

TOWN OF SAINT ANDREWS
Regular Council Meeting
Minutes
November 7th, 2011

The regular meeting of Town Council was held in the Council Chambers beginning at 7:00 p.m. with the following members present: Mayor John Craig, Deputy Mayor Roger McNabb, Councillors, Edie Bishop, Stanley Choptiany, Michael Craig and Mary Myers. Also present were staff members Tim Henderson, Town Manager and Gail McLaughlin, Administrative Assistant. Councillor Kate Akagi arrived at 7:05 p.m.

DISCLOSURE OF CONFLICT OF INTEREST IF ANY— Councillor Myers declared a conflict of interest regarding the Health Centre Lease.

PRESENTATIONS

Lance Howard, President of the Fundy Community Foundation gave a brief presentation on the work of the Foundation along with how funds are disbursed. He asked the Town for a grant of \$410 as the Town's contribution to their organization.

MINUTES

It was moved by Councillor Craig, seconded by Councillor Bishop and carried that Council adopt the minutes of the October 3, 2011 regular meeting.

STAFF REPORTS

It was moved by Councillor Akagi, seconded by Councillor Craig and carried that Council accept the Staff Reports as presented.

Town Manager's Report

It was moved by Councillor Myers, seconded by Councillor Akagi and carried to permit the Development Officer to approve the Quoddy Shores Final Subdivision Plan 2011-12 and assent to the naming of Quoddy Shores Drive and Meadows Lane as private streets within the development provided the following is completed:

- 1) Development Agreement is signed by all parties
- 2) Receipt of \$77,844.67 as cash in lieu of land for public purpose
- 3) Easement Agreement is signed for the public walking trail rights as shown on the Plan

COMMUNICATIONS

Mayor Craig read a letter from Leigh Beaton of Sail St. Andrews providing an update on the successful season they had with their project. They also thanked the Town for use of the Wharf and CYAC for day teaching.

Mayor Craig also read a letter from P.I.E. (Pride in Education) thanking the Town for flying the rainbow flag during their event weekend in October.

COMMITTEE REPORTS & RESOLUTIONS

Business, Recreation & Special Events

It was moved by Councillor Craig, seconded by Deputy Mayor McNabb and carried to fly the Rainbow Flag in Market Square during the weekend of October 22-24th.

It was moved by Councillor Craig, seconded by Councillor Myers and carried to deny use of the CYAC for the firearms course but to offer the use of space at the W.C. O'Neill Arena Complex.

It was moved by Councillor Craig, seconded by Councillor Myers to contact Leigh Beaton for further information regarding his request to hold a "Soap Box Derby" on Kings Street on July 1, 2012.

Finance & Administration

It was moved by Deputy Mayor McNabb, seconded by Councillor Choptiany and carried for the Town of Saint Andrews to submit an application by the cut-off date of December 12, 2011 for a significant 2012 Environmental Trust Fund grant for the continuation of the efforts to resolve the blue-green algae issue in the Chamcook Lake Watershed. The support of our MLA Curtis Malloch is to be requested to assure this application receives the highest priority in the Alward Government.

It was moved by Deputy Mayor McNabb, seconded by Councillor Myers and carried to move a grant request from St. Andrews Arts Council Inc. to the 2012 Budget process.

It was moved by Deputy Mayor McNabb, seconded by Councillor Choptiany and carried to move a grant request from Kevin Theriault for the NB Firefighter Curling Championship in February to the 2012 Budget process.

It was moved by Deputy Mayor McNabb, seconded by Councillor Craig and carried to grant approval to the property owners of 54 Demonts Avenue to replace an existing electric fence with a wild life graded mesh fence, 6 inches inside the property line and just in front of an existing cedar hedge.

It was moved by Deputy Mayor McNabb, seconded by Councillor Akagi and carried to move a grant request from Charlotte County Archives to the 2012 Budget process.

