

1Public Meeting of Witless Bay Council

Minutes
April 13, 2021

Attending: Mayor Derm Moran, Councillor Colleen Hanrahan, Councillor Dale O'Driscoll, Councillor David Ryan, and Councillor Vince Swain

Staff: Pat Curran (CAO), Geraldine Caul (Town Clerk), Barbara Harrigan (Assistant Clerk)

Regrets: Deputy Mayor Maureen Murphy

1. Mayor Derm Moran called the meeting to order at 8:10 p.m.

2. Adoption of Agenda of April 13, 2021

2021-104 Councillor Dale O'Driscoll/Councillor Vince Swain
Move that the agenda of the meeting of April 13, 2021 be adopted.

Amendment: Councillor Vince Swain/Councillor David Ryan
Councillor Swain stated that Council has a long standing practice of not addressing correspondence and emails that do not have an identifying name of an individual. Such correspondence will not be considered by Council, therefore I move for the adoption of the agenda with the deletion of 7.g. and 7.h.

I further move that Council amend the agenda to change (g) Eastern Newfoundland Appeal Board results for 17 Andrew's Lane to include results of Mallowney's Lane, and 215-217 Gallows Cove Road.

Councillor Dale O'Driscoll declared a conflict of interest, stating that his mother-in-law is referenced in the correspondence being deleted from the agenda. Councillor O'Driscoll left the meeting at 8:11 p.m.

Discussion: Councillor Hanrahan commented on Councillor Swain's statement that anonymous correspondences will not be considered by Council. She expressed that if someone had a complaint, even if it was anonymous, Council should consider the matter and investigate it.

For the amendment: Mayor Derm Moran, Councillor David Ryan, Councillor Vince Swain.

Against: Councillor Colleen Hanrahan

Abstained: Councillor Dale O'Driscoll

Amendment Carried.

For the motion to adopt the agenda as amended: Mayor Derm Moran, Councillor David Ryan, Councillor Vince Swain.

Against: Councillor Colleen Hanrahan

Abstained: Councillor Dale O'Driscoll.

Motion carried.

Councillor O'Driscoll returned to the meeting at 8:14 p.m.

3. Adoption of Minutes of Public Meeting of March 10, 2021

2021-105 Councillor Dale O'Driscoll/Councillor Vince Swain

Move that the minutes of meeting of March 10, 2021 be adopted.

Carried unanimously.

4. Adoption of Minutes of Special Public Meeting of March 31, 2021

2021-106 Councillor Dale O'Driscoll/Councillor Vince Swain

Move that the minutes of the meeting of March 31, 2021 be adopted.

Carried unanimously.

5. Business Arising from Minutes:

- a. Adoption of Commissioner's Report in relation to Witless Bay Municipal Plan Amendment #3, 2019 and Witless Bay Development Regulations Amendment #3, 2019 (Re-zoning land for proposed new Fire Station).
- b. Adoption of Witless Bay Municipal Plan Amendment #3, 2019 and Witless Bay Development Regulations Amendment #3, 2019.

Councillor Dale O'Driscoll noted that both items 5 a. and b. will be covered in the following motion:

2021-107 Councillor Dale O'Driscoll/Councillor David Ryan

Whereas the Town of Witless Bay Council adopted Witless Bay Municipal Plan Amendment #3, 2019 and Witless Bay Development Regulations Amendment #3, 2019 at the January 19, 2021 Regular Meeting of Council; and

Whereas, at the January 19, 2021 Regular Meeting of Council, Council also appointed Mr. Wayne Thistle as Commissioner for a Modified Public Hearing; and

Whereas the Witless Bay Municipal Council gave notice of the January 19, 2021 adoption of the Witless Bay Municipal Plan Amendment #3, 2019 and the Witless Bay Development Regulations Amendment #3, 2019 by public notice of a Modified Public Hearing placed on the 28th day of January 2021 and the 11th day of February 2021 in the *Shoreline News* newspaper, on the Town of Witless Bay Municipal Council website and the Town of Witless Bay Municipal Council Facebook page on January 28, 2021; and

