

Public Meeting of the Witless Bay Council
Town Hall
November 8, 2016

Attending: Mayor Sebastien Despres, Deputy Mayor Dena Wiseman, Councillors: Kevin Smart, Ralph Carey, Vince Swain, Maureen Murphy and Fraser Paul

Recording: Geraldine Caul

1. The meeting was called to order at 7:40 p.m. by Mayor Sebastien Despres

2. **2016-260** Deputy Mayor Dena Wiseman/Councillor Kevin Smart
Be it resolved that Council adopt the Agenda of November 8, 2016

Amendment: 2016-261 Councillor Ralph Carey/Councillor Kevin Smart
Be it resolved Council amend the Agenda to include:

4b 54 Gallows Cove Road – Property owner’s proposal

5a iii Engineer’s recommendation for 8 Green Hill Drive roadside ditch

6e Canada 150 Community Infrastructure Program Project

7b Heritage Booklet

Amendment carried unanimously.

Motion carried as amended unanimously.

3. **2016-262** Councillor Maureen Murphy/Councillor Ralph Carey
Be it resolved that Council adopt the Minutes of Meeting of October 11, 2016

Amendment: 2016-263 Councillor Ralph Carey/Deputy Mayor Dena Wiseman

Be it resolved that the minutes be revised to show the meeting was called to order at 6:37p.m.

Amendment carried unanimously.

Motion carried as amended unanimously.

4. a. Engineer’s Report on 54 Gallows Cove Road – Councillor Ralph Carey reported that the Town received the recommendations from the Engineer on issues related to 54 Gallows Cove Road.

2016-264 Councillor Ralph Carey/Deputy Mayor Dena Wiseman

Be it resolved that Council accept the Engineer’s Report on 54 Gallows Cove Road and move forward as soon as possible with the reinstatement of the neighboring Aspell property.

Motion carried unanimously.

b. Proposal of property owner of 54 Gallows Cove Road - Mayor Despres explained that there was an application submitted which Council did not consider, and this is a revised application.

2016-265 Councillor Ralph Carey/Deputy Mayor Dena Wiseman

Be it resolved that Council deny the application of property owner on 54 Gallows Cove Road.
Motion carried unanimously.

5. ***New Business:***

- a. Southside Track Phase II: Councillor Maureen Murphy asked that Council determine if she is in a conflict of interest on the Southside Track Project because she has one brother who lives in the area of the project, and a second brother who owns land there. Councillor Murphy left the chamber at 7:49.

2016-266 Deputy Mayor Wiseman/Councillor Carey

Be it resolved that Council declare Councillor Murphy not to be in a conflict of interest based on Southside Track being a major thoroughfare, and for that reason her interest would not differ from any other party in the town.

For the motion: Mayor Despres, Deputy Mayor Wiseman, Councillor Swain, Councillor Smart and Councillor Carey

Against the motion: Councillor Paul

Motion carried.

Councillor Murphy returned to the Chamber and was informed that Council declared her not to be in a conflict of interest.

- i. Delays and expenditures resulting from homeowners' issues – Councillor Carey noted that Council was not clear on the right-of-way off Southside Track and the right-of-way on Greenhill Drive that might be encroaching on private property. Council may have to enter into discussions with the property owner since there is no documentation to show it on file.
- ii. Mayor Despres explained that the Town owns a 20 m reservation, and a new street is built that does not rob the town unless the town conveyed its interests to the developer when he built the subdivision. He noted that the property owner has not shown proof that the land was conveyed by the Town.

2016-267 Councillor Vince Swain/Deputy Mayor Dena Wiseman

Be it resolved that Council get a survey pin installed at the corner of the property owner's private land.

For the motion: Mayor Despres, Deputy Mayor Wiseman, Councillor Swain, Councillor Smart and Councillor Murphy

Against the motion: Councillor Carey

Motion carried.

2016-268 Councillor Vince Swain/Councillor Maureen Murphy

Be it resolved that once the survey pin is installed, and if we don't have to encroach on the homeowner's property, we move forward.

Motion carried unanimously.

2016-269 Councillor Ralph Carey/Deputy Mayor Dena Wiseman

Be it resolved that Council contact the homeowner on 100 Southside Track to confirm that any of the 25.53m wide access into Emerald Estate's Subdivision was conveyed back to them by the Town during the acceptance of the Emerald Estates Phase I. Be it further

resolved the Town provide 48 hours for the property owner to respond, and if there is no response, the Town will move forward.

For the motion: Mayor Despres, Deputy Mayor Wiseman, Councillor Smart and Councillor Carey.

Against the motion: Councillor Vince Swain, Councillor Fraser Paul and Councillor Murphy.
Motion carried.

