

Public Meeting of Witless Bay Council  
Town Hall – 7:30 p.m.  
July 14, 2015

Attending: Mayor Sebastien Despres, Councillors Kevin Smart, Albert Murphy, Kenny Brinston, Rene Estrada

Recording: Geraldine Caul/Barbara Harrigan

1. The meeting was called to order by Mayor Sebastien Despres at 7:30 p.m.
2. **2015-152** Councillor Albert Murphy/Councillor Kenny Brinston  
Be it resolved Council adopt the agenda of July 14, 2015 as presented.  
**Motion carried unanimously.**
3. **2015-153** Councillor Kevin Smart/Councillor Rene Estrada  
Be it resolved Council adopt the June 9, 2015 Minutes of Public Meeting as presented.  
**Motion carried unanimously.**
4. **2015-154** Councillor Kenny Brinston/Councillor Albert Murphy  
Be it resolved Council adopt the June 23, 2015 Minutes of Special Public Meeting as presented.  
**Motion carried unanimously.**

Council directed the Clerk to send notices to the two councillors whose seats were vacated at the June 23, 2015 Special Public Meeting of Council, giving them the reason for Council's decision.

5. Business Arising from Minutes:
  - a) Allegations of conflict of interest pertaining to the vote on the Town Plan in its entirety:

Councillor Kevin Smart left the chamber at 7:35 p.m.

**2015-155** Councillor Albert Murphy/Councillor Kenny Brinston  
Be it resolved Council extend a notice of a friendly hearing to Councillor Kevin Smart pertaining to an alleged conflict of interest concerning the Town Plan. Councillor Smart has his land being re-zoned from Rural to Residential. Councillor Smart put himself in a conflict when he voted on the adoption of the Town Plan in its entirety.

**For the motion:** Councillors Albert Murphy, Rene Estrada, Kenny Brinston

**Against the motion:** Mayor Sebastien Despres

**Motion carried.**

Council noted that they would not wait for the ratification of this meeting's minutes to send the notification, and that a notice of 10 days be given.

Councillor Kevin Smart returned to the chamber at 7:40 p.m.

- b) Council to determine who can vote in the future on the adoption of the Town Plan in its entirety:

Councillor Albert Murphy left the chamber at 7:41 p.m.

**2015-156** Councillor Rene Estrada/Councillor Ken Brinston

Be it resolved that a vote be taken that Councillor Murphy **not** be in a conflict of interest on voting on the Town Plan.

**For** the motion: Councillor Rene Estrada, Councillor Kenny Brinston

**Against** the motion: Mayor Sebastien Despres, Councillor Kevin Smart

**Motion Failed.** [Councillor Murphy is in a conflict of interest on voting on the Town Plan].

Councillor Murphy returned to the Chamber at 7:53 p.m.

Because Council no longer has a quorum to vote on the adoption of the Town Plan, there would be a request made to the Minister to authorize the three remaining councillors to perform the function of the council and allow them to vote on the adoption of the Town Plan per Section 211 (2).

Mayor Sebastien Despres asked that the minutes reflect that he opposes the decision of voting without a quorum.

- c) Adoption of the Municipal Town Plan - There is no quorum to deal with this item.
- d - e) Notices of motion for Blue Dot Municipal Declaration and Terms of Reference for Committees - Mayor Despres suggested Council defer these two items for councillors to review.

**2015-157** Councillor Kenny Brinston/Councillor Albert Murphy

Be it resolved Council defer items **d** and **e** until the documents are properly prepared.

**Motion carried unanimously.**

- f) Ratify Regulations on Remote Meetings -

**2015-158** Councillor Albert Murphy/Councillor Ken Brinston

Be it resolved Council ratify the following regulations on Remote Meeting:

*1. Subject to the limitations below, a member of Council may attend any Meeting by Remote Means if the councillor is prevented from physically attending the meeting because of personal illness or disability, employment purposes, a family or other emergency, or because he or she is over 100 kms away from the meeting place at the time where the Meeting is scheduled to take place.*

*2. No member of Council may attend any portion of a Meeting by Remote Means unless a quorum of the Board is physically present at the meeting. Written notice must be given to the Town Clerk/Manager specifying the reason for participating via Remote Means at least three hours prior to the meeting.*

