

MINUTES OF THE MUNICIPAL COUNCIL MEETING
JUNE 14, 2005

Present: Chairman Mayor John P. Prall
 Deputy Mayor Michael E. Trinacty
 Councillor Gary W. Whittier
 Councillor J. Richard Horsburgh
 Councillor Beth Easson
 Councillor Anna Ashford-Morton
 Councillor Donald E. Clarke
 Mr. Craig Burgess, Recreation Director
 Ms. Linda Parker, Chief Administrative Officer
 Ms. Michelle Millett, Recording Secretary

In attendance: Ms. Nancy Kelly, Berwick Register
 Mr. John Archer
 Mrs. Connie Archer
 Mr. Thomas Easson
 Mrs. Marsha Easson
 Mr. Allen Balcom
 Ms. Joan Balcom
 Mrs. Cappy Charlton
 Mr. Dan McGrath
 Mrs. Gloria Cunningham
 Mr. Ron Reeves
 Mr. Preston Ilsley
 Mrs. Marilyn Reeves
 Mrs. Sheila Munday
 Mr. Mike Munday
 Mrs. Audrey Boylan
 Mrs. Marjorie Murphy
 Mr. Frank Bezanson
 Mr. Alden Keddy
 Mr. Danny Lecky
 Mrs. Sandra Bezanson-McGrath
 Mr. Gordon F. Rafuse

1. The Chairman called the meeting to order at 7:16 p.m. and welcomed members of the gallery.

2. **Approval of the Agenda**

The Agenda was approved with the addition of Mr. Ron Reeves and Mr. Mike Munday to Presentations under Item 4(b) and (c) respectively. Mr. Lucas Schurman's letter and the Canada Games 2011 Stakeholders Meeting were added to Correspondence as items 8(f) and (g).

3. Approval of the Previous Minutes

The Chairman approved the minutes of May 10th, 2005 as circulated.

4. Presentations

(a) Sandra Bezanson-McGrath ~ CAO By-law

Ms. Sandra Bezanson-McGrath, a Berwick resident for 20 years was not in favor of the CAO By-law. She felt the CAO By-law put too much power and responsibility in the hands of one town employee. Of special concern to Ms. Bezanson-McGrath was Sec. (k)viii that allowed the CAO to commence or defend a legal action before a court for the Town. She made reference to an expensive legal action the Town had participated in regard to the Animal By-law. Ms. Bezanson-McGrath strongly requested that Council govern the Town's affairs as they had been elected to do.

(b) Mr. Ron Reeves ~ CAO By-law

Mr. Reeves, a Berwick resident for 40 years and a former Councillor noted that Council has been elected by citizens and believed that the proposed by-law took control from the elected Council and put it into the hands of a third party. He relayed that Council works for the citizens of the Town and one employee should not be legislated to have the same powers as elected officials, especially in a Town as small as Berwick. Mr. Reeves wanted Councillors to be able to communicate freely with Department Heads and not to be routed through the CAO for questions regarding Town departments and affairs. The CAO By-law restricted Council according to Mr. Reeves.

(c) Mr. Mike Munday ~ CAO By-law

Mr. Mike Munday reported that he had served 18 years on the Berwick Town Council and had concerns with the implications of the By-law. He made reference to the current public lack of confidence in all levels of government officials due to delegation of governmental affairs to staff members. Mr. Munday agreed that larger municipalities may require by-laws such as the CAO By-law due to the large number of staff involved, but found the implied removal of the responsibility of Council as not wanted or needed in a Town of this size. Mr. Munday took issue to sections referring to the CAO's powers to remove employees and initiate legal action. He did not believe that the people of small rural towns wanted to hand the Town's powers to one employee and wished to ensure that Council would be knowledgeable in all areas of the Town's affairs.

5. Committee Updates and Recommendations

(a) Committee of the Whole Update and Recommendations

(i) Community Fibre Network

Ms. Parker read the motion. She reported that the Town's contribution would be required for Phase II but at this point the Community Fibre Network Group was unsure when Phase II would begin. She noted the inclusion of the funding for the network in the 2006/07 budget.

IT WAS MOVED and seconded that Council approve a financial commitment of \$10,907.72 to the Community Fibre Network.

Motion Carried

(b) Planning Advisory Committee Update and Recommendations

Deputy Mayor Trinacty reviewed the report highlighting recent single family dwelling development in Town and a number of new subdivisions in both Berwick Acres and the Orchard Hills Subdivision.

