

Public Meeting of Witless Bay Council
June 14, 2016

Attending: Mayor Sebastien Despres, Deputy Mayor Dena Wiseman, Councillors Ralph Carey, Albert Murphy, Kevin Smart, Vince Swain and Ken Brinston

Recording: Geraldine Caul/Barb Harrigan

1. The public meeting of Council was called to order at 7:30 by Mayor Sebastien Despres.
2. **2016 – 108** Councillor Kevin Smart/Deputy Mayor Dena Wiseman
Be it resolved Council adopt the Agenda of June 14, 2016

2016-109 Amendment: Councillor Albert Murphy/Councillor Ken Brinston

Be it resolved Council amend the agenda to include:

- ñ Netting on the ball field,
- ñ Correspondence pertaining to 2014-2024 Plan, and
- ñ Conflicts of interest for Deputy Mayor Wiseman and Councillors Carey and Smart.

Mayor Despres called the last two items out of order because they would need to be brought to a privileged meeting as per the Town's regulations.

2016-110 Councillor Albert Murphy/Councillor Ken Brinston

Be it resolved Mayor Despres' decision be called out of order [to call the last two items out of order].

For the motion: Councillor Albert Murphy, Councillor Ken Brinston, and Councillor Vince Swain

Against: Mayor Sebastien Despres, Deputy Mayor Dena Wiseman, Councillor Ralph Carey and Councillor Kevin Smart

Motion failed.

Amendment to include netting on the ballfield carried unanimously.

2016-111 Amendment: Deputy Mayor Wiseman/Councillor Carey

Council to include under item 6 c. purchase of tools "and shed."

Amendment carried unanimously.

2016-112 Amendment: Deputy Mayor Wiseman/Councillor Brinston

Council to include under 7 k. "Quotes for patching of asphalt."

Amendment carried unanimously.

2016-113 Amendment: Deputy Mayor Wiseman/Councillor Brinston

Council to include under 5 g. Tax Recovery Plan 2016

Amendment carried unanimously.

Motion to adopt agenda as amended carried unanimously.

3. **2016-114** Councillor Ralph Carey/Deputy Mayor Dena Wiseman
Be it resolved Council adopt the Minutes of Meeting of May 10, 2016 as presented.
Motion carried unanimously.
4. Business Arising from Minutes:
 - a. Dredging of Upper Pond – Mayor Despres noted that at the last public meeting, Council made a motion to call for quotes for dredging. Information was needed from the Department Fisheries and Oceans which has been received, and the Town will proceed with the calling of quotes.
5. New Business:
 - a. Commissioner Thistle’s Report – Recommendations not covered in the Town Plan. Mayor Despres said that Council received an email later this afternoon that the Town Plan is registered and should be gazette on Friday. He said that the recommendations that are in the Commissioner’s Report are already enforced as of today, but not for this meeting.

Deputy Mayor Wiseman said she asked to put this on the agenda because she wanted to discuss the recommendations not covered by the Town Plan. She said she was not speaking about recommendation #1 regarding the zoning of private land on Ragged Beach, or recommendation #4 regarding lot sizes. She explained this will be a discussion on the Commissioner’s recommendation which has to do with Crown Land Reserve in the Ragged Beach Area, as well as the Crown land grants in that area.

Councillor Murphy said the recommendations from Commissioner Thistle’s report are about the Town Plan and he didn’t think they should be dealing with this until after the Town Plan has been gazette. **Councillor Murphy declared himself to be in a conflict of interest and left the chamber at 7:36 p.m.**

Deputy Mayor Wiseman explained that when Council met with the Minister here in this office, he said #1, regarding the residential zoning of private land on Ragged Beach and #4, regarding lot sizes were covered in the Town Plan and the other two recommendations were not, and for this reason she prepared a motion. She said that regarding Commissioner Thistle’s Report and the recommendations not covered in the Town Plan:

2016-115 Deputy Mayor Dena Wiseman/Councillor Ralph Carey

Be it resolved that, regarding recommendation # 3 - Support of the Crown Land Reserve, Council follow up on its application for the establishment of a Crown Land Reserve (under Section 8 of the Lands Act) along the Southern coastline of Witless Bay as described in motion 2014-161; and that Council provide any additional information as needed; and that Council provide the Director of Land Management, or other necessary departments, with the Report of the Commissioner – Town of Witless Bay 2013-2023 – Municipal Plan and Development Regulations – Public Hearing, October 20, 2015, prepared by Commissioner Thistle, which recommends support for the request by Council (motion 2014-161) for the establishment of this Crown Land Reserve.

