

Town of Carbonear
Regular Council Meeting, December 12th, 2017
 Minutes of a regular meeting of the Council of the Town of Carbonear
 Held in Council Chambers, December 12th, 2017 at 5:30pm

Members Present: Mayor Frank Butt
 Deputy Mayor Chris O’Grady
 Councillors Danielle Doyle
 Ray Noel
 Vic Jenkins
 Amanda Hulan
 David Kennedy

Also Present: Town Clerk Cathy Somers
 Chief Administrative Officer Cynthia Davis
 Director of Operations
 & Public Works Brian O’Grady
 Director of Recreation Rob Button

1. Calling of Meeting to Order
 Mayor Butt welcomed everyone to the meeting and called the meeting to order at 5:35pm.

2. Adoption of Minutes
 - a) Regular Meeting, November 28
 Motion 17-295 **R. Noel / C. O’Grady**
 Resolved that the minutes of the November 28th, 2017 Regular meeting of Council be adopted as presented.
 Favour 7; Opposed 0; **Carried**

3. Business Arising From Minutes
 No business arising.

4. Delegations
 No delegations listed.

5. Correspondence, Permits & Development
 - a) Permit listing #7940, 8029, 8044, 8047, 8063, 8068, 8071-8073, 8075, 8077-8080, 8082
 Councillor Doyle asked Council to review the list of permits to determine if there are any conflicts of interest for any council member.
 Motion 17-296 **D. Doyle / V. Jenkins**
 Resolved to approve the list of permits # #7940, 8029, 8044, 8047, 8063, 8068, 8071-8073, 8075, 8077-8080, 8082 as per applications received and in accordance with the Town of Carbonear Municipal Plan and Development Regulations and other applicable regulations and policies.
 Favour 7; Opposed 0; **Carried**

5.1 Correspondence, requiring Council's decision
None listed.

5.2 Correspondence received and action taken
Council reviewed the following correspondence and action taken:

- a) Joint Council of Conception Bay North
RE: Minutes of meeting, October 26.
Copied to Council
Motion 17-297 **D. Kennedy / C. O'Grady**
Be it resolved that the Town of Carbonear approve an expenditure of \$590.01 for its contribution to the joint council's Economic Development Attraction Package project, and
Be it further resolved that the Town of Carbonear also agrees to join the three other largest communities in the region to coordinate updating the package on a rotating basis until 2022.
Favour 7; Opposed 0; **Carried**
- b) Eastern Newfoundland Regional Appeal Board
RE: Decision on an appeal – The Board finds that the Town of Carbonear issued a refusal in accordance with the Urban and Rural Planning Act, 2000 and the Town's Municipal Plan and Development Regulations, as the extension to the building would be contrary to the planning requirements for non-conforming use and limitations placed on the floor area for accessory buildings. Therefore, the Board confirms the decision of Council. Based on the information presented, the Board orders that the decision made by the Town of Carbonear to reject the application to extend an accessory building located at 2 Gladstone Road, Carbonear be upheld.
Forwarded to Development Committee
- c) ACOA
RE: Acknowledge receipt of application for financial assistance (file # 211368)
Placed on file
- d) Professional Municipal Administrators
RE: Letter for Council outlining the importance of training for municipal staff for inclusion in the 2018 budget.
Copied to Finance and Administration Committee, CAO and Town Clerk
- e) Communities in Bloom 2018 National Competition
Forwarded to Recreation, Special Events, Culture & Tourism Committee
- f) Prairie Baptist Church
RE: Thank you correspondence to the Mayor for hospitality while visiting Carbonear.
Copied to the Mayor, placed on file
- g) Municipal Assessment Agency
RE: Urban Regional Director
Councillor Deborah Quilty has withdrawn her nomination for Urban Regional Director. As a result, Councillor Peggy Roche has been re-elected by acclamation.
Copied to Council
- h) Harbour Authority
Requesting assistance for site work.
Forwarded to Public Works, Waste Management & Community Services

Motion 17-298

R. Noel / V. Jenkins

Be it resolved that the Town of Carbonear provide assistance to the Harbour Authority by completing the heavy equipment work required to complete the clean up of their site, which includes removal of rocks, concrete and old storm sewer materials from the site.

Favour 7; Opposed 0; **Carried**

6. Committee Reports

a) Recreation, Special Events, Culture & Tourism

Councillor Noel presented the following motions as recommended by the Recreation, Special Events, Culture & Tourism Committee:

Motion 17-299

R. Noel / V. Jenkins

Resolved that the Town of Carbonear contract Ray Creative to complete the new Town Map at a cost of \$5,200.

Favour 7; Opposed 0; **Carried**

Motion 17-300

R. Noel / D. Doyle

Resolved that the Town of Carbonear contract Ray Creative to complete four advertisements for the Town for various publications and tourist guides at a cost of \$2,100.

Favour 7; Opposed 0; **Carried**

Motion 17-301

R. Noel / C. O'Grady

Resolved that the Town of Carbonear purchase a new floor scrubber for the Carbonear Pool in the amount of \$5,673 from funds that were included in the 2017 budget for this purpose.

Favour 7; Opposed 0; **Carried**

Councillor Noel commended the Special Events Committee on a very successful tree lighting ceremony last week. Council agreed.

b) Development Committee

Councillor Doyle presented the following motions as recommended by the Development Committee:

Motion 17-302

D. Doyle / V. Jenkins

Resolved that the Town of Carbonear approve the following development applications conditional upon the development being completed in accordance with the Carbonear Municipal Plan and Development Regulations and other regulations and policies and in accordance with other conditions as specified:

- *4 Water Street - to construct a temporary wheel chair ramp under Section 10 of the Development Regulations, Discretionary Powers of Council;*
- *27 Goff Avenue – To construct a new business sign conditional upon the sign not obstructing views of traffic in the area and leaving the access to the property.*

Favour 7; Opposed 0; **Carried**

Motion 17-303

D. Doyle / C. O'Grady

Resolved that the Town of Carbonear refuse the application to construct a shed at 44 Cole's Lane as the development does not meet the conditions of the Town of Carbonear Development Regulations for accessory buildings.

