

**Town of Carbonear**  
**Regular Council Meeting, June 8<sup>th</sup>, 2009**

Minutes of a regular meeting of the Council of the Town of Carbonear  
held in Council Chambers, June 8<sup>th</sup>, 2009 at 7:30pm

**Members Present:** Mayor Sam Slade  
Councillors Gladys Mercer  
Jim Burden  
Terry Emberley  
John Comerford  
Fred Earle

**Members Absent:** Deputy Mayor Edward Slade

**Also Present:** Town Clerk Cathy Somers  
Town Administrator Cynthia Davis  
Director of Operations & Public Works Brian O'Grady  
Director of Recreation & Tourism Rob Button

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1. Calling of Meeting to Order  
Mayor Slade called the meeting to order at 7:33pm.
  
  2. Adoption of Minutes
    - a) May 19, 2009 Regular Meeting  
**Motion 09-171** **J. Comerford / G. Mercer**  
*Resolved that the minutes of the May 19, 2009 Regular meeting of council be adopted as presented.*  
Favour 6; Opposed 0; **Carried**
  
  3. Business Arising From Minutes
  
  4. Delegations  
Mayor Slade declared a conflict of interest on the Bradbury issue as he lives on Bunkers Hill, and this proposed development is located in an area off the service road leading to Bunkers Hill. Mayor Slade then left the Council Chambers.  
Deputy Mayor Slade was not present, therefore Councillor Mercer assumed the chair.  
Councillor Mercer asked Walter and Debra Bradbury to make their presentation to Council
    - a) Walter & Debra Bradbury  
The following summarizes the Bradbury's presentation to Council:

- ▶ Mr. Bradbury advised Council that they first came here in 2006, and then returned here this year on April 8. They have many family members and friends here in Newfoundland.
- ▶ They do not consider themselves as developers, but they would like to build their retirement home here in Carbonear on the piece of land that they purchased a few years ago, which is located on the service road which leads to the top of Bunkers Hill.
- ▶ They went to St Johns to see Don Brennan, Department of Transportation and explained the situation to him. There are many roads in highways reservations in NL, he would discuss further with Steve Abbott of the Department of Transportation. Nothing came out of that, so they then contacted Minister Kennedy. He arranged a meeting up on their property and they thought the problem would be resolved, however it wasn't. He indicated that the Town could apply to the Department of Transportation to upgrade the road to bring the road up to town standards. Brian O'Grady and Deputy Mayor Slade were also present at that meeting.
- ▶ If the cost to upgrade the road would be for example, \$35,000 and that would not only benefit them but the other property owners who have land in that area as well.
- ▶ The Bradbury's are both retired and would be good tax payers.
- ▶ They thought that the Department of Transportation would give them an access off the Highway or that the Town would give them access off the service road, but that was not the case.
- ▶ They indicated they will not have water/sewer but are willing to install a well and septic system.
- ▶ The road has been there for 25 year plus, used by town equipment, vehicles and other vehicles travel that road. You have to use that road to get to Squibbs Hill, The Town has plowed sanded and graded the road. They would like to see the province give us an easement to construct there. In the past 30 years there hasn't been any accidents on this service road.
- ▶ They have traveled all over North America.
- ▶ Why would the town try to land lock us.
- ▶ They were told by other people, good luck on trying to build up there.
- ▶ Why should they have to pay for a road that the city is going to use.
- ▶ They requested Council to upgrade the road and they will pay tax invoices.
- ▶ Ms. Bradbury indicated that believe it or not, they will get it one way or another.

Councillor Burden indicated that he put in a request three weeks ago for Bunkers Hill to be graded and that Council traditionally has graded the road for the past thirty years.

We also graded Line Road.

Town Administrator indicated that Bunkers Hill has been graded and the Line Road was also graded as per Council's policy on that matter.

Councillor Mercer noted that Bunkers Hill is an approved Town Street that is maintained, plowed and graded. However the service road leading to Bunkers Hill is not an approved town

street and although it is traveled over by various users, it is not traditionally graded, plowed or maintained on a regular basis by the Town. Bunkers Hill is listed on the Town's street listing for snow clearing and maintenance, but the service road leading to Bunkers Hill is not included as a Town Street for snow clearing and maintenance.