(i) Town of Berwick Subdivision By-law Amendments

Deputy Mayor Trinacty explained that the servicing areas of the Subdivision By-law had housekeeping items that required updating in terminology to comply with the manner the Berwick Electric Commission carries out business. Chairman Trinacty read the motion.

IT WAS MOVED and seconded that Council approve the proposed amendments to the Town of Berwick Subdivision By-law, as attached.

Motion Carried

(c) Police Services Advisory Committee (PSAC) Update & Recommendations

Councillor Whittier reviewed the Policing Satisfaction plan that would be forwarded to Council. Ms. Parker explained that once Council had approved the recommendations and action plans by the Police Services Advisory Committee (PSAC) a public information tool should be utilized to inform the public about the outcome of the Policing Study.

Councillor Clarke requested that the public servant (receptionist) employed by the RCMP detachment should be included in any contract negotiations and requested assurance that a receptionist would be available at that detachment. Councillor Whittier responded that Inspector Brown had assured the PSAC that this type of absence would not occur again.

Mayor Prall relayed that the Province would be meeting with the Town to explore available policing options.

(d) Avon Foods Steering Committee Update & Recommendations

Mayor Prall relayed that the Avon Foods Steering Committee had met June 13, 2005 and he and Mr. Allie Craswell, of Avon Foods had met with Jamie Whitty of Nova Scotia Business Inc. (NSBI) previous to the Steering Committee meeting. Mayor Prall explained that Mr. Whitty had been tasked with investigating the requirement for an industrial business park in this area and had found a need for this type of venture.

Mayor Prall explained that Mr. Craswell had identified a number of interested stakeholders and that the Committee planned to assemble interested players to form a focus group that would participate in a brainstorming session to determine uses for the site. Mayor Prall noted that some members of the Steering Committee had been tasked with facilitating the session and spearheading an industrial condominium at the Avon Foods site, owned by a consortium of interested parties.

6. Business Arising

(a) Balcom Development Agreement

Deputy Mayor Trinacty explained that Council had completed first reading of the proposal at a May meeting and the Public Hearing had occurred prior to this Council meeting. He drew attention to a copy of the Development Agreement between Ms. Balcom and the Town that was included in the Agenda Package.

IT WAS MOVED and seconded that Council approve second and final reading of the Development Agreement with Joan Balcom for a multi-unit development at 206 Commercial Street.

Motion Carried

IT WAS MOVED and seconded that Council authorize Mayor John P. Prall and Chief Administrative Officer, Linda Parker to sign the Development Agreement with Joan Balcom.

Motion Carried

(b) CAO By-law ~ 2nd Reading

Mayor Prall reviewed the CAO By-law in depth due to the large number of public in attendance regarding the second reading. He explained that the Town had been governed and operated under the CAO and Committee of the Whole system for the past five years. He relayed that the by-law delineated the roles and responsibilities of the CAO and that the CAO By-law protected the CAO, Council and citizens of the municipality. Mayor Prall next reviewed the differences between the CAO By-law and an Employment Contract. He reiterated that under the CAO by-law, the manager of the Town was the CAO, although that individual reported to Council and operated under Council policies.

Mayor Prall relayed that sections 8(h) through (k) were directly transcribed from the MGA but items 8(k)(i) through (ix) were subject to policies of Council. He noted that if no policy was in place the CAO did not have the authority to carry out the delineated items.

IT WAS MOVED and seconded that Council approve second and final reading of the CAO By-law.

A well rounded question and answer session ensued. Councillor Clarke addressed public concern regarding the by-law by noting that he had been a member of Council under both governance structures and found the Committee of the Whole (COTW) system to be a better system. He reiterated that the CAO is ultimately responsible to the Town and Town Council.

The motion was amended as follows:

IT WAS MOVED and seconded that Council amend the CAO By-law to add to Section 4. “and where no policy or by-law exists under the direction of Council”.

Motion Carried

Deputy Mayor Trinacty spoke in favor of the by-law noting that under this governance structure committees were even more valuable. He explained that under strong policy the structure was sound. Councillor Clarke noted that section (i) regarding the appointment, suspension and removal of staff, the CAO has been responsible for these items, but that discussion also took place between the CAO, and responsible Department Head. He noted that the appointment, suspension or removal of employees is done subject to policies of Council.

A second amendment was made:

IT WAS MOVED and seconded that Council amend the CAO By-law to move section 8.(i) dealing with the hiring and removal of staff to be included under section 8.(k) as “x” and subject to policies adopted by Council.

