



# ROTHESAY COUNCIL

OPEN SESSION

Monday, September 12, 2011

## MINUTES



PRESENT: MAYOR WILLIAM J. BISHOP  
DEPUTY MAYOR BLAIR MacDONALD  
COUNCILLOR SCOTT COCHRANE  
COUNCILLOR PAT GALLAGHER JETTE  
COUNCILLOR TERRY KILFOIL  
COUNCILLOR DON SHEA

TOWN MANAGER JOHN JARVIE  
TOWN CLERK MARY JANE BANKS  
DIRECTOR OF DEVELOPMENT SERVICES (DDS) GAY DRESCHER  
DIRECTOR OF OPERATIONS (DO) BRETT McLEAN

ABSENT: COUNCILLOR NORMA MULLETT  
COUNCILLOR TOM YOUNG

### 1. APPROVAL OF MINUTES Regular Meeting – August 8, 2011

**MOVED** by Counc. Gallagher Jette and seconded by Counc. Shea the minutes of 8 August 2011 be approved as circulated.

**CARRIED.**

### 2. APPROVAL OF AGENDA

**MOVED** by Counc. Shea and seconded by Counc. Gallagher Jette the agenda be approved as circulated.

**CARRIED.**

### 3. OPENING REMARKS OF COUNCIL

Mayor Bishop advised the Town and Rothesay High School have entered into a partnership that will see each graduating class donating a tree to the town to be planted at the Arthur Miller Soccer Fields main entrance.

### 4. DELEGATIONS

#### 4.1 Blasting – Fox Farm Road (See Item 9.1)

Mr. John Wilcox, Riverview Avenue  
Ms. Ilse Holler

Mayor Bishop welcomed Mr. Wilcox and Ms. Holler and the delegation to the Council meeting. Mr. Wilcox gave a presentation outlining the concerns of area residents (Renforth Community Savers) with respect to: blasting and quarrying on the south side of the Mackay Highway near the Fox Farm Road adjacent to the Renforth Bog, paved access road and traffic, possible effect on well water in the area, damage to foundations, previous operation stopped by then Minister Kim Jardine, property ownership, approvals given and legal responsibilities. Mr. Wilcox also gave a brief summary of recent environmental studies that have shown negative effects of blasting and excavation on wells. The group is requesting Rothesay take a leadership role in obtaining information with respect to permissions given, dealing with various agencies and stopping the work on the site.

Mayor Bishop thanked the representatives for their presentation. He advised Rothesay representatives have spoken with Environment Minister Blaney, as well as representatives from the City of Saint John (City), the Department of Environment (DOE) and Department of Transportation (DOT). Rothesay staff have been onsite but the property is not within the Town's jurisdiction. Mr. Wilcox advised they have spoken with Minister Blaney and the matter is being reviewed.

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There was general discussion with respect to the following: property ownership of the roadway, approval given by whom to pave the road, courses of action available to the Town, the Town is waiting for a response from the District Engineer (DOT), the definition of quarrying operations, the extent of pre-blast surveys, the topography of the area, possible contamination concerns and well impacts. Counc. Shea suggested the group contact Tim Vickers, Atlantic Coastal Action Program (ACAP). Counc. Gallagher Jette suggested the Town obtain a legal opinion with respect to possible courses of action. Mr. Wilcox advised the operating permit is due for renewal in June 2012 and the group will be active in preventing its renewal. Mayor Bishop thanked the presenters and advised the Town will continue to discuss the matter with Minister Blaney, provincial and City representatives and a recommendation would be forthcoming later in the agenda.

### **4.2 New Brunswick Medical Education Trust**

(See Item 9.2)

Mayor Bishop welcomed Dr. Donald Craig, Mr. Michael Doyle and Martha Zed. Dr. Craig thanked Council for the opportunity to appear and advised Council the goal is to raise \$15 million to provide medical bursaries for medical students studying at accredited medical schools who intend to practice in New Brunswick. He advised medical students accumulate a large amount of debt while studying and the province is unable to provide incentives to increase retention. Dr. Craig commented on the need to create a level playing field with other provinces who have greater financial resources to ensure New Brunswick is more competitive in retaining graduates to practice here. He concluded by advising the New Brunswick Medical Education Trust is requesting Rothesay sponsor one scholarship of \$10,000/year for 5 years to be gifted in the year given and the Town can stipulate the conditions of the award.