Deputy Mayor Wiseman read the Recommendation as stated in Commissioner Thistle’s Report: The Commissioner recommends support for the request by Council (2014-161) to the Dept. of Environment & Conservation for the establishment of a Crown Land Reserve (under Section 8 of

the Lands Act) for 99 hectares of Crown Land along the southern coastline of Witless Bay. This Crown Land Reserve should begin at the first section of Crown Land located south of Mullowney's Lane, extend south to the end of the Witless Bay boundary for a width of 450 metres, and encompass an area of 99 hectares. This Recommendation has to take into account a previous Recommendation to zone the private land of the three property owners as Residential.

2016-116 Amendment: Councillor Vince Swain/Councillor Ken Brinston

Be it resolved Council amend the motion to include the right-of-way, yet to be determined by Council, for access to private property.

Amendment carried unanimously

Motion carried unanimously.

2016-117 Deputy Mayor Dena Wiseman/Councillor Ralph Carey

Be it resolved that in order to follow recommendation #2 listed in the Report of the Commissioner – Town of Witless Bay 2013-2023 Municipal Plan and Development Regulations – Public Hearing, Oct. 20, 2015, prepared by Commissioner Thistle, which states, the Commissioner recommends that with respect to any Crown Land in the vicinity of Ragged Beach, no Crown Land grant be made for any development purpose, subdivision, or otherwise, that Council place a moratorium on approving any Municipal Recommendations for Crown Land grant applications in this area, and that Council request that the Department of Crown Lands place a freeze on grant approvals in this area.

2016-118 Amendment: Councillor Ken Brinston/Deputy Mayor Dena Wiseman

Be it resolved that this motion not impede access to private properties.

Amendment carried unanimously.

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

Against: Councillor Ken Brinston and Councillor Vince Swain.

Motion carried.

Councillor Murphy returned to the Chamber at 7:50 p.m.

b. Planning for future development –

2016-119 Deputy Mayor Dena Wiseman/Councillor Ralph Carey

Be it resolved Council not consider or accept proposals for any residential subdivision requiring in excess of forty (40) acres of Crown Land.

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

Against: Councillor Albert Murphy, Councillor Ken Brinston, and Councillor Vince Swain.

Motion carried.

2016-120 Councillor Ken Brinston/Councillor Albert Murphy

Be it resolved Council meet with the Town Planner as soon as possible to get the 2016 Town Plan back and review it.

Motion carried unanimously.

c. Capital Works update – Deputy Mayor Wiseman reported that Council met with the Engineer and a follow up conference call regarding this 90-10 funded project. There should be enough

funding in the \$770,000 to complete Southside Track Phase 2. The Tender should be out this month and work should start mid- July, with the project wrapping up this fall. This information will be available in the Town's newsletter in the near future as well. The Mayor noted that Council has not heard back from the province on other Capital Works projects applied for

- d. Swimming Pool- Mayor Despres explained that Council budgeted for the swimming pool, and a motion was also made to put in a ladder on both sides for safety reasons. He said it was decided that the bottom of the swimming pool needs to be addressed by grinding it down, and to come up with a possible engineered solution to the unevenness of the decking. The pool's concrete deck was initially not dug deep enough and has resulted in numerous problems.

2016-121 Deputy Mayor Dena Wiseman/Councillor Kevin Smart

Be it resolved Council get the Town's engineer to look at the pool to determine a solution for the decking.

Motion carried unanimously.

- e. Cabinet for Puffin Centre – Mayor Despres reported that in the kitchen of the Puffin Centre, in the far corner there is a huge empty space. The first idea was to build a shelving unit, but the attic hatch is in this area, so it was suggested a cabinet that matches the rest of the kitchen be constructed. This would provide storage space for the groups that use the building.

2016-122 Councillor Albert Murphy/Deputy Mayor Dena Wiseman

Be it resolved Council seek quotes to have a cabinet built for the Puffin Centre.

2016-123 Amendment: Councillor Ken Brinston/Deputy Mayor Dena Wiseman

Be it resolved Council empower the Recreation Committee to make a decision on this once the quotes are received.

Discussion: Mayor Despres asked Councillor Vince Swain if he would serve on the Recreation Committee, and Councillor Swain agreed to do so.

Amendment carried unanimously.

Motion carried unanimously.

- f. Netting for the ball field – Mayor Despres explained we received a letter from a softball association asking that we place netting around a part of the ball field because they were losing too many balls. Councillor Murphy noted that he asked for clarification from the softball association, but to date no response has been received.