Motion Carried

Councillor Horsburgh spoke against the by-law. He wanted people in town to be able to contact Councillors individually based on their elected status and have Councillors contact Department Heads directly in response to citizen concerns. He did not agree with a by-law that involved only one employee and thought items in the by-law could be covered by an employment contract or an agreement and therefore subject to change easier than a by-law could be. He was under the impression that were the by-law enacted it would eliminate the possibility of returning to the committee structure. He thought the by-law to be binding beyond what a small town needed.

Ms. Parker explained that the MGA delineated the responsibilities of the CAO. She noted that this by-law accurately reflects what the CAO of the Town had been doing for the past five years and future CAO’s should be subject to. She noted that the public accountability of the CAO By-law was of utmost importance. She relayed that Council could change a policy without public notice or consultation. In order for Council to change a by-law there has to be

two public readings and the by-law is available for public review. The role and responsibilities of the CAO are not set out in an Employment Contract. Ms. Parker said that the by-law was the final pillar to the governance and administrative structure that had been set in place five years ago. She said that this by-law does not forever end the committee structure as it could be repealed. She relayed that this Council supported this type of governance structure and that another Council could repeal the by-law and return to the Committee structure. Ms. Parker also relayed that the by-law does not prohibit a member of the public from calling a Council member.

The main motion for second and final reading of the CAO By-law was carried.

Motion Carried

(c) Lot Grading & Drainage By-Law ~ 2nd Reading

Deputy Mayor Trinacty reviewed the intent of the by-law. He highlighted exceptions to the by-law that included construction of single family or two unit single family development or those under Development Agreement. Deputy Mayor Trinacty also discussed those qualified to prepare a Lot Grading and Drainage Plan.

IT WAS MOVED and seconded that Council approve the second and final reading of the Lot Grading & Drainage By-law.

Motion Carried

IT WAS MOVED and seconded to exempt a subdivision that creates two lots only during subdivision.

Motion Defeated

The concern was raised that the amendment would create loopholes for developers. Discussion took place regarding historical and future drainage issues and concerns in the Town.

(d) Development Control and Planning Applications Fees By-law

Deputy Mayor Trinacty reviewed the motion.

IT WAS MOVED and seconded that Council approve an amendment to the Development Control and Planning Fees By-law that includes the addition of a fee for a Lot Grading Certificate as enabled in the draft Lot Grading and Drainage By-law of \$150.00 for applications containing 1-5 lots inclusive and \$150.00 plus \$30.00 for each additional lot above five lots.

Motion Carried

7. **New Business**

(a) **Approval of the 2005-06 Operating and Capital Budgets**

Ms. Parker explained the budget process used by Council to develop the budget and resulting tax rates. She reported that the Management Committee had developed the first draft budget for presentation to Council and following a great deal of work by Council a balanced budget had been achieved from a large shortfall. Ms. Parker reviewed the residential, sewer, and commercial tax rates. She relayed that Council successfully achieved a balanced budget based on streamlining services, increasing the tax rate and a three year plan to utilize reserves.

Ms. Parker highlighted the impact the closure of Avon Foods had on the Town of Berwick and the resulting loss in taxes. She relayed that in addition, Carriere Foods had successfully appealed the property taxes that lead to a significant decrease in taxation revenue.

Ms. Parker reported that the Town planned to use Surplus in 2005/06 to keep the increase in taxes to a minimum and in the third year would repay the surplus account. She explained that this strategy was employed to alleviate the loss of the Avon Foods revenue.

Ms. Parker reported that Council had adopted a fifteen year Capital Improvement Plan that would plan for the maintenance and replacement of the Town's infrastructure and equipment. She said that the Capital Budget was based on a 15 year Capital Improvement Plan that would replace six pieces of public works equipment, build a new fire hall, allow the construction of a skateboard park, implementation of a trails strategy, and initiate storm water infrastructure improvements that would be financed from a combination of long term debt and capital reserves.

IT WAS MOVED and seconded that Council approve the 2005/06 Operating Budget totaling \$3,071,600.

Motion Carried

IT WAS MOVED and seconded that Council approve the 2005/06 Residential tax rate of \$1.675 (property tax \$1.55 + sewer tax \$0.125) and 2005-2006 Commercial tax rate of \$2.875 (property and Business Occupancy tax \$2.75+ sewer tax \$.125) be approved.

Motion Carried

IT WAS MOVED and seconded that Council approve the three year Capital Budget for 2005-2008 totaling \$2,111,015.

