was considered when the contractors were putting in their bids. He noted that it's a competitive process and since it was considered, we might not be paying more than other municipalities. Mayor Despres agreed though that Council should do things differently when the contract is to be tendered again.

Motion carried unanimously.

7. Public Works & Compliance:

- a. Fence – 436 Southern Shore Highway

2015-302 Councillor Ralph Carey/Councillor Albert Murphy

Be it resolved that Council approve fence on applicant's portion of property on 436 Southern Shore Highway, as long as they fence their own property.

Motion carried unanimously.

- b. Shed – 67 Harbour Road

2015-303 Councillor Ralph Carey/Councillor Albert Murphy

Be it resolved Council approve application for shed on 67 Harbour Road.

Motion carried unanimously.

- c. Application to operate a business on 67 Bear's Cove Road

2015-304 Councillor Ralph Carey/Councillor Kevin Smart

Be it resolved Council approve application to operate Kids Cove Dayhome business on 67 Bear's Cove Road, subject to approval from Services NL and any other government agencies.

Motion carried unanimously.

- d. New driveway from Municipal Garage to Southern Shore Highway –

2015-305 Deputy Mayor Dena Wiseman/Councillor Kevin Smart

Be it resolved Council approve new driveway access from the Municipal Garage to Southern Shore Highway for the Witless Bay Fire Department.

Motion carried unanimously.

8. **2015-306** Deputy Mayor Dena Wiseman/Councillor Kevin Smart

Be it resolved Council adjourn the public meeting of Council at 8:37 p.m.

Motion carried unanimously.