2016-124 Councillor Ken Brinston/Councillor Kevin Smart

Be it resolved Council empower the Recreation Committee to contact Shirley Curtis of the BBBA to approve the price if the Recreation Committee members deem it appropriate.

Motion carried unanimously.

- g. Tax Recovery Plan for 2016 – Mayor Despres explained that Towns are required to have a Tax Recovery Plan for every year, so they recover a min of 55% of total taxes receivable by a given date. The Town does much better than this every year consistently.

2016-125 Councillor Ken Brinston/Councillor Kevin Smart

Be it resolved Council approve the Town's Tax Recovery Plan for 2016.

Motion carried unanimously.

6. Finance:

- a. Payables and Income Statement – Presented for information only.
- b. Wind break for Town Hall – Mayor Despres explained that every time the wind blows from a given direction, the door becomes a public danger, and we needed a solution to this problem.

Deputy Mayor Wiseman explained that two quotes were received for these glass wind breaks. They are very close in price, one for \$3,839.47, and the other for \$3,830.68. The one that's slightly cheaper has a longer warranty on the labour, and is a more appropriate color for what we wanted.

2016-126 Deputy Mayor Wiseman/Councillor Carey

Be it resolved Council accept the lowest quote from Economy Glass for \$3,830.68.

Motion carried unanimously.

- c. Purchase of tools and shed – Mayor Despres said the Town doesn't own any tools it needs, and we've been borrowing. As well, the town doesn't have a place to store tools.

2016-127 Deputy Mayor Wiseman/Councillor Brinston

Be it resolved Council buy or build a shed for the Town's storage tools and empower the public works committee members to finalize the size of the shed, in consultation with the Town's maintenance workers.

Motion carried unanimously.

- d. Kinsmen Club – request for financial support for Puffin Centre

Councillor Vince Swain announced that his son was a member of the Kinsmen Club and asked if that put him in a conflict.

Mayor Despres said that Councillor Swain can either declare himself to be in a conflict and leave the room, or he can ask Council to make a formal determination about whether he is in a conflict, at which point he would have to leave the room and Council makes a decision.

Councillor Swain asked that Council make a formal determination on whether he is in a conflict on this item because his son is a member of the Kinsmen Club. Councillor Swain left the Chamber at 8:25 p.m.

Mayor Despres read a news story relating to a recent conflict of interest as well as the sections of the Municipalities Act that related to conflict of interest. It was determined there could be no conflict based on the information read.

2016-128 Councillor Albert Murphy/Councillor Ken Brinston

Be it resolved that Councillor Vince Swain is not in a conflict of interest on the agenda item relating to the Kinsmen Club's request for financial support.

Motion carried unanimously.

Councillor Swain returned to the Chamber at 8:30, and was notified that he was found not to be in a conflict.

Mayor Despres explained that they have a request from the Kinsmen who are in the final stages of their planning for the PuffinFest. The Kinsmen are asking to use the parking lot and for Council to not rent the facility on Saturday night or Sunday afternoon. They will be doing traffic control and clean up, and they ask that we tend to the grass earlier in the week. The Mayor called for a motion for those items.

2016-129 Councillor Ken Brinston/Councillor Kevin Smart

Be it resolved Council permit the Kinsmen to use the parking lot during the PuffinFest weekend, that Council not rent the Puffin Centre on Saturday night and Sunday afternoon, and that Council have the grass mowed prior to the festival. Be it further resolved that the Kinsmen will provide traffic control and clean-up of the recreation area.

Motion carried unanimously.

Mayor Despres explained that the second part of the letter from the Kinsmen addressed the harsh economic times that the local businesses are facing this year they decided not to solicit for donations from them. They are instead asking for Council "step up and make a significant donation."

2016-130 Councillor Ralph Carey/Dena Wiseman

Be it resolved Council empower the Finance Committee to meet with the Kinsmen Club and see what they have had in previous years and to determine how Council can help them.

Motion carried unanimously.

- e. Bugs & Debbie Greene – Mayor Despres reported that Council met with the local entertainers and who offered quality film and promotion services to help showcase our area to their many viewers across Newfoundland and Canada. Their TV shows air on EastLink, Rogers, and Bell Express Vu. They offer to showcase some of the Town's parks, walking trails, accommodations, schools, etc.

Mayor Despres declared a conflict of interest because part of this email specifically invites people who are in the music business to participate in the show, and Mayor Despres has a potential financial interest in this offer. Mayor Despres left the Chair and the Chamber at 8:35 p.m.