It was moved by Deputy Mayor McNabb, seconded by Councillor Bishop and carried that the CAO advise the property owner of 12 Dunn Avenue to adhere to the existing Town by-law with regard to a fence.

It was moved by Deputy Mayor McNabb, seconded by Councillor Akagi and carried to move a grant request from Sunbury Shores Arts & Nature Centre Inc. to the 2012 Budget process.

It was moved by Deputy Mayor McNabb, seconded by Councillor Akagi and carried to move the proposed 2012 budget request from the Board of the South West Solid Waste Commission to the 2012 Budget process.

It was moved by Deputy Mayor McNabb, seconded by Councillor Akagi and carried to approve a grant of \$50 from the Civic Promotions line item to support Cindy Groom in the "Operation Christmas Shoebox Campaign".

Property owners of 3 Patrick Street, David Thomas Johnson and Jan Johnson are interested in donating their property to the Town of Saint Andrews. It was moved by Deputy Mayor McNabb, seconded by Councillor Myers and carried that the Town of Saint Andrews prepare a draft plan and agreement and submit as requested by mid December 2011.

Van Horne Estate on Minister's Island Inc. requests an "in-kind" grant of office space at the W.C. O'Neill Arena Complex. It was moved by Deputy Mayor McNabb, seconded by Councillor Akagi and carried that the Town Treasurer provides an equivalent dollar amount for this request. The request is to be moved to the 2012 Budget process.

It was moved by Deputy Mayor McNabb, seconded by Councillor Bishop and carried to move the grant request by Sail St. Andrews to the 2012 Budget process.

It was moved by Deputy Mayor McNabb, seconded by Councillor Akagi and carried to renew the Lease and Operational Agreement for the Health Centre for a 3-year period with the same terms and conditions found in the 2009-2011 lease agreement.

It was moved by Deputy Mayor McNabb, seconded by Councillor Akagi and carried to accept Les Turner as a volunteer member of the Town of Saint Andrews Tree Committee.

It was moved by Deputy Mayor McNabb, seconded by Councillor Choptiany and carried that Whereas the Atlantic Canada Fish Farmers Association represents the New Brunswick Salmon Industry and employs more than 1400 people directly and indirectly in the Industry

and contributes an estimated \$504,763,000 to the New Brunswick GNP annually and; whereas The Atlantic Fish Farmers Association has worked unsuccessfully with the New Brunswick Provincial Government and the Federal Department of Fisheries and Oceans to create an Integrated Pest Management Plan, the Town of Saint Andrews Council moves: The New Brunswick Provincial Government and the Government of Canada must recognize the economic benefit of the New Brunswick Salmon Industry and the Traditional New Brunswick fisheries to the GDP of New Brunswick and urges the New Brunswick Government and the Canadian Government to work toward the resolution of a fully collaborative and scientifically rigorous Integrated Pest Management Plan in a timely manner. A letter is to be sent to the Minister of Fisheries detailing the position of the Town of Saint Andrews on the matter as described in this motion. Councillor Craig and Councillor Bishop registered Nay votes.

It was moved by Deputy Mayor McNabb, seconded by Councillor Myers and carried to renew the lease for the Heather Curling Club for a one-year period with the same terms and conditions found in the 2011 lease agreement.

It was moved by Deputy Mayor McNabb, seconded by Councillor Myers and carried to begin the necessary work to develop a “Pocket Park” at the Mary Street “street end” as soon as possible.

Safety Committee

It was moved by Councillor Akagi, seconded by Councillor Bishop and carried to forward a request concerning speed of traffic on Montague Street to Public Works & Engineering for review and comment.

INTRODUCTION, CONSIDERATION AND PASSING OF BY-LAWS

It was moved by Councillor Bishop, seconded by Deputy Mayor McNabb and carried that By-Law No. 11-03, a By-Law Of The Town of Saint Andrews Respecting Standards for Maintenance and Occupancy of Residential Buildings and Premises and that the same now be read a second time.