Whereas no written representations concerning the proposed Witless Bay Municipal Plan Amendment #3, 2019 and the Witless Bay Development Regulations Amendment #3, 2019 were received by the Town Clerk Administrator by the stated deadline of 1:00 p.m. of March 5, 2021; and:

Whereas the Commissioner's Report to Council dated March 17, 2021 observed that no representations concerning the proposed amendments had been received and concluded that as Council had followed due process; and the commissioner recommended that Witless Bay Municipal Plan Amendment #3, 2019 and the Witless Bay Development Regulations Amendment #3, 2019 be approved by Council as adopted on January 19, 2021 and without any change;

I move that Council approve the March 17, 2021 Commissioner's Report and the recommendation that Council formally approve Witless Bay Municipal Plan Amendment #3, 2019 and the Witless Bay Development Regulations Amendment #3, 2019; and

Council pass the attached Resolution to Approve Witless Bay Municipal Plan Amendment #3, 2019 and the attached Resolution to Approve Witless Bay Development Regulations Amendment #3, 2019, and thereby re-designate the subject property to the Public Use Land Use Designation and re-zone it to the Public Building (PB) Land use Zone.

Carried unanimously.

- c. Memorial University of Newfoundland Proposed Oil- spill Experiments - Because the Town's CAO is following up on this, it is presented for information purpose only at this time. The CAO noted that he has contacted MUN, indicating Council's interest in meeting and as well, advising that they arrange an opportunity to present to the Southern Shore Joint Council. MUN's representative advises that their funding proposal remains under development and that testing will likely not take place until 2022.
- d. Rail-bed brush cutting and Forestry Permit - This is presented as information purpose only, and pertains to a resident's notification to Council of revised permitting requirements from Forestry in relation to cutting permits. Pat clarified that an individual from the town sought permission from Forestry to work on the rail bed, but Forestry is amending its permitting process where Council approval will not be required for the type of work this individual is undertaking.
- e. Residential development on 32 Dunn's Lane - Variance Submission

2021-108 Councillor Vince Swain/Councillor David Ryan

Move that Council, consistent with its authority under Regulation 11 - Variances - approve the residential development at 32 Dunn's Lane, subject to other permitting requirements of the Town and other agencies.

Discussion: Councillor Hanrahan noted the Planning Report suggested a geo-physical assessment should be undertaken by a suitably qualified person before this application is approved for a development permit, and she just wanted to make that point.

Councillor Swain noted that public works inspected this and he saw no problem with Council issuing a permit.

For: Mayor Derm Moran, Councillors Dale O'Driscoll, David Ryan, and Vince Swain.

Against: Councillor Colleen Hanrahan
Carried.

- f. Residential back-lot development on 69A Bear Cove Road - Deferred at March 10th public meeting pending further information from Town Planner

2021-109 Councillor David Ryan/Councillor Vince Swain

Move that Council, consistent with Regulation 32 of the Town's Development Regulations, provide notice of application to develop a single family dwelling at 69A Bear's Cove Road under Regulation 10 and Schedule C - Residential (16-Back-lot Development) of the Town's Development regulations.

Carried unanimously.

- g.1. Eastern Newfoundland Regional Appeal Board results of Appeal in relation to 17 Andrew's Lane

The Town's CAO reported that the ENRAB has confirmed the Town's decision of June 9, 2020, allowing construction of an accessory building at 17 Andrew's Lane.

- g.2. Eastern Newfoundland Regional Appeal Board results of Appeal in relation to issuing an RFP for road extension at Mullooney's Lane

The Town's CAO reported that the ENRAB has confirmed that it has no authority to hear an appeal on Council's motion of May 19, 2021 to tender for road work to extend Mullooney's Lane from the turnaround for 168 meters and to upgrade the right of way to the existing standards of Mullooney's Lane.

- g.3. Eastern Newfoundland Regional Appeal Board results of Appeal in relation to residential development at 215-217 Gallows Cove Road

The Town's CAO reported that ENRAB has ordered Council to vary its decision, ensuring that the application meets the requirements of the Town's Development Regulations respecting minimum lot area, minimum lot frontage, and other applicable requirements of the Residential Zone and any/all other applicable requirements of the Development Regulations. If these cannot be met fully, the Town is ordered to rescind its decision of July 14, 2020. It was noted that Public Works is expected to do a further review of this building site.