Deputy Mayor Dena Wiseman took the Chair, and explained that the amount requested for this project is \$1000 and Council did hold a discussion on this.

2016-131 Councillor Ken Brinston/Councillor Kevin Smart

Be it resolved Council advertise with Bugs and Debbie Greene for the amount requested of \$1000.

Motion carried unanimously.

Mayor Despres returned to the Chamber at 8:37 p.m.

7. Public Works & Compliance:

- a. Request for speed bump on Harbour Road – Mayor Despres stated that the request is coming from the Alderwood Estates which is close to his residence, but that he was not declaring a conflict of interest. Mayor Despres asked for Council to make a formal determination as to whether he is in a conflict of interest. He said given that it is a matter of public safety, he didn't feel he was, but wished to play it safe. Mayor Despres left the Chair and the Chamber at 8:38 p.m.

Deputy Mayor Dena Wiseman took the chair and called for a motion on this matter.

2016-132 Councillor Albert Murphy/Councillor Ken Brinston

Be it resolved that Council declare Mayor Despres not to be in a conflict of interest on item 7a.

Motion carried unanimously.

Mayor Despres returned to the Chamber at 8:40 p.m. and was informed he was declared not to be in a conflict of interest.

Mayor Despres explained that Council received a request for a speed bump on this section of the road. Council bought 2 sets of speed bumps along with appropriate signage, and we are preparing to install them.

2016-133 Councillor Albert Murphy/Councillor Ken Brinston

Be it resolved Council empower Public Works to determine where the speed bumps are to be installed.

Discussion: It was agreed Council would install the speed bumps already purchased for the areas previously agreed upon (Southside Track and Gull Pond Road) to see how they work, and if there is a need later, Council can purchase more.

Motion carried unanimously.

- b. Request for Children at Play sign on Carey's Road – Council determined it would be less costly to have a stencil made and have the town's maintenance workers to paint the Children at Play stencil on the roads.

2016-134 Councillor Vince Swain/Councillor Ken Brinston

Be it resolved Council hire someone to make a Children At Play stencil and have the maintenance workers apply the appropriate paint on the Town roads where needed.

Motion carried unanimously.

- c. Residential dwelling on 29 Andrew's Lane – Councillor Vince Swain declared a conflict of interest on this item because he sold the property to applicant. Councillor Swain left the Chamber at 8:51 p.m.

Councillor Ralph Carey explained that there is a frontage of 29 m and the Town's regulation states that it has to have 30 m (min), so the first thing Council would need to do is to put out a Variance notice on the subject property.

2016-135 Councillor Ralph Carey/Deputy Mayor Dena Wiseman

Be it resolved Council put out a Notice of Variance pertaining to application for residential single family dwelling on 29 Andrew's Lane.

Motion carried unanimously.

Councillor Swain returned to the Chamber at 8:52 p.m.

- d. Residential dwelling on 44-46 Gallows Cove Road –

Councillor Vince Swain declared a conflict of interest on this item because the applicant is his sister-in-law. Councillor Swain left the Chamber at 8:53 p.m.

Mayor Despres asked for Council to make a formal determination as to whether he is in a conflict because this application pertains to a sub-standard lot and his residence also sits on a small lot. Mayor Despres also left the Chamber at 8:53 p.m. Deputy Mayor Dena Wiseman replaced him as Chairperson.

Deputy Mayor Wiseman said this first one (item d) is an application relating to a residential dwelling and the next one (item e) is relating to a renovation on that same house, so Council would need to consider both of these when voting on a potential conflict of interest. It was noted by Councillor Carey that there are numerous properties in Witless Bay that had smaller than required lot size.

2016-136 Councillor Ralph Carey/Councillor Kevin Smart

Be it resolved that Council declare Mayor Despres not to be in a conflict of interest on the application for residential dwelling on 44-46 Gallows Cove Road due to other people in the Town being in the same situation with less than the required lot size.

Motion carried unanimously.

2016-137 Councillor Albert Murphy/Councillor Kevin Smart

Be it resolved that Council Declare Mayor Despres not to be in a conflict of interest on the application for complete renovation on existing dwelling on 44-46 Gallows Cove Road due to other people in the Town being in the same situation with less than the required lot size.

Motion carried unanimously.

Mayor Despres returned to the Chamber at 9:00 p.m.

Deputy Mayor Wiseman informed Mayor Despres that he was voted not to be in a conflict of interest on items (d) and (e) relating to dwelling on 44-46 Gallows Cove Road.