It was moved by Deputy Mayor McNabb, seconded by Councillor Bishop and carried that By-Law No. 11-03, a By-Law Of The Town of Saint Andrews Respecting Standards for Maintenance and Occupancy of Residential Buildings and Premises and that the same now be read in its entirety a third and final time. Councillor Craig registered a Nay vote.

TOWN OF SAINT ANDREWS

BY-LAW NO. 11-03

A BY-LAW TO ADOPT A CODE RESPECTING STANDARDS FOR MAINTENANCE AND OCCUPANCY OF RESIDENTIAL BUILDINGS AND PREMISES IN THE TOWN OF SAINT ANDREWS.

Pursuant to the authority granted by Section 94(1) of the Municipalities Act, be it enacted by the Town Council of the Town of Saint Andrews as follows:

TITLE

1. This By-law may be cited as the Residential Properties Standards By-law.

INTERPRETATION

2. (1) In this By-law
“**building inspector**” means the officer appointed by the Town Council who shall exercise and perform such duties as are provided for in this By-Law and the Code.

“**code**” means the *Residential Properties Maintenance and Occupancy Code* approved by the Lieutenant Governor in Council pursuant to Section 93 of the *Municipalities Act*.

“**town**” means the Town of Saint Andrews
- (2) Words and phrases used in this by-law have the same meaning as in the Code.

SCOPE

3. The purpose of this by-law is
 - (a) to establish standards to govern the condition, occupancy and maintenance of residential properties, and
 - (b) to provide safeguards for the safety, health and welfare of occupants and users of residential properties by requiring owners thereof to repair and maintain such property in accordance with established standards.

ADOPTION OF CODE

4. The Residential Properties Maintenance and Occupancy Code approved by Order in Council 84-346 and found in Regulation No. 84-86 pursuant to Section 93 of the *Municipalities Act*, as amended from time to time, is adopted by reference and is hereinafter referred to as the Code.