- h. Peaceful Enjoyment Initiative - Public Meeting of ATV Committee

There was a brief discussion on the Town working with ATV users within the community to try to promote responsible use of ATV's in town, and we hope to have a good turnout. Council set a meeting date of Tuesday, May 4, 2021 at 7:30 p.m. at the Puffin Center and interested individuals would be required to register. It will be a first come first served registration process, with a maximum of about 35-40 people.

- 6. **Proclamations/Presentations** - There were no Proclamations or Presentations at this time.

- 7. **Correspondences and Other Business**

- a. Eastern Regional Service Board - Contract expiry June 30, 2021

2021-110 Councillor Dale O’Driscoll/Councillor David Ryan
Move that Council extend its contract with Eastern Regional Service Board for 2021.
Carried unanimously.

- b. Correspondence related to Municipal Fire Protection Assessment

The Town’s CAO, Pat Curran, reported that the Fire Services Division of the Department of Justice and Public safety has advised that it wishes to conduct a Fire Protection Assessment in the next several months on the Fire Department’s operational readiness. The last time an assessment was carried out was 2014. This assessment is timely, with the upcoming hiring of the new Fire Chief and operational considerations ongoing in relation to a new regional fire hall, repairs to existing fire hall infrastructure and the development of the fire department training ground.

- c. Correspondence from Minister Derek Bennett related to Establishment of an Operating Reserve

Minister Derek Bennett has authorized Council to establish a safe restart operating reserve in the amount of \$95,139.30 for four years.

- d. Ken Williams Southern Shore Arena - Invitation for Council representation on their Board

Mayor Moran reported that Council had discussed this awhile ago and we have one councillor, Fraser Paul, come forward to represent the town.

The CAO will contact Ken Carter to provide him with Councillor Paul’s contact information.

- e. Correspondences related to Council approval of Dean’s Road sub-division access road, and effects thereof

The Town’s CAO reported that we have received some representation from residents who have taken interest in this development, and it should be noted at this point, the extend of Council’s approval is for a temporary road to enable the developer to conduct a groundwater assessment. It is important to note that approval for overall sub-division development has not been given. The developer will be required to prepare an overall sub-division development plan, engineering plan, including drainage and storm water systems prior to any final decision by Council, with the decision of Council and associated development considerations reflected within an overall sub-division development agreement. Council can also require the developer to set aside 10% of the proposed development for public use.

The greatest concern of several of those who have contacted the Town is the potential impact of the rail bed and ATV trail in the area. Consistent with Council Motion 2020-147 of December, 2020, Council continues to acknowledge its commitment under the Witless Bay Municipal Plan to the maintenance of the Dean’s Road Track as a public trail for public recreational use. Council has advised the developer that impacts to the Trail must be minimized to the extent possible in terms of construction of a temporary road Council has also advised the developer that the initially proposed access road which intersects the rail-bed may not meet with the approval of Council and may be revised in subsequent concept and engineering plans.

Council is considering additional levels of protection for the remaining undeveloped portions of rail bed within the Town. This might include, consistent with 3.2.6 of the Town's Municipal Plan, the designation of the remaining rail bed as a Conservation area through a municipal plan amendment, including specific reference to the rail bed within the Witless Bay Development Regulations, Schedule C-Conservation. Council may also consider a Crown Land application(s) and assume outright ownership of the rail bed and associated buffers to ensure conservation and trail integrity.

In the immediate term, Council will continue to monitor the developer's performance against the conditions of permit. Three site inspections have been conducted since the developer commenced work, the most recent on Monday, April 12. As well, Council may wish to seek a meeting with the developer to enable a better understanding of the development and Council's position with respect to impacts on the trail, along with other concerns raised by residents in the area with respect to groundwater and impact on drainage and storm sewer systems.

The CAO added that the development will continue to be monitored, and recommended that a meeting be initiated with the developer in the coming days to review Council's position on overall development and compliance with the permit for temporary road construction, particularly impacts to the rail bed. The CAO noted that expressed to the developers that they had two accesses and the suggestion was made to them to use the access point further up Dean's Road without moving equipment across the lower access point, and potentially impact the trail area. He noted that if the contractor is on site in the morning, then he will also be on site.