Mayor Bishop thanked Dr. Craig for his presentation and advised the matter would be considered later in the agenda and likely referred to the Finance Committee.

## **5. CORRESPONDENCE FOR ACTION**

5.1 22 July 2011 Letter from Department of Transportation RE: Five Year Program.

5.1.1 9 September 2011 Memorandum from DO McLean with attached plan.

DO McLean advised he reviewed previous reports and noted some changes that had been made. Town Manager Jarvie advised no funding had been received in 2011 other than for regular maintenance on provincially designated highways.

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald Council approve the Capital Plan for 2012-2016.

**CARRIED.**

5.2 25 July 2011 Letter from Mr. and Mrs. Adamson, E. Stanley and A. Stanley RE:  
Access to 27/29 Scovil Road. (See item 7.3)

DDS Drescher advised Development Services processes applications on the basis of good faith of the applicant and does not check the legality of rights to access a right-of-way. It was noted there were incorrect assumptions in the correspondence from the residents. Town Manager Jarvie also noted the need for a lane name change for emergency measures purposes. There are two houses on the lane known as Scovil Lane but there is also a street name Scovil Road in Rothesay.

**MOVED** by Counc. Cochrane and seconded by Counc. Shea the letter dated 25 July 2011 from Mr. and Mrs. Adamson, E. Stanley and A. Stanley RE: Access to 27/29 Scovil Road be referred to the Town Manager for a response.

**CARRIED.**

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5.3 10 August 2011 Letter from R. Walsh 10 Dobbin Street RE: crosswalk on Hampton Road.

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald the letter dated 10 August 2011 from R. Walsh 10 Dobbin Street RE: crosswalk on Hampton Road be referred to the Public Works and Infrastructure Committee.

### **ON THE QUESTION:**

It was noted Hampton Road is a provincially designated highway and provincial approval would be required. Crosswalks are installed at the Town's expense.

**CARRIED.**

5.4 7 September 2011 Letter from KVFD Board of Fire Commissioners: RE 2012 Budget deadline.

**MOVED** by Counc. Cochrane and seconded by Counc. Kilfoil Council advise the Kennebecasis Valley Fire Department Board of Fire Commissioners Rothesay agrees to the extension for the 2012 Budget submission to October 15, 2012, and further agrees to an amendment to the Regional Agreement to change the submission deadline to October 15 for future years.

**CARRIED.**

5.4.1 8 September 2011 Letter from Deputy Mayor MacDonald RE: KVFD Five Year Plan.

**MOVED** by Deputy Mayor MacDonald and seconded by Counc. Cochrane Council request a meeting with the Five Year Plan planning committee for the Kennebecasis Valley Fire Department Inc. in October or November.

**CARRIED.**

## **6. CORRESPONDENCE - FOR INFORMATION**

6.1 12 August 2011 Email from L. Hargrove RE: 11 – 13 Sierra Avenue.

Town Manager Jarvie advised the concerns raised by residents on Sierra Avenue have been reviewed by the Public Works and Infrastructure Committee and Council. He noted the sidewalk will be included for consideration in next year's budget and the request for streetlights is more complicated in that the power lines are located at the rear edge of the properties and further noted the town has a Streetlight policy. He advised DO McLean will review the left turn lane request. DDS Drescher provided clarification on other points raised: there is no watercourse on the property, no permit is required to drill bore holes and Department of Environment representatives were onsite.

**MOVED** by Counc. Cochrane and seconded by Counc. Shea DDS Drescher reply to Mrs. Hargrove's email dated 12 August 2011 RE: Sierra Avenue and clarify the incorrect information.

### **ON THE QUESTION:**

Counc. Shea noted the reference to videos and photographs of a July rain event. Town Manager Jarvie advised copies could be requested from Mrs. Hargrove.