*3. The Remote Means being utilized must be fully functional so as to allow all those present at the Meeting to hear all communications taking place at the Meeting.*

*4. When any member of Council attends any portion of a Meeting by Remote Means as permitted by this policy, the minutes of the Meeting shall so reflect that such councillor attended the Meeting by Remote Means.*

*5. A councillor attending a Meeting by Remote Means shall be permitted to fully participate in the Meeting as if he or she were physically present, subject to the Town's guidelines and procedures for conducting the Meeting. A councillor attending a Meeting by Remote Means shall advise the Chair and Council if he or she leaves or returns from the Meeting.*

**Motion carried unanimously.**

- g) **2015-159** Councillor Albert Murphy/Councillor Kenny Brinston  
Be it resolved that Council enter into a loan with the Community Credit Union for the Town's portion of Capital Works in the amount of \$73,593 at a fixed rate of 5.24% over a 5-year term for Project 17-MCW-16-00041 Road Reconstruction, Phase 2.

**Motion carried unanimously.**

- h) Catch-basin - 3 Country Path Drive:

**2015-160** Councillor Albert Murphy/Councillor Kenny Brinston

Be it resolved Council deny applicant's request for catch-basin. Be it further resolved Council leave the pipes as they are and a letter be drafted to the applicant that should there be any problems in the future as a result of the pipes, he is responsible for repairs. Applicant is to be notified he can rock the ends of the culvert.

**Motion carried unanimously.**

Councillor Kenny Brinston reminded Council that Councillor Smart had not been informed of the decision that was made from Item #5a. Mayor Sebastien had the Clerk read motion #**2015-155** for Councillor Smart of Council's decision and that he would be receiving a notice of a Friendly Hearing.

6. New Business:

- a) Quarry outside of Town Boundary:

**2015-161** Councillor Kenny Brinston/Councillor Albert Murphy

Be it resolved Council request a detailed written proposal from the developer on what he plans to do with the proposed quarry and what his plans are for clean-up.

**Motion carried unanimously.**

- b) Correspondence relating to Clean up of tires on Gallows Cove Road - It was noted that the Department of Environment and Conservation was contacted and they confirmed they have no issues with tires on a property if they are used to serve a purpose.

The Clerk was requested to contact the Department and Conservation to see if a permit was required from their department for the structure by the water.

- c) Correspondence from O'Brien's Trucking: It was clarified that although there may have been a verbal ok given to the applicant from a councillor at that time, there was no application submitted to the town, no formal approval from Council, and no permit granted. An appeal to

the Eastern Regional Appeal Board resulted in the same conclusion. Any permit that may be formally granted that results in damage to the Town's infrastructure would have to be removed. The Town has a regulation that it must abide by. The Town's engineer made a recommendation to Council and Council acted on it.

**2015-162** Councillor Albert Murphy/Councillor Kenny Brinston

Be it resolved Council take no action at this time and leave the ditch as it currently stands, an open ditch.

**Motion carried unanimously.**

d) Request to support candidate in the October Federal Election - No action taken by council on this item.

e) WSP Report on Site Visits - Setting a priority List:

**Priority 1** - Site # 1 - Southside Track (Capital Works Project) and Site # 5 Softball Field on Southside Track are to be grouped together.

**Priority 2** - Site #9 - Municipal Depot

**Priority 3** - Site #3 - Maraties Lane

f) WSP Park Redevelopment Project: Mayor Despres explained that a few months ago Council made a motion to partner with the BBBAA and apply for federal funds of \$150,000 with the Town's share being 1/3 of the cost. He said part of the application is to get a conceptual design drawn up with a topographical survey done, and to have a grant application prepared.

**2015-163** Councillor Kenny Brinston/Councillor Albert Murphy

Be it resolved Council approve the Scope of Work submitted by WSP for the re-development of our recreation grounds with the total budget to include the Topographical Survey for \$6,060.

**Motion carried unanimously.**

g) Maintenance Assistant:

**2015-164** Councillor Albert Murphy/Councillor Kenny Brinston

Be it resolved Council put out a call for a maintenance assistance once the public works committee prepares a job description. Be it further resolved the Finance Committee be empowered to determine the hourly rate of pay for this position.