2016-270 Councillor Ralph Carey/Councillor Kevin Smart

Be it resolved that the Town permit the engineer firm to decide the best path forward for the Town on that location once ownership is confirmed, and reservations are established.

Motion carried unanimously.

iii. Engineer's recommendation for 8 Green Hill Drive road side ditch

2016-271 Councillor Ralph Carey/Deputy Mayor Dena Wiseman

Be it resolved that Council piggyback on existing roadwork and have the ditch on the property cleaned out as recommended by the engineer, specifically:

- Clean the ditch bottom, foreslope and backslope of all organics
- Clean the driveway culvert of shoulder gravels.
- Prepare ditch bottom, foreslope and backslope for placement of 100mm thick Class A gravel base
- Top with 50mm of surface course asphalt. Asphalt surface to be 50mm below outlet of upstream driveway culvert and 50mm below inlet to driveway culvert at 8 Green Hill Drive.

For the motion: Mayor Despres, Deputy Mayor Wiseman, Councillor Smart, Councillor Carey, and Councillor Murphy.

Against the motion: Councillor Swain and Councillor Paul

Motion carried.

- b. Resident's concern with private well on Southside Track and Engineer's Report –The Town's engineer reported that the issue was related to an area further upstream caused by dumping. It was noted that the infill has existed for a long time with no reported problems to the well, and that issues began after the Southside Track Road project started.

2016-272 Councillor Maureen Murphy/Councillor Vince Swain

Be it resolved that Council dig a new well for the property owner on 163 Southside Track.

2016-273 Amendment: Councillor Fraser Paul/Deputy Mayor Dena Wiseman

Be it resolved that Council work in collaboration with the homeowners to work out an agreement to rectify the problem, and if the water doesn't clear, then Council will provide a new well.

Amendment carried unanimously.

Motion carried unanimously.

2016-274 Deputy Mayor Dena Wiseman/Councillor Ralph Carey

Be it resolved that Council pass all information onto the engineer to get them to reevaluate their findings.

Motion carried unanimously.

2016-275 Councillor Fraser Paul/Councillor Maureen Murphy

Be it resolved that the driveway that is currently marked in on the Mr. Kenny's be extended closer to his fence, or from the shed to make a declining slope that is acceptable to tie in to the road.

Motion carried unanimously.

- c. Clean-up request of property on 118 Gallows Cove Road – Councillor Swain reported that the property owner is in the process of cleaning up this property, and confirmed that the material isn't visible from the main road. He said it was a family matter but that he would do a follow up site visit.
- d. Property owner's issues relating to private property on 4 Mullowney's Lane – Councillor Maureen Murphy asked that Council determine if she is in a conflict of interest on item 5d and 5e because her brother owns property off Mullowney's Lane. Councillor Murphy left the Council Chamber for a determination to be made.

2016-276 Councillor Ralph Carey/Deputy Mayor Dena Wiseman

Be it resolved that Council declare Councillor Murphy to be in a conflict of interest for items 5d and 5e.

For the motion: Mayor Despres, Deputy Mayor Wiseman, Councillor Carey and Councillor Smart.

Against the motion: Councillor Swain and Councillor Paul.

Motion carried.

Councillor Murphy was notified that she was voted to be in a conflict of interest on items 5d and 5e.

Council requested that the staff respond to the individual that no permit was issued in that area for an excavation.

- e. Crown Land Order relating to 4 Mullowney's Lane – Council determined this issue to be a matter between two individuals.

Councillor Maureen Murphy returned to the Council Chamber.

- f. Resident's issue relating to a structure on Ragged Beach – Mayor Despres explained that Councillor Murphy has not declared a conflict of interest on this item.

Councillor Murphy asked for Council to determine if she was in a conflict of interest on this item because her brother owns property in this area, and left the Council Chamber.

Mayor Despres clarified that this is not a bigger discussion than what the correspondence says, and that the determination Council is being asked to make is specifically about the correspondence that we have here.

2016-277 Deputy Mayor Dena Wiseman/Councillor Vince Swain

Be it resolved that Council declare Councillor Murphy not to be in a conflict of interest.

Motion carried unanimously

Councillor Murphy was informed that Council declared her not to be in a conflict of interest, and Councillor Murphy returned to the Council Chamber.

2016-278 Councillor Fraser Paul/Councillor Vince Swain

Be it resolved that Council take no action because there is an appeal pending on the application for the unapproved structure.

2016-279 Amendment: Deputy Mayor Dena Wiseman/Councillor Ralph Carey

Be it resolved that Council take no action due to a pending appeal on the application for the unapproved structure, with the exception of a Stop Work Order.