**CARRIED.**

## **7. REPORTS**

7.0 September 2011

**Report from Closed Session**

N/A

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- 7.1 8 June 2011 Kennebecasis Valley Fire Department Inc. Board Meeting Minutes  
30 June 2011 Kennebecasis Valley Fire Department Inc. unaudited Financial Statements

**MOVED** by Counc. Kilfoil and seconded by Counc. Shea the Kennebecasis Valley Fire Department Inc. Board Meeting Minutes dated 8 June 2011 and the unaudited Financial Statements dated 30 June 2011 be received/filed.

**CARRIED.**

- 7.2 31 July 2011 Unaudited General Fund Financial Statements  
31 July 2011 Unaudited Utility Financial Statements

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald the Unaudited General Fund Financial Statements dated 31 July 2011 be received/filed.

### ON THE QUESTION:

Deputy Mayor MacDonald noted the variance report contains detail on over expenditures only. Town Manager Jarvie advised he would speak with the Financial Officer and request more detail be provided.

**CARRIED.**

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald the Unaudited Utility Financial Statements dated 31 July 2011 be received/filed.

**CARRIED.**

- 7.3 17 August 2011 Draft Public Works and Infrastructure Committee Meeting minutes

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald the draft Public Works and Infrastructure Committee Meeting minutes dated 17 August 2011 be received/filed.

**CARRIED.**

- 7.4 17 August 2011 Draft Rothesay Heritage Preservation Review Board minutes

**MOVED** by Counc. Shea and seconded by Counc. Gallagher Jette the draft Rothesay Heritage Preservation Review Board Meeting minutes dated 17 August 2011 be received/filed.

**CARRIED.**

- 7.5 31 August 2011 Draft Finance Committee Meeting minutes

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald the draft Finance Committee Meeting minutes dated 31 August 2011 be received/filed.

**CARRIED.**

#### ➤ KVFD Purchasing Limits

**MOVED** by Counc. Cochrane and seconded by Counc. Kilfoil Resolved: that Council accepts the request from Kennebecasis Valley Fire Department Inc. and approves an amendment to Section 2.03(g) of the Administration Agreement between KVFD and Quispamsis to authorize the Chief to expend budgeted amounts up to and including \$25,000. Council also authorizes the Deputy Chief to expend budgeted amounts up to and including \$1,500 and in the absence of the Chief, to make emergency expenditures necessary to maintain services.

### ON THE QUESTION:

Counc. Cochrane noted the Administration Agreement is between KVFD and Quispamsis.

**CARRIED.**

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### ➤ BNS Commitment Letter

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald Resolved that the General Fund of the town of Rothesay be authorized to borrow up to \$617,400 by way of an operating credit line.

**CARRIED.**

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald Resolved that the Utilities Fund of the town of Rothesay be authorized to borrow up to \$1,231,534 by way of an operating credit line.

**CARRIED.**

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald Resolved that the General Fund of the town of Rothesay be authorized to borrow up to \$50,000 by way of a Visa business card.

**CARRIED.**

It was noted there was a discrepancy between the draft minutes and the recommendation for signature on the Annual Commitment letter with the Bank of Nova Scotia. It was noted there are instances where the Treasurer signs on behalf of the Town but the Mayor and Clerk are the designated signing officers in accordance with the legislation.

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald Resolved that Council authorize the Mayor and Clerk to sign the annual commitment letter from the Bank of Nova Scotia.

**CARRIED.**

### ➤ Symphony NB funding request

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald Resolved that Council authorize payment of \$2500 from the 2011 operating budget to Symphony NB in support of operating expenses.

### ON THE QUESTION:

It was noted Symphony NB Foundation Inc. requested financial support for its VIVO campaign. Support was not recommended as the Town more typically provides support for operating expenses.

**CARRIED.**

### ➤ NBMFC Financing Application

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald Resolved that the Clerk and/or Treasurer and/or Mayor be authorized to issue and sell to the New Brunswick Municipal Finance Corporation a Municipality of Rothesay debenture in the principal amount of **\$2,074,000** on such terms and conditions as are recommended by the New Brunswick Municipal Finance Corporation, and be it resolved that the Municipality of Rothesay agree to issue post-dated cheques payable to the New Brunswick Municipal Finance Corporation as and when they are requested in payment of principal and interest charges on the above debenture.