Councillor Emberley indicated that he would like to see an estimate prepared to upgrade the service road to the Town's standards.

Councillor Mercer advised that the service road is not Council's property and it is located in the Department of Transportation's road reservation. If a road were to be constructed in this area to access the properties located off the service road, Council would have to apply to the Department of Transportation to determine where the road would have to be located, so that it is not within the Department's reservation and that the proposed location would meet the safety standards of the Department.

Councillor Mercer asked Mr. Bradbury, "When you called the Town of Carbonear to inquire about the property, were you misled by any member of Council or its employees?" Mr. Bradbury answered, "No."

Ms. Bradbury noted the following:

- ▶ We stood on that land, saw vehicles traveling over the service road, and we did not figure that there would be a problem to get a permit to construct on the property.

Councillor Mercer noted that there are many service roads and right of ways within the town that Council does not maintain, as they are not approved Town Streets.

Ms. Bradbury noted the following:

- ▶ When you are looking at houses to buy, do you investigate if there is a problem with the town street that it is located on?
- ▶ Everyone is asking for Newfoundlanders to come back home.
- ▶ Garbage trucks and town equipment travel over this service road.
- ▶ If it's not up to standard, then probably you should shut it down.

Councillor Mercer thanked Mr. & Mrs. Bradbury for their input and for coming in to make their presentation to Council tonight.

Mr. Winsor inquired about the grading of Bunker's Hill.

Brian confirmed that Bunkers Hill has been graded well.

Councillor Mercer noted that Mr. Winsor has his permit and Council's conditions are noted on the permit.

Mr. & Mrs. Bradbury then left the meeting.

Councillor Earle suggested that Council should look at Local Improvement Assessment Fees for areas such as these, where Council can complete the work for road construction, and/or water/sewer installation to improve services to properties, and recover from the property owners who benefit from the improvements.

Councillor Mercer noted that we have developers who are investing money in sub-division developments, such as the Southwell Place Extension, Highroad North, etc. The Town is also looking for a developer to develop the Willoughby Estates Extension as well.

Council inquired if the Town plowed and salted this service road over the past 30 years. Town Administrator advised that she has never given direction to plow or salt/sand that road.

If that was done, it was done without the direction of the Town Administrator.

Councillor Earle asked if there were regulations that govern the placement of the street within Highway's reservation. Brian advised that yes there are safety concerns that Transportation would address regarding the close proximity to the highway in regards to conflicting headlights, and other safety concerns. In speaking with representatives from the Department of Transportation, Brian indicated that if the Town was interested in applying to construct a road in the area that it is likely that the Department would request that the road be moved further to the south, even if they were flexible with their reservation, as right now the entire service road is within Transportation's reservation. Transportation would also provide stipulations regarding the construction of this road. It would also require acquisition of property. Transportation officials are going back to determine what their minimum road reservation would be and the stipulations regarding road construction in this area.

Town Administrator read the Section 9 of the Development Regulations which states:

*Neither a permit nor approval in principle shall be issued for development within the Planning Area when, in the opinion of the Authority, it is premature by reason of the site lacking adequate road access, power, drainage, sanitary facilities, or domestic water supply, or being beyond the natural development of the area at the time of application unless the applicant contracts to pay the full cost of construction of the services deemed necessary by the Authority and such cost shall attach to and upon the property in respect of which it is imposed.*

Town Administrator noted that Council has turned down other applicants, and advised these applicants that if they wanted to absorb this development cost, they could proceed.

There have been five various applications this year, where they absorbed these additional costs.

Councillor Earle again suggested that we proceed to do further investigation on implementing Local Improvement Assessment Fees for areas such as these.

Town Administrator noted that these development cost should not be incurred by Council, but to the property owners whose properties are being improved because of road improvements and/or

water/sewer servicing.