2021-111 Councillor David Ryan/Councillor Vince Swain

Move that Council apply to Crown Lands for ownership of undeveloped portions of the rail bed. Carried unanimously.

2021-112 Councillor David Ryan/Councillor Vince Swain

Move that Council amend the Town's Development regulations to specifically identify the rail bed within the Conservation Land Use Policy. Carried unanimously.

f. Correspondence relating to garbage at the end of Northside Track

The CAO reported that garbage on Northside Track is an ongoing problem, particularly beyond the turnaround. Maintenance staff undertake regular clean-ups in the area in season and have visited the area in recent days. The matter of garbage was considered in a recent meeting between the CAO, a resident, and the Kinsmen with respect to their upcoming annual Community Clean-up. There is a general agreement that a community-wide anti-litter campaign and effort is required.

There was a suggestion that garage boxes be placed at Northside Track and several other locations within the Town.

g. h. Both items were removed as a result of an amendment to the agenda during the adoption of the agenda process.

I. Communities in Bloom

The Town's CAO reported that the Town has been a past participant in Communities in Bloom. The CAO will commence a review of the criteria and report back to Council at May's public meeting.

j. Town of Witless Bay Application for Crown Land - This item has been considered in 7 e.

k. Kinsmen Annual Community Clean-up

The Town's CAO reported that he met with Kinsmen on April 8th and noted that the Kinsmen are undertaking an annual community clean-up on or about April 22, 2021, and are looking to extend activities through the end of April and into mid-May. They are requesting Town sponsorship of the annual community clean-up and engagement in a broader anti-littering campaign and effort.

2021-113 Councillor Dale O'Driscoll/Councillor David Ryan

Move that Council sponsor the Kinsmen's Annual Community Clean-up, and further move that Council engage with the Kinsmen and other community groups on developing a community anti-litter campaign.

Carried unanimously.

l. Notice of Motion - Revise Policies and Procedures re Deadline for Agenda Submissions

The CAO reported that the current deadline for final receipt of agenda items is noon on the Thursday before the monthly meeting of Council. This provides a very narrow window for staff to finalize materials for Council and to post the draft Agenda of the Council meeting. A more reasonable time-line might be 12:00 pm on the Tuesday before the Council meeting. A Notice of Motion is required to amend the Town's Policies and Procedures Manual.

2021-114 Councillor Colleen Hanrahan/Councillor David Ryan

Move to make a Notice that a Motion to amend the Town's Policies and Procedures respecting the deadline for the receipt of agenda items will be made at the May 11, 2021 Public Meeting of Council.

Carried unanimously.

m. Disclosure Statements 2021

Mayor Moran reported that consistent with Section 210 of the Municipalities Act, 1999, councillors and staff have filed disclosure statements and these disclosure statements were reviewed at a Privileged Meeting of Council on March 31, 2021.

8. **Committee/Other Reports**

Finance

a. Finance Committee Summary Report and related motions

2021-115 Councillor Dale O’Driscoll/Councillor David Ryan
Move for the adoption of the Finance Committee Summary Report and related motions.
Discussion: Councillor Hanrahan felt that Council should have a policy on using lawyers for consistency purposes.
Carried unanimously.

a.1. Adoption of Honorarium Policy

2021- 116 Councillor Dale O’Driscoll/Councillor Vince Swain
Move to make a Notice that a Motion to amend the Town’s Policies and Procedures to establish an honorarium Policy for Council will be made at the May 11, 2021 Public Meeting of Council.
Carried unanimously.

a.2. Request for Ministerial Approval for Fire Department Operating Reserve

2021-117 Councillor Dale O’Driscoll/Councillor David Ryan
Move that Council request Ministerial approval for a Fire Department operating Reserve.
Carried unanimously.

b. Approval of payable chart

2021-118 Councillor Dale O’Driscoll/Councillor David Ryan
Move that Council approve the payable chart.
Discussion: Councillor Hanrahan noted that several residents have raised questions pertaining to the amount of money Council is spending on legal services, and these people have inquired if this was necessary, and what would make it necessary to use the lawyer for some appeals and not for others.
Mayor Moran responded that other towns have legal representation for appeals and such, and for the good of the town it is better to have lawyers cover appeals.
Carried unanimously.

c. Approval of Priority Vendor Policy/List

2021-119 Councillor Dale O’Driscoll/Councillor David Ryan
Move to make a Notice that a Motion to establish a policy on Priority Vendors will be made at the May 11, 2021 Public Meeting of Council.
Discussion: Councillor O’Driscoll noted that the purpose of this policy on Priority Vendors is to void interest charges and other fees.
Carried unanimously.