### ON THE QUESTION:

Counc. Shea requested clarification on the process for refinancing. Counc. Cochrane advised the province only goes to market once in a while and the intent is to get a better rate. Deputy Mayor MacDonald noted the CMHC loan was a good rate that is fixed for 20 years.

**CARRIED.**

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7.6 August 2011 Monthly Building Permit Report  
**MOVED** by Counc. Kilfoil and seconded by Deputy Mayor MacDonald the August Building Permit Report be received/filed.

### ON THE QUESTION:

There was a brief discussion with respect to the cost estimates for projects and the cost of the permit. It was noted the Building Inspector reviews the plans presented and makes an assessment on the value of the project. DDS Drescher noted the fee schedule was last amended in 2004.

**CARRIED.**

7.7 6 September 2011 Draft Planning Advisory Committee Meeting Minutes  
**MOVED** by Counc. Cochrane and seconded by Counc. Shea the draft Planning Advisory Committee Meeting minutes dated 6 September 2011 be received/filed.

**CARRIED.**

- 14 and 20 Rosedale Avenue (**see Item 8.2**)
- 8 Marr Road and 92 Hampton Road (**see Item 8.3**)

- Brittain Lane ( 2 public hearings and subdivision assent)  
8 September 2011 Memorandum from Town Clerk Banks

**MOVED** by Counc. Cochrane and seconded by Counc. Shea Council schedule a Public Hearing for Tuesday, October 11, 2011 commencing at 8:00 p.m., to give consideration to By-law 3-11, A By-law Respecting the Stopping Up and Closing Permanently of a Portion of Brittain Lane, in accordance with the Municipalities Act, Chapter M-22 (RSNB) 1973 and amendments thereto.

**CARRIED.**

**MOVED** by Counc. Cochrane and seconded by Counc. Kilfoil Council schedule a Public Hearing for Tuesday, October 11, 2011, commencing at 8:00 p.m., to give consideration to an Amending Development Agreement to allow for the redevelopment of Brittain Lane in association with the properties situate 4 and 6 Brittain Lane and 32 Burpee Avenue (to be changed to Brittain Lane), identified as PID's 30274120, 30274138, and 30274112.

**CARRIED.**

**MOVED** by Counc. Cochrane and seconded by Counc. Kilfoil Council assent to the subdivision plan prepared by Kierstead Quigley and Roberts Ltd., identified as Burpee Heights Subdivision Lots 10-1-A and 10-3-A, 2011 showing the reconfiguration of Brittain Lane and the creation of a Municipal Services Easement.

**CARRIED.**

## 8. OLD BUSINESS

**8.1 By-law 2-10-04 147 Hampton Road**  
3 August 2011 Memorandum from Town Clerk Banks  
DRAFT By-law 2-10-04

**No action required.**

Counc. Shea declared a conflict of interest and left the meeting room.

**8.2 By-laws 2-10-11 and 2-10-12 14 and 20 Rosedale Avenue**  
8 September 2011 Memorandum from Town Clerk Banks  
DRAFT By-law 2-10-11  
DRAFT By-law 2-10-12  
23 August 2011 Planning Advisory Committee Staff Report

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**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald Council give Reading in its Entirety, to By-law 2-10-11, A By-law to Amend the Zoning By-law, as amended.  
**CARRIED.**

The Clerk read By-law 2-10-11 in its entirety.

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald Council give 3<sup>rd</sup> Reading by Title, and Enactment to By-law 2-10-11, A By-law to Amend the Zoning By-law, as amended.

**CARRIED.**

The Clerk read By-law 2-10-11 by title.

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald Council give Reading in its Entirety, to By-law 2-10-12, A By-law to Amend the Zoning By-law, as amended.  
**CARRIED.**

The Clerk read By-law 2-10-12 in its entirety.