Councillor Mercer asked Councillor Emberley if he believes that Council should use tax payers money to improve other peoples property or do you believe we should levy these improvements to the property owners whose property is being approved?

Councillor Emberley indicated that we should look at the pros and cons, and he felt that this can be done.

Discussed.

Development Committee to bring forward a Local Improvement Assessment and Service Levy Policy for consideration by Council. This policy will address how Council may assess its cost or a portion of its cost, upon real property that is directly benefitted by a public work of the council, including the construction of waterlines, sewer lines, storm systems and the service connections of storm systems; and the construction of curbs, gutters, sidewalks or streets or the upgrading or paving of streets, where this cost shall be known as “the local improvement assessment”.

Town Clerk suggested that Council deal with the Development Committee’s recommendation on the permit application and Permit #4343 on the list of permits while Mayor Slade is outside the meet as he would be in conflict on both these items.

Item 5.1 (b) Application to construct a single dwelling home off the service road leading to Bunker’s Hill. Bradbury Recommendation  
Councillor Comerford presented the Development Committee’s recommendation on the above matter.

**Motion 09-172**

**J. Comerford / F. Earle**

*Resolved that the Town of Carbonear deny the permit application to construct a single dwelling home off the service road leading to Bunkers Hill as the application does not meet the requirements of the Carbonear Municipal Plan and Development Regulations as it does not have frontage on an approved Town Street.*

Favour 5; Opposed 0; **Carried**

Development Committee will do further investigation to bring forward a Local Improvement Assessment and Service Levy Policy for consideration by Council.

Item 5.1 (a) Permit #4343

**Motion 09-173**

**T. Emberley / J. Comerford**

*Resolved that the Town of Carbonear approve permit #4343 as presented to Council.*

Favour 5; Opposed 0; **Carried**

Mr. Cyril Winsor who was present at the meeting asked why the Mayor is in conflict on these matters.

Town Administrator explained that Conflict of Interest is legislated by the Municipalities Act. She then read Section 207 (1) of the Municipalities Act. She advised that there has already been court cases where Councillors have voted on upgrade and development of their own streets, where Councillor have been declared in conflict and removed from Council.

Mayor Slade was called back into the meeting.

Councillor Mercer vacated the chair, and Mayor Slade assumed the chair.

Councillor Mercer then left the meeting.

#### 5.1 Correspondence, Permits & Development

##### a) List of Permits # 4339 - 4380

###### **Motion 09-174**

**F. Earle / J. Burden**

*Resolved that the Town of Carbonear approve the list of permits # 4339 - 4380, excluding #4343 as presented to Council.*

Favour 5; Opposed 0; **Carried**

Councillor Mercer was not in attendance at the meeting when this matter was discussed and voted on.

##### b) Application to construct a single dwelling home off the service road leading to Bunker's Hill.

Reviewed by the Development Committee. Not recommended for approval.

Voted on earlier in the meeting while the Mayor had declared a conflict of interest and left the meeting.

##### c) Application to erect a storage container at 219 Water Street

Reviewed by the Development Committee. Not recommended for approval.

Councillor Comerford reviewed the recommendation of the Development Committee on this application.

###### **Motion 09-175**

**J. Comerford / F. Earle**

*Resolved that the Town of Carbonear deny the permit application to erect a storage container at 219 Water Street as the proposed location would be within the high water mark.*

Favour 5; Opposed 0; **Carried**

##### d) Application to construct a single dwelling home at Lot 16, Southwell Place Extension

Reviewed by the Development Committee. Deferred until completion of the sub-

division with Water/Sewer, Storm Sewer and Road Construction to Class A standard, and installation of electrical services to the sub-division.

##### e) Application to construct a single dwelling home at 45 Burnt Head Road/

Reviewed by the Development Committee. Deferred for further details on house plans and location of house on lot.

- f) Carolyn Kavanagh, Application to operate a Hot Dog Vending Cart for Around the Bay Enterprises in Carbonear.

Reviewed by the Development Committee. Recommended for approval subject to the requirements of the Town's Vendor Regulations..