Payment Approval of Other Invoices

d. O’Brien’s Trucking Ltd.

Councillor David Ryan declared a conflict of interest on payment approvals for invoices relating to O’Brien’s Trucking Ltd., stating O’Brien’s Trucking works for his company. Councillor Ryan left the meeting at 9:12 p.m.

2021-120 Councillor Dale O’Driscoll/Councillor Vince Swain
Move that Council approve the payment of \$30,340.05 to O’Brien’s Trucking Ltd.
For: Mayor Derm Moran, Councillors Colleen Hanrahan, Vince Swain and Dale O’Driscoll.
Against: 0
Abstained: Councillor David Ryan
Motion carried.

Councillor Ryan returned to the meeting at 9:12 p.m.

Public Works and Infrastructure

- e. Public Works and Infrastructure Summary Report and related motions

2021-121 Councillor Vince Swain/Councillor David Ryan
Move for the adoption of the Public Works & Infrastructure Summary Report and related motions.
Carried unanimously.

- e.1. Application to develop shed on 241 Gallows Cove Road

2021-122 Councillor Vince Swain/Councillor David Ryan
Move that Council approve application to develop shed on 241 Gallows Cove Road.
Carried unanimously.

- e.2. Application to develop shed on 214 Dean’s Road

2021-123 Councillor Vince Swain/Councillor David Ryan
Move that Council approve application to develop shed on 214 Dean’s Road.
Carried unanimously.

- e.3. Application to develop shed on 171 Southern Shore Highway

2021-124 Councillor David Ryan/Councillor Vince Swain
Move that Council issue a Notice of Application to develop shed on 171 Southern Shore Highway.
Carried unanimously.

- e.4. Application to develop a temporary structure on 171 Southern Shore Highway

2021-125 Councillor Vince Swain/Councillor David Ryan
Move that Council issue a Notice of Application to develop temporary structure on 171 Southern Shore Highway.
Carried unanimously.

- e.5. Application to replace a foundation on existing home on 123A Harbour Road

2021-126 Councillor David Ryan/Councillor Vince Swain
Move that Council approve application to replace a foundation on existing home on 123A Harbour Road.
Carried unanimously.

- e.6. Application to Operate a Business at 367-371 Southern Shore Highway

2021-127 Councillor David Ryan/Councillor Vince Swain
Move that Council approve application to Operate a Business at 367-371 Southern Shore Highway pending a fire inspection.
Carried unanimously.

- e.7. Application to construct a chicken coop on 112 Harbour Road

2021-128 Councillor Vince Swain/Councillor David Ryan
Move that Council issue a Notice of Application to develop a chicken coop at 112 Harbour Road.
Carried unanimously.

- e. 8. Application to install a new driveway at 72-76 Southside Track

2021-129 Councillor David Ryan/Councillor Vince Swain
Move that Council approve the application to install a new driveway at 72-76 Southside Track.
Carried unanimously.

- e.9. Adoption of Certificate of Location Requirements

2021-130 Councillor Vince Swain/Councillor David Ryan
Move to make a Notice of Motion to establish a policy on Certificate of Location requirements will be made at the May 11, 2021 Public Meeting of Council.
Discussion: Councillor Hanrahan asked if everyone who wants to get approval from the Town will have to provide a legal survey and a Location Certificate. This was confirmed to be so by the Mayor.
Carried unanimously.

- e.10. Adoption of 2021 Procurement Plan and Associated RFP's/tenders

Councillor David Ryan declared a conflict of interest, stating that some of the RFP's are in line with his company. Councillor Ryan left the meeting at 9:20 p.m.

