

Special Public Meeting of Council
June 23, 2015

Attending: Deputy Mayor Dena Wiseman, Councillors Rene Estrada, Ralph Carey, Albert Murphy, Ken Brinston [Mayor Sebastien Despres joined the meeting via Remote Meeting- motion #2015-150]

Recording: Geraldine Caul and Barb Harrigan

1. The meeting was called to order by Deputy Mayor Dena Wiseman at 7:30 p.m.
2. **2015-146** Councillor Ralph Carey/Councillor Rene Estrada
Be it resolved Council adopt the agenda of June 23, 2015.

Councillor Albert Murphy stated he wanted to make an amendment to the agenda to read:

Amendment #1: Councillor Albert Murphy/Councillor Rene Estrada

Be it resolved Council hold a friendly hearing on the allegations of conflict of interest concerning the new town plan 2014-2024 as advised by Municipal and Intergovernmental Affairs.

Discussion: Councillor Ralph Carey reminded Councillor Albert Murphy that this was discussed during the recent meeting with the Minister and that this matter was cleared up, and it has already been confirmed that there was no conflict of interest.

Amendment #2: Councillor Ralph Carey/Councillor Kevin Smart

Be it resolved Council seek legal opinion on Councillor Murphy's amendment, and defer the matter to a future meeting.

For amendment #2: (to seek legal advice on Councillor Murphy's amendment): Deputy Mayor Dena Wiseman, Councillors Ralph Carey and Kevin Smart.

Against amendment #2: Councillors Albert Murphy, Rene Estrada and Ken Brinston.

Amendment failed.

Councillor Murphy asked that the minutes reflect that three of the councillors who are alleged to be in conflict of interest voted on the amendment to his amendment.

Deputy Mayor Dena Wiseman, Councillors Ralph Carey and Kevin Smart left the chamber at 7:39 for the vote pertaining to the friendly hearing.

For amendment #1: (to hold a friendly hearing on allegations of conflict of interest on the new town plan as advised by Municipal Affairs): 0

Discussion: It was discussed and agreed by council that because there is currently no quorum to vote on this, that the item be moved to #5 on the agenda, and the adjournment be changed to #6.

Deputy Mayor Dena Wiseman, Councillors Ralph Carey and Kevin Smart returned to the chamber at 7:44.

2015-147 Councillor Albert Murphy/Councillor Ken Brinston

Be it resolved because the agenda cannot be changed at this time, Council adopt the agenda of June 23, 2015 as it is.

Motion carried unanimously.

3. Motion to allow Remote Meeting Participation -

2015-148 Councillor Ralph Carey/Councillor Albert Murphy

Be it resolved Council allow Remote Meeting Participation.

Motion carried unanimously.

At this point Mayor Sebastien Despres was contacted and joined the meeting via remote means.

4. Notice of Motion for the official ratification of policies on Remote Meeting Attendance - It was noted that this was a notice that the policies would be brought back to the next public meeting for adoption.

Deputy Mayor Dena Wiseman, Councillors Ralph Carey and Kevin Smart left the chamber at 7:48 p.m., allowing Councillor Rene Estrada to take the Chair.

5. Friendly hearing - Councillor Albert Murphy stated that Council has to deal with the following:
“(1) determine if there was a conflict of interest in voting on the snow clearing,
(2) determine the conflict of interest on voting on the adoption of the Town Plan in its entirety, and
(3) to proceed with the adoption of the town plan. Council will determine who can vote on its adoption.”

- (1) “Determine if there was a conflict of interest in voting on the snow clearing:”

2015-149 Councillor Albert Murphy/Councillor Ken Brinston

“Be it resolved Council declare vacant immediately the elected seats of Deputy Mayor Dena Wiseman and Councillor Ralph Carey under Section 206, subsection 2 of the Municipalities Act, not in respect to motions on snow clearing, but in respect to snow clearing on Pond Path, and based on correspondence Council received between Mayor Despres of the Town of Witless Bay and Municipal Affairs, correspondence received through the ‘freedom of information act.’”

For the motion: Councillors Albert Murphy, Ken Brinston, Rene Estrada

Against the motion: Mayor Sebastien Despres, Councillor Kevin Smart

Motion carried.

Motion 2015-149 – Overturned as a result of a Consent Order on Nov. 17/15. The seats of Dena Wiseman and Ralph Carey are reinstated, effective Nov. 18, 2015

Mayor Despres expressed to Council that because this was a vote to vacate the seats of Deputy Mayor Dena Wiseman and Councillor Ralph Carey, they are officially no longer members of Council, and can return to the Council Chamber as residents only, if they so choose.

- (2) “Determine the conflict of interest on voting on the adoption of the Town Plan in its entirety:”

Councillor Albert Murphy said that the motion that was to follow next includes the two councillors because it pertains to a friendly hearing on the Town Plan.

Mayor Despres explained that there can't be a friendly hearing on the Town Plan against people who are not members of council.

Councillor Rene Estrada asked that Deputy Mayor Dena Wiseman and Councillor Ralph Carey be invited back into the Chamber as residents. Once inside the Chamber, Councillor Estrada notified the Deputy Mayor Wiseman and Councillor Carey that their seats were vacated, and that they could no longer participate as councillors. Deputy Mayor Wiseman and Councillor Carey left the meeting.

Councillor Rene Estrada stated that this item would be reviewed at a future meeting of Council.

- (3) “To proceed with the adoption of the town plan. Council will determine who can vote on its adoption:”

2015-150 Councillor Albert Murphy/Councillor Ken Brinston

Be it resolved Council rescind motion 2015-042 [*Council declare that there was no conflict of interest in the case of Councillor Kevin Smart voting on the approval of the Municipal Town Plan*] and motion 2015-044 [*Council declare that there was no conflict of interest in the case of Deputy Mayor Dena Wiseman and Councillor Ralph Carey voting on the approval of the Municipal Town Plan*], because the motions took place illegally based on Section 209 (2) of the act that states, “A councillor whose possible conflict of interest is being voted on is not entitled to vote.”

Discussion: Mayor Despres cautioned Council that Deputy Mayor Wiseman and Councillor Carey have notified Council they will be questioning the legality of Council vacating their seats. Mayor Despres said that if their seats are returned to them, any motion being made by Council in the interim stands to be vacated. He said Council was told by Municipal Affairs the Town's legal counsel that courts waste little time in addressing matters like this, and suggested Council wait for the court to make a decision before proceeding further.

Amendment: Mayor Sebastien Despres/Councillor Kevin Smart

Be it resolved Council table these motions until such time as it can be considered by council as an agenda item.

Discussion: After a brief discussion it was noted that if the courts overturned the decision of Council and Deputy Mayor Dena Wiseman and Councillor Carey were reinstated, Council would then address the friendly hearing pertaining to allegations of conflict of interest relating to the Town Plan.

For the amendment: Mayor Sebastien Despres, Councillors Ken Brinston, Kevin Smart and Rene Estrada.

Against the amendment: Councillor Albert Murphy.

For the motion: Mayor Sebastien Despres, Councillors Ken Brinston, Kevin Smart, Rene Estrada, Albert Murphy

Against the motion: 0

Amendment carried.

Motion carried unanimously.

6. **2015-151** Councillor Albert Murphy/Councillor Ken Brinston
Be it resolved Council adjourn at 8:05 p.m.
Motion carried unanimously.