Motion Carried

Councillor Easson and Councillor Clarke commended Council and staff on their efforts to allow a balanced budget with only a slight increase in taxes. Deputy Mayor Trinacty complimented staff on the work done of the Capital Improvement Plan (CIP).

(b) STP and Sanitary Sewer Infrastructure Assessment

Ms. Parker reviewed the report recommending ABL Environmental as the company to complete the STP and Sanitary Sewer Infrastructure Assessment for the Town. She noted that this item had been selected as a Council priority item during the Winter 2005 Council Priority Setting Session.

Ms. Parker relayed that Mr. Chris Millier, the Town Planner had been utilized to facilitate the selection and management process. She noted that Hiltz and Seamone had been eliminated as they had not met criteria requested in the Terms of Reference. There was concern that CBCL's proposal had not included any field work. Ms. Parker relayed that ABL Environmental had a mid level cost in relation to other applicants and their proposal included fieldwork for data collection that would further improve the Town's infrastructure data base.

Ms Parker explained that the assessment was essential with the legislation in light of new environmental regulations and may be a positive factor in the ability to apply for government infrastructure funding in the future.

IT WAS MOVED and seconded that Council Award the contract for the STP and Sanitary Sewer Infrastructure Assessment to ABL Environmental Consultants Ltd. at a cost not to exceed \$29,400.

Motion Carried

Mayor Prall reported that he was a participant on the Canada-Wide Management Strategy for Municipal Wastewater Effluent and noted the special importance of municipalities whose effluent empties into river headwaters, as does the Town of Berwick. He noted the level of professional expertise required to meet required standards of the day. Ms. Parker relayed that an application to fund infrastructure work could be made once the assessment was complete. She agreed to investigate funding for the assessment cost.

(c) G. Bezanson Property Boundary

Ms. Parker reported a request to Council regarding a boundary discrepancy between Mr. G. Bezanson and the Town on West Union Street (see attached letter). She explained that Mr. Bezanson had been maintaining the land in question for over twenty years and according to Town legal counsel this allowed him adverse possession of the property in question. The land was between Mr. Bezanson's property line and the Rainforth Park fence and he was requesting a Quit Claim Deed be issued to the property to have the property boundary line be two feet from the town fence.

IT WAS MOVED and seconded that Council approve agreement to a Quit Claim Deed of the parcel of land between Mr. F. Bezanson's property and the Town's property at Rainforth Park.

Motion Carried

8. Correspondence

(a) Kings Community Economic Development Agency

For the information of Council. Mayor Prall reported that he would attend the Annual Meeting as the Town's representative.

(b) Federation of Canadian Municipalities ~ Budget

For the information of Council.

(c) Samantha Palmer ~ Request for Funding

Council agreed to discuss items (c) and (f) concurrently as both were requests for funding from Town youth. Both had requested Council funding towards personal trips, although they would be representing the Town in special events. Discussion ensued regarding how to allot funding to individual youth, where to draw the line, and how to allocate funding to specific activities or young citizens of the Town. Councillors did not want to set a precedent by funding certain individuals no matter how noteworthy the cause. Councillors agreed to offer free gym time as "in kind" support in lieu of funding to both Samantha Palmer and Lucas Schurman (see item (f)).

(d) Maria Jose' Faria Graca Letter

For the information of Council. Mayor Prall noted this letter addressed a number of items in a positive way. Ms. Parker agreed to have the Management Committee put forth recommendations to be included in a response letter to Ms. Graca.

(e) Linda Parker, Chief Administrative Officer

Ms. Parker distributed her official letter of resignation following verbal notice to Council on May 24, 2005. She explained that this letter complied with her employment contract. Ms. Parker read her letter to Council.

IT WAS MOVED and seconded that Council accepts the resignation of the Chief Administrative Officer, Linda Parker, CMM.

Motion Carried

Councillors thanked Ms. Parker for her dedicated work for the Town, leadership, and professional expertise offered during her term as Chief Administrative Officer. Councillor Clarke relayed that other County CAO's will feel the loss of her expertise. Council was in full agreement that Berwick was a better Town through the efforts and dedicated hard work of Ms. Parker. Mayor Prall said that

Ms. Parker would be missed by Council, other municipal Councils and the Province.

- (f) Lucas Sherman ~ Request for Funding
Addressed under item (c).

10. Next Meeting Date

The next meeting of Council would be held July 12, 2005 at 7:00 p.m.

- 11. Hearing of no further business the Chairman adjourned the Council meeting at 9:36 p.m.**

John P. Prall
Chairman

Michelle Millett
Recording Secretary