Favour 7; Opposed 0; **Carried**

- c) Finance and Administration Committee
 Deputy Mayor O'Grady presented the following motions as recommended by the Finance and Administration Committee:
- Motion 17-304** **C. O'Grady / V. Jenkins**
Resolved that the Town of Carbonear cast a ballot for Betty Moore of Clarke's Beach as Avalon Regional Director with the Municipal Assessment Agency.
 Favour 7; Opposed 0; **Carried**
- Motion 17-305** **C. O'Grady / R. Noel**
Resolved that the Town of Carbonear proceed to adjust the interest on property #TCHEA001 and property #TCHEA003.
 Favour 7; Opposed 0; **Carried**
- Motion 17-306** **C. O'Grady / A. Hulan**
Resolved to forward a cheque in the amount of \$1,799.52 to the Carbonear Heritage Society for 50% of the funds received from the sale of museum tickets for 2017.
 Favour 7; Opposed 0; **Carried**

7. Reports of Chief Administrative Officer and Department Heads

- a) Chief Administrative Officer
 The CAO noted that she updated the previous Financial Report to include the loan payments.
 Any questions on the Financial Report can be addressed to the CAO.

8. Finance

- a) Operating Invoices over \$2000.00 totaling.....\$61,543.35
Motion 17-307 **C. O'Grady / R. Noel**
Resolved that the Town of Carbonear approve for payment the list of invoices as submitted totaling \$61,543.35.
 Favour 7; Opposed 0; **Carried**

9. Regulations
 None listed.

10. New Business

Mayor Butt wished everyone a very Merry Christmas and a Happy New Year. Mayor Butt noted that he attended the following functions since the last regular meeting:

- RCMP Tree lighting, Councillor Jenkins also attended this event
- Kiwanis dinner, discussed revitalization of the downtown.
- Keyin Graduation
- Tree of Remembrance at the Knights of Columbus
- Towns Tree lighting, also attended by other council members
- Seniors Christmas Party at the Knights of Columbus
- Santa Claus Parade, also attended by other council members
- Official naming of the Carbonear Long Term Care facility
 Deputy Mayor O'Grady and Councillor Jenkins also attended this event.

Mayor Butt left the meeting for the next item on the agenda. Deputy Mayor O'Grady assumed the chair.

- a) Conflict of Interest Allegation Correspondence
Deputy Mayor O'Grady advised that correspondence was received by Council on September 11, 2017 alleging that Councillor Frank Butt was in conflict of interest on a motion he made to demolish the building, then known as the Surprise Bag building.
Since receiving this letter, the letter was discussed with the prior council, contact was made with the Department of Municipal Affairs and it was recommended that Council obtain legal advice on the matter. A copy of the letter was sent to William Finn Law Office for review requesting Mr. Finn to provide Council with legal advice on the matter. Council met with Mr. Finn to review the details of his letter and further information was requested from Mr. Finn on the matter.
The Department of Municipal Affairs also presented Council with a circular entitled "Procedure for a Municipal Council to Declare a Councillor's Seat Vacant in Accordance with the Municipalities Act, 1999". Based on the rules of natural justice set out in the circular, council provided Mr. Butt with a written document setting out the details of the allegation of conflict of interest. Hearings before council were scheduled and attended by Mr. Butt and his lawyer on November 22 and December 6, 2017.
Based on the advice of the Town's lawyer and the hearings with Mr. Butt, Council is presenting a motion here today regarding the allegation of conflict of interest.

Motion 17-308

D. Doyle / R. Noel

*Whereas meetings of Council were held at the Council chambers on the 22nd day of November, 2017 and on the 6th day of December 2017 for the purpose of determining whether Councillor Frank Butt was in contravention of s. 207 (1) (b) of the Municipalities Act, 1999 (the Act);
And whereas Councillor Butt was given prior notice of the meetings and issues to be determined by the Council;
And whereas Councillor Butt did attend the said meetings with a legal representative with opportunity to address the issues to be determined by the Council;
And whereas Council determines that Councillor Frank Butt did on May 20, 2014 speak to and vote on a matter before Council being Motion 14-432, on which matter Councillor Frank Butt had a monetary conflict of interest as defined by s. 2(o) (iii) of the Act, which conflict was not excluded by s.207 (4) of the Act, in that Councillor Butt was the owner of, or controlling shareholder of a company owning a commercial business and lands situate 240 Water Street adjoining and/or in close proximity to a dilapidated property of 234 Water Street which property was the subject of a demolition order pursuant to the said Motion, in contravention of s.207(1) (b) of the Act.
And Whereas pursuant to s.206 (2) of the Act with respect to such contravention no lesser sanction, option or discretion is available to Council;*

THEREFORE IT IS RESOLVED AS FOLLOWS:

THAT pursuant to section 206(2) (b) of the Act the office of Councillor Butt is hereby declared vacant.

Favour 6; Opposed 0; **Carried**

11. Notices of Motion

No notices of motions were received.

12. Adjournment

Motion 17-309

R. Noel / V. Jenkins

Resolved that the meeting adjourn at 6:01 p.m and to meet again on Tuesday, January 9th, 2018 at 5:30pm for the next Regular Council Meeting.

Deputy Mayor Chris O'Grady

Cathy Somers, Town Clerk