DUTIES OF THE OWNER AND ENFORCEMENT

5. (1) The owner of residential property shall repair and maintain such property in accordance with the standards set out in the Code.
- (2) Where the owner of residential property fails to repair or maintain such property in accordance with the requirements of subsection (1), the building inspector may notify the owner or occupier of the residential property and the notice shall
- be in writing
 - be signed by the building inspector,
 - state that the condition complained of in subsection(2) exists,
 - state what must be done to correct the condition
 - state the date before which the condition must be corrected, and
 - be served either by personal delivery on the person to be notified or by posting in a conspicuous place on the premises, building or structure.
6. (1) Proof of the giving of notice in either manner provided for in subsection 5(2) may be by a certificate or an affidavit purporting to be signed by the building inspector, naming the person to whom notice was given and specifying the time, place and manner in which notice was given.
- (2) A document purporting to be a certificate or affidavit under subsection (1) shall be
- admissible in evidence without proof of signature, and
 - conclusive proof that the person named in the certificate or affidavit received notice of the matters referred to in the certificate or affidavit.
- (3) In any prosecution for a violation of this by-law where proof of the giving of notice is made as prescribed under subsection(1), the burden of proving that one is not the person named in the certificate or affidavit shall be upon the person charged.
- (4) A notice given under section 5(2) and purporting to be signed by the building inspector shall be
- received in evidence by any court in the Province without proof of the signature,
 - proof in the absence of evidence to the contrary of the facts stated in the notice, and
 - on the hearing of information for a violation of this by-law, proof in the absence of evidence to the contrary that the person named in the notice is the owner or occupier of the residential property in respect of which the notice was given.
7. (1) A person who fails to comply with the terms of a notice under subsection 5(2) commits an offence punishable under Part II of the *Provincial Offences Procedure Act* as a category "F" offence and notwithstanding the provisions of any Act to the contrary, no judge of the Provincial Court may suspend the imposition of any penalty under this section.
- (2) A violation as provided for in subsection (1) is a continuing offence and separate information may be laid for each day such offence continues and the penalty provided for in subsection (1) shall be imposed for each conviction resulting from the laying of each information.
- (3) The conviction of a person under this section does not operate as a bar to further prosecution for the continued neglect or failure to that person to comply with the provision of this by-law.
8. If a notice has been given under subsection 5(2) and the owner or occupier does not comply with the notice within the time allowed, the Town may, rather than commencing proceedings in respect of the violation, cause the premises of that owner or occupier to be repaired and maintained and the cost of carrying out such work, including any related charge or fee, is chargeable to the owner or occupier and becomes a debt due to the Town.
9. (1) Where the cost of carrying out work becomes a debt due to the Town under section 8, the building inspector, Town Treasurer or Town Clerk may issue a certificate stating the amount of the debt due and the name of the owner or occupier from whom the debt is due.
- (2) A certificate issued under subsection (1) may be filed in the Court of Queen's Bench of New Brunswick and a certificate so filed shall be entered and recorded in the Court and when so entered and recorded may be enforced as a judgement obtained in the Court by the Town against the person named in the certificate for a debt of the amount specified in the certificate.
- (3) All reasonable costs and charges attendant upon the filing, entering and recording of a certificate under subsection (2) may be recovered as if the amount had been included in the certificate.
10. (1) The cost of carrying out work under section 8 and all reasonable costs and charges attendant upon the filing, entering and recording of a certificate under section 9 shall, notwithstanding subsection 72(2) of the *Workers' Compensation Act* and until paid, form a lien upon the real property in respect of which the work is carried out in priority to every claim, privilege, lien or other encumbrance, whenever created, subject only to taxes levied under the *Real Property Tax Act* and a special lien under subsection 189(10) of the *Municipalities Act*.
- (2) the lien in subsection (1)
- attaches when the work under section 8 is begun and does not require registration or filing of any documents or the giving of notice to any person to create or preserve it, and
 - follows the real property to which it attaches into whosever hands the real property comes.
- (3) Any mortgagee, judgement creditor or other person having any claim, privilege, lien or other encumbrance upon or against the real property to which is attached a lien under subsection (1):
- may pay the amount of the lien,
 - may add the amount to the person's mortgage, judgement or other security, and
 - has the same rights and remedies for the amount as are contained in the person's security.

DUTIES OF THE BUILDING INSPECTOR

- 11. The building inspector shall
 - (a) administer this by-law
 - (b) exercise such powers and perform such duties as are provided for the enforcement of this by-law, and
 - (c) recommend to Council, if, in his or her opinion, it would not be economical to repair a residential property, or fence forming part of such property, that action be taken to require demolition or removal of such residential property or fence.

VOLUNTARY PENALTY

- 12. (1) The building inspector or the Town Clerk may, either before or after the institution of proceedings against a person for any violation of this by-law or order of the building inspector, accept from the person alleged to have been guilty of such violation, the payment of a sum equal to the minimum penalty prescribed for such violation for a first offence and a person so accepting payment under this section shall forthwith forward to the Town Treasurer the amount so received and shall give a receipt to the said person for such sum.
- (2) A payment made under subsection (1) shall constitute a full satisfaction, release and discharge of all penalties and imprisonment incurred by such person for such violation.

IN WITNESS WHEREOF the TOWN OF SAINT ANDREWS has caused its corporate seal to be hereunto affixed this by-law the day of

First Reading: September 6, 2011
Second Reading: November 7, 2011
Third Reading: November 7, 2011

Mayor

Clerk

NEW BUSINESS

Mayor Craig asked for a motion of Council to move the January 2012 meeting to the second Monday of the month to allow Staff & Council time to prepare for the meeting following the holidays.

It was moved by Councillor Akagi, seconded by Councillor Myers and carried to move the January Council meeting to the second Monday being Monday, January 9, 2012.

ADJOURNMENT

It was moved by Councillor Myers that the meeting adjourn. The meeting adjourned at 9:05.m.

Mayor

Clerk