For the amendment: Mayor Despres, Deputy Mayor Wiseman, Councillor Carey and Councillor Smart

Against the amendment: Councillor Murphy, Councillor Swain and Councillor Paul.

Amendment carried.

Motion carried unanimously.

- g. 2017 Budget Planning session – Finance Committee will meet on November 22nd for a preliminary discussion and Council will set a date to meet thereafter.

6. Finance & Economic Development Committee:

- a. Payables & Income Statement – For information purpose only.
- b. A49 Witless Bay Town Hall – For information purpose only. This was already approved and the first payment is paid.
- c. Small Claims Settlement & related legal fees –

2016-280 Councillor Ralph Carey/Deputy Mayor Dena Wiseman

Be it resolved Council go in camera to discuss item 6c.

Motion carried unanimously.

The public members left the Council Chamber and in camera session began at 9:00 p.m., ending at 9:05 p.m. Public members were invited back into the Council Chamber.

2016-281 Deputy Mayor Dena Wiseman/Councillor Kevin Smart

Be it resolved that Council accept the recommendations of the Town's lawyer.

Motion carried unanimously.

- d. Municipal by-election & court petition results & related fees – Councillor Fraser Paul asked that Council make a determination if he is in a conflict of interest on this item, and left the Council Chamber.

2016-282 Deputy Mayor Dena Wiseman/Councillor Ralph Carey

Be it resolved that Council declare Councillor Paul to be in a conflict of interest on this item.

For the motion: Mayor Despres, Deputy Mayor Wiseman, Councillor Carey and Councillor Smart.

Against the motion: Councillor Murphy and Councillor Swain

Motion carried.

2016-283 Deputy Mayor Dena Wiseman/Councillor Ralph Carey

Be it resolved that Council pay the legal fees associated with the court petition.

Motion carried unanimously.

Councillor Paul returned to the Council Chamber at 9:15 p.m.

- c. Canada 150 Community Infrastructure Program – Mayor Despres explained that the Town has received the first offer of assistance from the Federal Government. An application was made for the Canada150 fund to celebrate Canada's 150th Anniversary. The project would see major upgrades to the playground that would include a complete redo of the pool decks, retainer walls, pool interior, and will address the problems with the levelling of the site. Work will be done on the two parking surfaces closest to the pool, installation of a horseshoe pit, a new piece of equipment, trees, park benches, etc. ACOA is providing assistance of \$65,250 with the town almost matching that with \$61,250, which was budgeted for, and the BBBAA is donating \$35,000. The total project cost of \$161,500 is almost 2/3 funded by outside sources.

7. Witless Bay Community Enhancement Committee

- a. Communities in Bloom Awards – Mayor Despres reported that the Town received a 5 Bloom rating this year at the Communities in Bloom competition. The Town was national finals for the 2nd year in a row, and last year we received 4 Blooms. In addition, the Town won the national award for Environmental Action. The story was shared throughout Canada and the press releases went out. This recognition will be in the upcoming Communities in Bloom magazine.
- b. Heritage Booklet – Mayor Despres announced that the Town held the Book Launch of the Heritage booklet a few weeks ago. He said that this is Witless Bay's first real history book and was professionally put together by Memorial University. The Town will be taking orders, and the price will depend on the amount of booklets we order. The prices range from \$10 if we order fifty copies to \$8.70 if we order a hundred.

2016-284 Deputy Mayor Dena Wiseman/Councillor Kevin Smart

Be it resolved that the Town purchase 100 copies of the Witless Bay Booklet.

Motion carried unanimously.

8. Public Works & Infrastructure Committee

- a. **2016-285** Councillor Ralph Carey/Deputy Mayor Dena Wiseman
Be it resolved that Council deny the application for drainage ditch on **432-434 Southern Shore Highway** in order to protect a resident's septic lines.
For the motion: Mayor Despres, Deputy Mayor Wiseman, Councillor Carey, Councillor Swain and Councillor Smart
Against the motion: Councillor Murphy and Councillor Paul
Motion carried.
- b. **2016-286** Councillor Ralph Carey/Councillor Vince Swain
Be it resolved that Council approve a demolition and removal of structure on **440 Southern Shore Highway** subject to the applicant clarifying to the Town what he is bringing in so as not to impact neighbors.
Motion carried unanimously.
- c. Excavation of land on 58-66 Bear's Cove Road – Councillor Vince Swain declared a conflict of interest on this application because he discussed being the builder for the proper owner. Councillor Swain left the Council Chamber at 9:35 p.m.

Deputy Mayor Wiseman noted that Council has already approved in principle an application to construct a residential dwelling for this applicant, which was subject to an approval from Services NL, and that they have not yet provided their approval for this site.