2021-131 Councillor Dale O'Driscoll/Councillor Vince Swain
Move that Council approve the 2021 procurement plan and proceed to finalize and issue associated tenders and requests for proposal as highlighted.
For: Mayor Derm Moran, Councillors Colleen Hanrahan, Dale O'Driscoll, and Vince Swain.
Against: 0
Abstained: Councillor David Ryan
Motion carried.

Councillor David Ryan returned to the meeting at 9:20 p.m.

e.11. Removal of light on Jockey's Lane

2021-132 Councillor Vince Swain/Councillor David Ryan

Move that Council remove the pole light at Jockey's Lane.

Discussion: Councillor Hanrahan inquired as to why the light would be removed. She also noted there was an application before Council previously on this lane, and wondered if this would affect the applicant.

The CAO reported there was a complaint by a resident that this area was frequented by people hanging out, and the resident had his property damaged by rocks, and therefore requested that the light be removed. It was also noted that the application referenced by Councillor Hanrahan is currently under appeal.

Carried unanimously.

e.12. Motion to rescind Motion 2021-53 - Brush-cutting project on Rail Bed

2021-133 Councillor Dale O'Driscoll/Councillor Vince Swain

Move that Council rescind Motion 2021-53 - Brush cutting project on Rail Bed.

Carried unanimously.

Fire Department

f. Fire Department Summary Report and related motions

Councillor David Ryan reported that Council is works with LW Consulting in search of a new paid Fire Chief for the town and area, and the interview process is completed. Councillor Ryan expressed thanks on behalf of Council to LW Consulting for their time, saying they were a pleasure to work with, and when the recommendation is made on the Fire Chief, the town will be greatly served.

f.1. Fire Chief - Covered under f.

Recreation

g. BBBA Summary Report and related motions - The BBBA had not submitted a Report at this time, however, Councillor O'Driscoll reported that the Board was holding a meeting tonight regarding the after school program.

Heritage

h. Heritage Summary Report and related motions

Councillor Colleen provided the following report on the Heritage Committee:

Book: Great progress has been made with the Heritage Book. Photos and captions have been completed. Maureen Walsh and Bonnie Johnstone are reviewing the final draft before it is sent to the publisher's editor.

Old Graveyard: Holes were dug and new posts are in place. Plans for the spring will likely involve a clean-up in accordance with the COVID guidelines.

Historic Homes: Information gathering for a funding proposal is ongoing. Software is estimated at \$20-25K. A sample for the first historic home, Nicholas Norris House, Murphy's Lane, is with the sign maker for production. The Committee will pilot options for the display posts, for example, a metal material vs. wood. The funding proposal is under development.

2021-134 Councillor Colleen Hanrahan/Councillor Dale O'Driscoll
Move for the adoption of the Heritage Committee Summary Report.
Carried unanimously.

Southern Shore Joint Council

- I. Southern Shore Joint Council and Eastern Health Meeting Report of April 7, 2021

Councillor Hanrahan provided the following report of the Meeting of April 7, 2021:

The meeting was attended by representatives of the Town of Bay Bulls, Witless Bay, Ferryland, and Cape Broyle. Ron Johnston, VP, Eastern Health was in attendance.

COVID Update

Mr. Johnston reported that Eastern Health has caught up with the backlog of urgent and emergent cases since the last lock-down.

An estimated 20% of the population of the province has been vaccinated with one dose. By the end of June, all residents of NL should have been vaccinated with the final dose. NL receives 2% of the supply of vaccines in Canada.

For those who do not want the Astra Zeneca vaccine, they can request another vaccine but will have to wait until it is available. Eastern Health will advise the Southern Shore Joint Council of the anticipated wait time for these residents.

Currently the 70 years+ group is being vaccinated. In the coming week, 60 years+ group should be able to be registered.

Depending on supply of the vaccines, mass clinics will be opened for injections. Persons who cannot attend clinics will be able to receive a vaccine at home.

Alert level 2 will likely remain in effect until a majority of the population is vaccinated.

9. **2021-135** Councillor Vince Swain/Councillor Dale O'Driscoll
Move to adjourn the public meeting at 9:30 p.m.
Carried unanimously.