Councillor Carey explained that essentially the applicant requires an 11% variance instead of the 10% as needed under the Town's development standards for Residential Infill zoning. He noted that Council has the discretionary authority to approve it.

Mayor Despres reminded Council that the wording of this motion would need to be very specific because once the new Town Plan is in effect, there will be no Residential Infill zoning. This means that if the application is not approved at this meeting contingent on the results of the variance notice, it cannot be approved at the next public meeting if the new Town Plan is in effect.

2016-138 Councillor Ralph Carey/Councillor Albert Murphy

Be it resolved Council approve in principle residential single family dwelling for 44-46 Gallows Cove Road under Section 10 of the Town's General Regulations for Discretionary use, contingent on the results of the Notice for Variance required under Section 11, and pending an approval from Services NL and any other government agency having jurisdiction.

2016-139 Amendment: Deputy Mayor Wiseman/Councillor Ken Brinston

Be it resolved that it be noted that this pre-approval is not a practice of Council, and that Council is pre-approving this application based on the fact that the new Town Plan will be in effect by the next public meeting, and Residential Infill will not be a part of the new Plan.

Amendment carried unanimously.

Motion carried unanimously.

e. **2016-140** Councillor Ralph Carey/Councillor Albert Murphy

Be it resolved Council approve the complete renovation of existing residence on 44-46 Gallows Cove Road.

Motion carried unanimously.

Councillor Vince Swain returned to the Chamber at 9:05 p.m.

f. Deck on 167 Dean's Road –

2016-141 Councillor Ralph Carey/Councillor Albert Murphy

Be it resolved Council approve the construction of a deck on 167 Dean's Road.

Motion carried unanimously.

g. Repairs to home and landscaping on 440 Southern Shore Highway – It was noted that the applicant had explained landscaping consisted of his use of heavy equipment and would include excavating the property.

2016-142 Councillor Albert Murphy/Councillor Vince Swain

Be it resolved Council approve repairs to home and landscaping [to include excavation] on 440 Southern Shore Highway.

Motion carried unanimously.

h. Repairs to home and expansion on 93-97 Harbour Road – Mayor Despres declared himself in a conflict of interest on this item noting that it is his property, and left the Chair and Chamber at 9:10 p.m.

Councillor Carey explained that he did a site visit on this property to be sure the extension wouldn't exceed the Town's maximum lot coverage of 33%, but it is in reality only 13% of the total lot size.

2016-143 Councillor Ralph Carey/Councillor Ken Brinston

Be it resolved Council approve repairs to home and expansion on 93-97 Harbour Road.

Motion carried unanimously.

- i. Crown Land on Gallows Cove – It was explained that the applicant was looking for a small piece of land situated between two properties to be used to widen his driveway to gain access to his property.

2016-144 Councillor Ralph Carey/Councillor Albert Murphy

Be it resolved Council approve the Crown Land application on Gallows Cove Road to be used for a driveway.

Motion carried unanimously.

- j. Fence posts on Tuff's Road – Deputy Mayor Dena Wiseman said on April 28, 2015 both her and Councillor Ralph Carey asked Council to determine if they were in a conflict of interest because the individual who owns the property had her niece inquire about this culvert on her behalf, and Councillor Carey does work for the niece. This is the same person inquiring, the same person who owns the property, and the same piece of property. Deputy Mayor Wiseman stated Council found them not to be in a conflict at that time and were they to assume that this applies to this situation as well.

Mayor Despres stated that they are not in a conflict once they have been established to not be in a conflict previously in the same situation.

Councillor Murphy stated that fence posts were erected but the property owner did not have a permit.

2016-145 Councillor Albert Murphy/Councillor Ken Brinston

Be it resolved Council do a removal order for the property owner for the fence posts erected on Tuff's Road without a permit and invite the property to make an application for a fence.

For the motion: Mayor Sebastien Despres, Deputy Mayor Dena Wiseman, Councillor Albert Murphy, Council Vince Swain and Councillor Ken Brinston, Councillor Kevin Smart

Against: Councillor Ralph Carey

Motion carried.

- k. Quotes for patching asphalt – This patching is for the larger potholes and not the ones that the maintenance worker has been filling.

2016-146 Councillor Ralph Carey/Councillor Albert Murphy

Be it resolved Council obtain quotes for the larger areas requiring asphalt.

Motion carried unanimously.

8. **2016-147** Deputy Mayor Dena Wiseman/Councillor Ralph Carey

Be it resolved Council adjourn at 9:19 p.m.

Motion carried unanimously.