Councillor Comerford reviewed the recommendation of the Development Committee on this application.

**Motion 09-176**

**J. Comerford / F. Earle**

*Resolved that the Town of Carbonear approve a permit for Around the Bay Enterprises to operate in Carbonear as per the application submitted and subject to the business operator's compliance with the requirements of the Town's Vendor Regulations.*

Favour 5; Opposed 0; **Carried**

- g) Application to sub-divide property at 75 Adelaide Street

Reviewed by the Development Committee. Recommended for approval.

Councillor Comerford reviewed the recommendation of the Development Committee on this application.

**Motion 09-177**

**J. Comerford / F. Earle**

*Resolved that the Town of Carbonear approve a permit to sub-divide the property of 75 Adelaide Street as per the application submitted and in accordance with the Carbonear Municipal Plan and Development Regulations.*

Favour 5; Opposed 0; **Carried**

- h) Sam Green, Application to construct fence at 6 Southside Lower Road

Reviewed by the Development Committee. Recommended for approval.

Councillor Comerford reviewed the recommendation of the Development Committee on this application.

**Motion 09-178**

**J. Comerford / F. Earle**

*Where As the proposed location of the fence is back behind a row of mature trees along Butts Road, Be It Resolved that the Town of Carbonear approve a permit to construct a fence at 6 Southside Lower Road as per the application submitted and in accordance with the Carbonear Municipal Plan and Development Regulations.*

Favour 5; Opposed 0; **Carried**

5.2 Correspondence, Requiring Council's decision.

Councillor Emberley left the meeting

Councillor Emberley returned to the meeting.

5.3 Correspondence, Received and action taken

Council reviewed the following correspondence and action taken:

- a) Eastern Newfoundland Regional Appeal Board, Notification of appeal filed.  
Referred to the Development Committee.

- b) Property owner, notification of intent to obtain building permit upon acquiring additional land to provide her lot on Valley Road with 27m of frontage. Referred to the Development Committee.
- c) Wm. Finn Law Office, Opinion on Local Improvement Assessment or Service Levy. Referred to the Development Committee.
- d) Department of Justice, Re. Social Insurance Numbers. Notification that government and other public bodies are not permitted to disseminate employees' Social Insurance Numbers to third parties, except as required by legislation or as permitted by written consent of the employee. Copied to office staff and placed on file.
- e) Resident, request for adjustment of interest on vacant land. Referred to the Finance Committee.
- f) GSC, Re. Copy of Renewal of Expired Waste Management Certificate for the City of St. John's Waste Management System, copied to the Town of Carbonear. Placed on file.
- g) Water Resources Management, Re. Results of Pilot Study to Develop Action Plan on Indicators for Monitoring Corrosion Control in Drinking Water. Thirteen locations sampled within the Town of Carbonear. The lead results for Carbonear ranged from 0.6 ug/L to 6.8 ug/L with an average of 2.4 ug/L. All samples taken in Carbonear for lead were below the recommended guideline established by Health Canada of 10ug/L. Placed on file.
- h) Daffodil Place, Notification of Official Opening, June 12, 2009 at 10:00am. Copied to Mayor Slade and placed on file.
- i) NL Public Health Laboratory, Test results for water samples taken on May 12 and May 19, 2009 at Dept. of Justice and J. Bemister's. Test results marked satisfactory. Placed on file.
- j) Municipal Affairs, Request for input from municipalities regarding the Provincial Solid Waste Management Strategy. Copied to Council and Staff to encourage them to participate should they receive a call on the matter. Placed on file.

6. Committee Reports

a) Development Committee

Councillor Comerford presented the following recommendations of the Development Committee on this application.

**Motion 09-179**

**J. Comerford / F. Earle**

*Resolved that the Town of Carbonear continue to number the lots being developed off Southwell Place extension as Blueberry Crescent, and renumber the existing lots on Southwell Place.*

Favour 5; Opposed 0; **Carried**

**Motion 09-180**

**J. Comerford / F. Earle**

*Resolved that the Town of Carbonear assign the street name of “Wexford Road” to the area previously referred to as Old Dump Road.*

Favour 5; Opposed 0; **Carried**

7. Reports from Town Administrator and Department Heads

a) Town Administrator

Town Administrator indicated that she distributed her report to Council earlier today. Any questions could be directed to her.