**MOVED** by Counc. Cochrane and seconded by Counc. Kilfoil Council give 3<sup>rd</sup> Reading by Title, and Enactment to By-law 2-10-12, A By-law to Amend the Zoning By-law, as amended.  
**CARRIED.**

The Clerk read By-law 2-10-12 by title.

Counc. Shea returned to the meeting room.

### **8.3 By-laws 2-10-09 and 2-10-10 92 Hampton Road and 8 Marr Road**

8 September 2011 Memorandum from Town Clerk Banks

DRAFT By-law 2-10-09

DRAFT By-law 2-10-10

31 August 2011 Planning Advisory Committee Staff Report

➤ DRAFT Development Agreement

➤ 24 August 2011 GENIVAR Traffic Impact Review

➤ 30 August 2011 Civil Projects Management Ltd. Analysis

**MOVED** by Counc. Cochrane and seconded by Counc. Shea By-law 2-10-09 be removed from the table.

**CARRIED.**

**MOVED** by Counc. Cochrane and seconded by Counc. Kilfoil Council give 2<sup>nd</sup> Reading by Title, to By-law 2-10-09, A By-law to Amend the Zoning By-law.

**CARRIED.**

The Clerk read By-law 2-10-09 by title.

**MOVED** by Counc. Cochrane and seconded by Counc. Shea Council give Reading in its Entirety, to By-law 2-10-09, A By-law to Amend the Zoning By-law.

**CARRIED.**

The Clerk read By-law 2-10-09 in its entirety.

**MOVED** by Counc. Cochrane and seconded by Counc. Shea Council give 3<sup>rd</sup> Reading by Title and Enactment to By-law 2-10-09, A By-law to Amend the Zoning By-law.

**CARRIED.**

The Clerk read By-law 2-10-09 by title.

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**MOVED** by Counc. Cochrane and seconded by Counc. Kilfoil Council remove By-law 2-10-10 from the table.

### **ON THE QUESTION:**

Deputy Mayor MacDonald note the By-law had been tabled pending an independent traffic study. He noted it was provided and reviewed by consultants for the Town but he advised there needed to be more detail to address the traffic issue. He further advised he was not against development but the opportunity to address the traffic concerns should be looked at before the development takes place.

**NAY vote recorded from Deputy Mayor MacDonald.**

**CARRIED.**

**MOVED** by Counc. Cochrane and seconded by Counc. Kilfoil Council give 2<sup>nd</sup> Reading by Title, to By-law 2-10-10, A By-law to Amend the Zoning By-law.

**CARRIED.**

The Clerk read By-law 2-10-10 by title.

**MOVED** by Counc. Cochrane and seconded by Counc. Kilfoil Council give Reading in its Entirety, to By-law 2-10-10, A By-law to Amend the Zoning By-law.

**CARRIED.**

The Clerk read By-law 2-10-10 in its entirety.

**MOVED** by Counc. Cochrane and seconded by Counc. Kilfoil Council give 3<sup>rd</sup> Reading by Title and Enactment to By-law 2-10-10, A By-law to Amend the Zoning By-law.

**CARRIED.**

The Clerk read By-law 2-10-10 by title.

**MOVED** by Counc. Cochrane and seconded by Counc. Kilfoil Council authorize the Mayor and Clerk to enter into a development agreement for the development of the properties at 92 and 94 Hampton Road and 8 Marr Road subject to lot consolidation of the parcels identified as PID 00242479, 00242529, 00242537, 30241517 and 00242552.

**CARRIED.**

### **8.4 83 Hampton Road (Tony Bamford)**

23 August 2011 Letter to Mr. Bamford RE: Development Agreement

5 August 2011 Memorandum from Town Manager Jarvie

There was a lengthy discussion with respect to the request from Mr. Bamford for the return of his security. Mayor Bishop advised he had two meetings at the request of Mr. Bamford who expressed concern about the opinions of some council members. Deputy Mayor MacDonald noted he requested confirmation that the requirements of the development agreement had been met. Council subsequently requested an amendment to the By-law in that it does not specifically state Town water must be used. It was noted there is a concern about cross-contamination and the Town installs meters with the intent that Town water will be used. Mayor Bishop advised Mr. Bamford had provided photos indicating the connection had been made to the Town system. Counc. Cochrane suggested the definition of "hook-up" is the issue. Counc. Shea indicated it was clear to him the agreement requires connection to and use of the Town water system. Counc. Gallagher Jette advised the wording in the agreement needs to be clear in what is required and the current agreement is ambiguous. Deputy Mayor MacDonald noted no written response had been received from Mr. Bamford to the letter of 23 August 2011. Counc. Kilfoil noted the By-law is not clear in its requirement to connect to and use the Town water system. Town Manager Jarvie suggested the ambiguous wording could be clarified by adding "and use exclusively".