**Motion carried unanimously.**

7. Finance:

a) Income Statement & Payables - For information purpose only.

b) **2015-165** Councillor Kenny Brinston/Councillor Rene Estrada

Be it resolved Council pay the invoice from Stewart McKelvey for \$5400.28 for legal fees.

**Motion carried unanimously.**

8. Witless Bay Community Enhancement - Mayor Despres announced that the judges for Tidy Towns will be in the community on July 20 and the Communities in Bloom judges will arrive on July 22.
9. Heritage - Councillor Kevin Smart reported on the graveyard cleanup saying the Heritage Committee chose not to use the students and did the clean-up themselves. He mentioned that the committee was planning on using graphite on the headstones for imprinting. The Committee was also trying to determine if there was a name on the old graveyard.

10. Public Works & Compliance:

- a) **2015-166** Councillor Albert Murphy/Councillor Kenny Brinston  
Be it resolved Council award the tender for ditching to O'Brien's Trucking (\$11,946).  
**Motion carried unanimously.**
- b) **2015-167** Councillor Kenny Brinston/Councillor Albert Murphy  
Be it resolved Council rescind decision to consult with the community per previous motion 2014-130, in the interest of time, and for the Town to notify residents that the Modular Classrooms will be installed at St. Bernard's. *[Motion 2014-130 - Be it resolved Council approve application to add one modular classroom and link to St. Bernard's school for a period of three years with room for renewal. Be it further resolved that any future requests for modular structures require consultation with the Town and the community.]*  
**Motion carried unanimously.**  
  
**2015-168** Councillor Kenny Brinston/Councillor Albert Murphy  
Be it resolved Council approve placement of Modular Classrooms at St. Bernard's School for a period of three years with room for renewal.  
**Motion carried unanimously.**
- c) **2015-169** Councillor Albert Murphy/Councillor Kenny Brinston  
Be it resolved Council approve application for residential dwelling on 68 Country Path Drive subject to approval from Services NL.  
**Motion carried unanimously.**
- d) **2015-170** Councillor Albert Murphy/Councillor Kenny Brinston  
Be it resolved Council approve application for garage on 28 Country Path Drive.  
**Motion carried unanimously.**

Councillor Kenny Brinston left the chamber at 8:48 p.m. for agenda item e.

- e) **2015-171** Councillor Albert Murphy/Councillor Rene Estrada  
Be it resolved Council approve application for garage on 3 Gallows Cove Road.  
**Motion carried .**

Councillor Kenny Brinston returned to the chamber at 8:49 p.m.

- f) **2015-172** Councillor Albert Murphy/Councillor Kenny Brinston

Be it resolved Council approve application for veranda extension on 36A Gallows Cove Road.

**Motion carried unanimously.**

- g) Speed bumps - Council discussed investigating the cost of speed bumps and having public works review roads that might need them. It was agreed to try installing two speed bumps around the playground area on Southside Track.

**2015-173** Councillor Kenny Brinston/Councillor Kevin Smart

Be it resolved Council install two speed bumps and empower Finance Committee to approve the cost.

**Motion carried unanimously.**

- h) Culvert on Gallows Cove Road - Councillor Murphy described a driveway on Gallows Cove Road where a culvert might be needed, as well as ditching, to prevent potential flooding in the future. The Public Works Committee would investigate this further.

- i) Sign at the intersection of Southern Shore Highway and Southside Track:

**2015-174** Councillor Albert Murphy/Councillor Kenny Brinston

Be it resolved Council move the signs during Phase II Capital Works Project from its current location on the opposite side of the road on Southside Track.

For the motion: Councillors Albert Murphy, Kenny Brinston, Rene Estrada and Kevin Smart

Against the motion: Mayor Sebastien Despres

**Motion carried.**

**2015-175** Councillor Albert Murphy/Councillor Kenny Brinston

Be it resolved Council extend the guardrail on Southside Track.

**Motion carried unanimously.**

11. **2015-176** Councillor Kenny Brinston/Councillor Albert Murphy

Be it resolved Council adjourn at 9:04 p.m.

**Motion carried unanimously.**