Mayor Slade thanked the Town Administrator for her report.

b) Director of Operations and Public Works

Brian to monitor the water levels, speak to the consultant regarding the completion of a water study.

**Motion 09-181**

**J. Burden / F. Earle**

*Resolved that the Town of Carbonear contract a consultant to complete a water study on the Town’s water supply.*

Favour 5; Opposed 0; **Carried**

Councillor Comerford indicated that at the last meeting the public wharf was brought up as an item for discussion.

Councillor Emberley declared a conflict of interest on the matter and left the meeting. Mayor Slade asked if he would be in conflict on the matter.

Town Administrator advised that she can not determine if the mayor is in conflict.

Council would have to determine if the Mayor would be in conflict.

Mayor Slade noted that he feels he has no monetary gain on this matter.

Council agreed that the Mayor is not in conflict on this issue.

Town Administrator advised that the property where the gap between wharves is located is not the Town’s property. It is the property of the Public Wharf.

Councillor Earle indicated that he feels this is a liability issue.

It was suggested that we extend the storm sewer in the area. Councillor Burden indicated that he felt there was no need to extend the storm sewer, but that stone/boulders could be placed in the gap at the end of the storm sewer.

Discussed.

**Motion 09-182**

**J. Burden / F. Earle**

*Resolved that the Town of Carbonear place armour stone/boulders between the public wharf and the private wharf located to the west of the public wharf to eliminate the gap between both wharves.*

Favour 5; Opposed 0; **Carried**

Mayor Slade thanked Brian for his report.

c) Recreation Director

Pool lift - The new lift should be here in 2 weeks,

Council did agree to purchase a new lift, but during the investigation, it was

determined that the existing one could be fixed, however the repair has not yet been

completed. We are now ordering the new one, and if the old one can be repaired it will be done free of charge and can be used as a spare.

Triathlon - 96 attended last year, expecting 120 this year.

Councillor Mercer entered meeting in progress.

Councillor Earle asked if the tourism pamphlets have been distributed. Rob advised they are out in Bay Roberts and at the Airport. He will also get them to the Ferry Terminals.

Rob and Sam visited Crockers Cove Beach, and are looking at a design for park development at that location. Rob will bring back a report on the cost involved. Mayor Slade thanked Rob for his report to Council.

Mayor Slade asked for a motion to add the Town Clerk's 2009 Elections Report to the agenda.

**Motion 09-183**

**T. Emberley / F. Earle**

*Resolved that the Town of Carbonear add the Town Clerk's 2009 Elections Report to the Agenda for June 8, 2009 Regular Meeting, as Item 7(d).*

Favour 6; Opposed 0; **Carried**

d) Town Clerk's 2009 Elections Report

Town Clerk reviewed the report and recommendations with Council.

**Motion 09-184**

**T. Emberley / G. Mercer**

*Resolved that the Town of Carbonear conduct a separate election for the position of Mayor of the Town of Carbonear.*

Favour 6; Opposed 0; **Carried**

**Motion 09-185**

**F. Earle / J. Comerford**

*Resolved that the Town of Carbonear appoint Cynthia Davis as the Alternate Returning Officer (ARO) for the 2009 Town of Carbonear Municipal Election.*

Favour 6; Opposed 0; **Carried**

**Motion 09-186**

**G. Mercer / F. Earle**

*Resolved that the Town of Carbonear hold one nomination day for the upcoming 2009 Municipal Election on Wednesday, September 2, 2009 from 8:00am - 8:00pm.*

Favour 6; Opposed 0; **Carried**

8. Finance

a) List of Operating Invoices, totaling \$47,443.79

**Motion 09-187**

**F. Earle / J. Comerford**

*Resolved that the Town of Carbonear approve for payment the list of operating invoices totaling \$47,443.79 as presented to Council.*