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**MOVED** by Counc. Cochrane and seconded by Counc. Kilfoil the matter be removed from the table.

**CARRIED.**

**MOVED** by Counc. Kilfoil and seconded by Counc. Gallagher Jette Council release the \$5,000.00 of the balance security provided to the Town in the form of cash in conjunction with the development at 83 Hampton Road.

**NAY vote recorded from Deputy Mayor MacDonald and Counc. Shea.**

**CARRIED.**

### **8.5 Oakville Acres Detention Pond**

8 September 2011 Memorandum from Town Manager Jarvie

23 August 2011 Letter and Authorization from Department of Fisheries and Oceans

**MOVED** by Deputy Mayor MacDonald and seconded by Counc. Shea the Town share the authorization from the Department of Fisheries and Oceans with Quispamsis with a view to seeking the cooperation of the Town and shared with the committee representing the Oakville Acres residents.

**CARRIED.**

## **9. NEW BUSINESS**

### **BUSINESS ARISING FROM DELEGATIONS**

#### **9.1 Blasting - Fox Farm Road**

15 July 2011 (rec'd 29 August 2011) Petition from area residents (J. Wilcox)

**MOVED** by Counc. Gallagher Jette and seconded by Counc. Shea staff engage legal counsel to provide an opinion as to whether there is recourse when an adjoining municipality is causing infrastructure damage within our community, as related to the Fox Farm Road area.

#### **ON THE QUESTION:**

Town Manager Jarvie noted there have been no reports of damage to Town infrastructure. He further noted the Town cannot pursue legal action on behalf of residents who may suffer property damage. Counc. Cochrane suggested there may be other issues to review as well. Deputy Mayor MacDonald suggested more detail be obtained through meetings with Minister Blaney and city representatives.

**CARRIED.**

#### **9.2 New Brunswick Medical Education Trust**

1 September 2011 NB Medical Education Trust funding request

**MOVED** by Counc. Cochrane and seconded by Deputy Mayor MacDonald the funding request from NB Medical Education Trust dated 1 September 2011 be referred to the Finance Committee.

**CARRIED.**

### **COMMITTEE APPOINTMENTS**

**9.3** 6 September 2011 Memorandum from Nominating Committee

**MOVED** by Counc. Kilfoil and seconded by Deputy Mayor MacDonald Council re-appoint Mr. Peter McGill to the Rothesay Regional Joint Board of Police Commissioners, with his term to expire December 31, 2013.

**CARRIED.**

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**BY-LAWS**

**9.4 Water By-law Amendments**

8 September 2011 Memorandum from Town Manager Jarvie

Town Manager Jarvie noted Council's request to amend the Water By-law and, upon review, it was noted there are other areas within the By-law that require amendments as well.

**MOVED** by Counc. Gallagher Jette and seconded by Deputy Mayor MacDonald the Water and Sewer Committee review the Water By-law and further make a recommendation to Council with respect to:

- a policy that requires all commercial buildings in areas served by Town water be required to connect by January 1, 2015 and
- all new commercial construction being required to connect (and use) water from the municipal system where available.

**CARRIED.**

**10. NEXT MEETING**

It was noted the next regular meeting of Council will be held **TUESDAY**, October 11, 2011 and there will be a special Meeting on Monday, September 26, 2011.

**11. ADJOURNMENT**

**MOVED** by Counc. Kilfoil and seconded by Counc. Cochrane Council adjourn into Closed Session.

**CARRIED.**

The meeting adjourned at 10:15 p.m.

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MAYOR

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CLERK