2016-287 Deputy Mayor Wiseman/Councillor Ralph Carey

Be it resolved that Council deny the application for excavation of land on **58-66 Bear's Cove Road** due to an existing approval in principal given to build that is subject to an approval from Services NL.

Motion carried unanimously.

Councillor Swain returned to the Council Chamber at 9:37 p.m.

d. **2016-288** Councillor Ralph Carey/Deputy Mayor Wiseman

Be it resolved that Council approve in principle demolition of existing structure and construction of residential dwelling on **19 Irishtown Road** subject to confirmation of frontage on Irishtown Road, and subject to approval from Services NL and any other government agencies having jurisdiction.

Motion carried unanimously.

e. **2016-289** Councillor Ralph Carey/Councillor Maureen Murphy

Be it resolved that Council approve in principle application for residential dwelling on **108 Gull Pond Road** subject to approval from Services NL and any other government agencies having jurisdiction.

Motion carried unanimously.

f. **2016-290** Councillor Ralph Carey/Councillor Vince Swain

Be it resolved that Council approve an application for garage on **217 Dean's Road** subject to the applicant amending his application to reflect the maximum 70m sq. allowable.

Motion carried unanimously.

g. **2016-291** Councillor Ralph Carey/Deputy Mayor Dena Wiseman

Be it resolved that Council use its discretionary power to approve an application for garage on **19 Murphy's Lane**, at the side yard, but remaining within the distance for all other requirements.

Motion carried unanimously.

h. Crown Land application on Bear's Cove Road – Mayor Despres left the Chair to make the following motion:

2016-292 Deputy Mayor Dena Wiseman/Councillor Ralph Carey

Be it resolved that Council require a lotting plan; identifying the number of lots, lot size, zoning, number of phases, road networks (existing and proposal), land ownership, and contour information to determine slopes and grades; for review prior to Council voting on a Crown Lands Municipal Recommendation Form submitted for a residential subdivision development, or land large enough for a subdivision development.

2016-293 Amendment: Mayor Sebastien Despres/Councillor Ralph Carey

Be it resolved that Council require a lotting plan; identifying the number of lots, lot size, zoning, number of phases, road networks (existing and proposed), and land ownership; for review prior to Council voting on a Crown Lands Municipal Recommendation Form submitted

for a residential subdivision development, or land large enough for a subdivision development. [**“Contour information to determine slopes and grades” is deleted**]
Amendment carried unanimously.
Motion carried unanimously as amended.

Mayor Despres returned to the Chair

- i. Crown Land application on 177 Southern Shore Highway – Council was unclear as to whether the proposal would encroach on the old Southern Shore Highway boundary.

2016-294 Councillor Maureen Murphy/Deputy Mayor Dena Wiseman
Be it resolved that Council defer the Crown Land application on **177 Southern Shore Highway** pending more information.
Motion carried unanimously.

- j. **2016-295** Councillor Ralph Carey/Councillor Maureen Murphy
Be it resolved that Council approve Crown Land application on **Witless Bay Line**.
For the motion: Deputy Mayor Wiseman, Councillor Carey, Councillor Swain, Councillor Paul, Councillor Smart and Councillor Murphy
Against the motion: Mayor Despres
Motion carried.

- k. Crown Land application for subdivision off Butler’s Road – Councillor Fraser Paul declared a conflict of interest due to the application being related to a subdivision, and left the Council Chamber at 10:12 p.m.

2016-296 Deputy Mayor Dena Wiseman/Councillor Ralph Carey
Be it resolved that Council require a lotting plan; identifying the number of lots, lot size, zoning, number of phases, road networks (existing and proposed), and land ownership; for review prior to Council voting on a Crown Lands Municipal Recommendation Form submitted for a residential subdivision development, or land large enough for a subdivision development.
For the motion: Mayor Sebastien Despres, Deputy Mayor Dena Wiseman, Councillor Ralph Carey, Councillor Vince Swain, Councillor Maureen Murphy and Councillor Kevin Smart
Abstained: Councillor Fraser Paul [abstained due to conflict of interest related to subdivisions]
Motion carried.

Councillor Paul returned to the Council Chamber at 10:14 p.m.

- l. Application for removal of road reservation on Crown Land on Dean’s Road – Public Works noted that the applicant will need to identify the correct Right-of-Way.

2016-297 Councillor Fraser Paul/Councillor Maureen Murphy
Be it resolved that the application to remove road reservation on Crown Land on **Dean’s Road** be deferred until the applicant identifies the location of the easement.
Motion carried unanimously.

- m. **2016-298** Deputy Mayor Dena Wiseman/Councillor Maureen Murphy
Be it resolved that the meeting adjourn at 10:16 p.m.
Motion carried unanimously.