Favour 6; Opposed 0; **Carried**

b) Capital Project Invoices

Road Realignment/Traffic Light Installation

Harris & Associates, Design Work - May 22, 2009      \$1,844.73

**Motion 09-188**

**T. Emberley / F. Earle**

*Resolved that the Town of Carbonear approve for payment the Harris & Associates Invoice in the amount of \$1,844.73 for Design Work on the Road Realignment / Traffic Lights Installation Project.*

Favour 6; Opposed 0; **Carried**

c) Lombard General Insurance Company of Canada

Deductible on Sewer Backup Insurance Claim \$2,500.00

Town Administrator advised this is a sewer back up claim that was filed with our insurance firm, and they have paid out on the claim, and are requesting payment of the deductible.

**Motion 09-189**

**F. Earle / J. Burden**

*Resolved that the Town of Carbonear approve for payment the Deductible amount of \$2,500 to Lombard General Insurance Company of Canada for the Sewer Backup Insurance Claim.*

Favour 6; Opposed 0; **Carried**

9. Regulations  
None listed.

10. General Business

- ▶ Councillor Earle noted that on February 14 of this year, Council representatives met with Dr. Oscar Howell and Dr. Gary Baker, regarding lack of family physicians in the area, doctor recruitment and retention, etc. Councillor Earle suggested that Council request a follow up meeting.  
Discussed.  
Town Administrator to send a letter to Dr. Baker requesting a follow up to this meeting.
- ▶ Councillor Earle inquired about the start up on our Capital Works Projects.  
Deferred for discussion in privilege.
- ▶ Councillor Emberley advised that the Newfoundland Herald declared Randy Ralph as the NL Herald's Teacher of the year and requested a letter of congratulations to be sent to Mr. Ralph.  
Discussed.  
Town Administrator to send letter of congratulations to Mr. Ralph as requested.
- ▶ Mayor congratulated the Hr. Authority for the additional Lighting and Electricity to the Public Wharf, and indicated that it enhances the property.  
Council agreed.
- ▶ Gerald Penney who was present at the meeting advised Council that there have been two fires burning on the Southside in drums. Mr. Penney asked if this is allowable. Town Administrator advised she would have the Enforcement Officer investigate the locations. If burning in an steel drum, you must have a screen on top of the drum. Mr. Penney advised Council of the location of the two fires.
- ▶ Mayor Slade noted that our Fire Department attended to two fire calls: one east of meal plant, which the department handled. The other to the south of the Canadian

Tire property, which the department could not get to, and water bombers were called in to fight this fire.

- ▶ Councillor Earle suggested that Council should look at issuing a Spring/Summer Newsletter, and include information on water conservation, open fires, upcoming elections, etc.

Council agreed. Rob to draft the Newsletter in consultation with the Town Administrator.

- ▶ Councillor Mercer encourages more women to get involved in Municipal politics.
- ▶ Councillor Earle indicated that some members of Council met with representatives from the Greater Avalon Waste Management Committee last week, and one of the items discussed was composting. Councillor Earle suggested that the Town should provide for composting of leaves and tree branches.
- ▶ Councillor Mercer suggested that the Town Administrator and the Director of Operations and Public Works consult with Kirk Williams of the Greater Avalon Waste Management Committee to develop a plan for three stream curb side collection for 2010 and start investigating this matter to determine if Carbonear could be a Pilot Project for the matter.

Council agreed.

- ▶ Town Administrator advised the university student hired to do some work with the tangible capital assets listing is working out very well.
- ▶ Councillor Earle noted that he and the Town Administrator and Town Clerk met with representatives from the Office of Immigration and Multiculturalism on the Immigration Portal on the Town's website.

Town Administrator advised that they will be out before our next meeting on June 23 to make a presentation to Council at 7:00pm.

11. Notices of Motion  
None filed.

12. Adjournment  
**Motion 09-190** to adjourn at 9:08pm.

**F. Earle / T. Emberley**

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Mayor Sam Slade

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Cathy Somers, Town Clerk