



ROTHESAY COUNCIL

OPEN SESSION

Monday, March 14, 2011

MINUTES



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

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

ABSENT: COUNCILLOR TERRY KILFOIL
COUNCILLOR TOM YOUNG

PUBLIC HEARING By-law 2-10-01 (11 Sierra Avenue) PID# 00478792

Documentation

17 February 2011	1 st Section 68 advertisement
10 March 2011	2 nd Section 68 Advertisement
8 March 2011	Recommendation from Planning Advisory Committee
1 March 2011	Staff Report
DRAFT	By-law 2-10-01
18 February 2011	Letter from AMH Properties Ltd.

Appearances: **G. Drescher, Development Officer, Director of Development Services**
Matt Hughes, AMH Properties Ltd.

Objections: Mrs. Hargrove, 21 Sierra Avenue (**Letter** 8 March 2011)
Mr. Joseph McIntyre, 16 Dobbin Street (**Letter**, 10 March 2011)
Mr. Lloyd Riley, Sierra Avenue
Mr. Cucinelli, Sierra Avenue
Mr. Gary Corscadden, **letter** 9 March 2011
Heather Leblanc, **letter** 10 March 2011
Various – petition

PUBLIC HEARING By-law 2-10-02 (13 Sierra Avenue) PID# 00478800

Documentation **As above**
DRAFT By-law 2-10-02

Appearances: **As above**

Objections: **As above**

Mayor Bishop called the Public Hearings to order at 8:00 p.m. and advised the hearings for By-laws 1-10-01 and 1-10-02 would be heard concurrently if there were no objections. He gave instructions to those in attendance.

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DDS Drescher gave a presentation outlining the legislative process and the proposed development. The two vacant lots are located on Sierra Avenue and the proposed rezoning will require a lot consolidation. She noted there are similar developments in the area and the designation is in accordance with the Municipal Plan. DDS Drescher noted a variance will be required for the maximum setback in order to gain a larger buffer area. She advised the development will be similar to the property done by the developers at 6 Scribner Crescent.

Matt Hughes and Andrea Hughes gave a presentation to Council summarizing their proposal. The following comments were made: AMH Properties has done several projects in the Kennebecasis Valley and Hampton area, 6 Scribner Crescent development received the Premier's Award for Energy Efficiency, proposed similar construction, target market is immigrants, seniors looking to downsize and young working professionals, property is in a central location, will support the local economy and is a safe neighbourhood, as much buffer as possible will be maintained including 81 feet along the residential property, the drainage course will be engineered to be re-routed to the edge of the property and storm sewer will be installed along the front, a dry well will also be constructed on the property, \$1.2 million project that will support the local economy.

On questioning from Council the following points were made: the building will be a half storey higher than those already in the area, construction will be the same as 6 Scribner Crescent due to familiarity with costs, accessibility would require a larger footprint and therefore a decreased buffer and the rent would have to be higher to cover the expense of an elevator. Town Manager Jarvie noted no engineering drawings have been reviewed as the project is at the conceptual stage. It was noted the area was not identified as an area impacted in a rain event. DO Hatcher advised the storm sewer on Sierra Avenue was designed to meet standards for a one in ten year rain event and there are portions of the area that are not storm-sewered. It was suggested the project will not add any additional water but could impact the flow.

Mayor Bishop called three times for those who wished to speak in favour.

Mayor Bishop called three times for those who wished to speak in opposition. The following people spoke: Lorna Hargrove, 21 Sierra Avenue, Joe McIntyre, 16 Dobbin Street, Lloyd Riley, Sierra Avenue, Franco Cucinelli, Sierra Avenue, Gary Corscadden, Dobbin Street, Diane Riley, Sierra Avenue. The following comments were made: concerns with drainage issues and flooding, open ditches in some areas, some residents have had flooding issues and sewer backups, concerns expressed in 2008 with previous development on Sierra have not been addressed – traffic flow, left-turn lane, sidewalks, streetlights, garbage cans, basement apartments have been flooded and are unusable, impact on privacy of neighbouring single family residential properties, existing road configuration creates water pooling in the middle of the road and the entrance location on the S-curve road configuration.

Mr. and Mrs. Hughes responded as follows: tenants tend to be longer term residents who are willing to pay a higher rent for a higher quality apartment, a smaller building footprint will allow for more greenspace to accommodate absorption of water, drainage plan will be an engineered solution to meet requirements, and while the developers are residents of Quispamsis, they do own properties in Rothesay.

MOVED by Counc. Cochrane and seconded by Counc. Shea the Public Hearings be adjourned.

CARRIED.

The Public Hearings adjourned at 9:00 p.m.

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PUBLIC HEARING

By-law 2-11 Road closure

Documentation

2 March 2011

1st Section 187 advertisement (Municipalities Act)

9 March 2011

2nd Section 187 Advertisement (Municipalities Act)

DRAFT

By-law 2-11

Appearances:

John Jarvie, Gay Drescher - Rothesay

Mr. Don MacGowan (letter 9 March 2011)

Mayor Bishop called the Public Hearing to order at 9:01 p.m. and gave instructions to those in attendance. Town Manager Jarvie advised the Town owns four lots on a “reserve street” in the area between Scovil Road and Green Road. The Town has no intention to develop the road and it is being proposed there be a lot consolidation to create two lots that may have private access. The intent of the hearing is to determine what, if any, objections there may be to closing the road.

Mayor Bishop called three times for those wishing to speak in favour of the proposal.

Mayor Bishop called three times for those wishing to speak in opposition of the proposal. Mr. Don MacGowan, Q.C. advised he was representing Donald Daniels, 100 Green Road. Mr. MacGowan suggested the property was never vested to any government body and therefore is still vested in the original developer, which ownership has been deeded through to Mr. Daniels.

Mr. MacGowan, Q.C. quoted from the following cases: Moore v. The Woodstock Woollen Mill Company 91899) 29 S.C.R. 627 on appeal from New Brunswick (1899) 34 N.B.R. 475; Bailey v. City of Victoria (1920) 60 S.C.R. 38 at pg 52; Philys F. O’Connor v. Nova Scotia Telephone (1893) 22. S.C.R. 276 at pg 289-290; Gallant v. Melanson (1989) 100 N.B.R.(2d) 276 N.B.Q.B.; and SMT (Eastern) Ltd. v. Ruch 1 D.L.R. 190 N.B.S.C. at pg 196 (either 1939 or 1940).

Mr. MacGowan, Q.C. questioned whether there is in fact a road and reiterated that ownership would revert to the adjoining property owners under common law principles.

MOVED by Counc. Shea and seconded by Counc. Mullett the Public Hearing be adjourned.

CARRIED.

The Public Hearing adjourned at 9:20 p.m.

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Mayor Bishop called the Open Session to order at 9:21 p.m.

1. APPROVAL OF MINUTES

Regular Meeting 14 February 2011

MOVED by Counc. Gallagher Jette and seconded by Counc. Shea the minutes of 14 February 2011 be approved as circulated.

CARRIED.

1.1 Business Arising from Minutes

N/A

2. APPROVAL OF AGENDA

MOVED by Counc. Gallagher Jette and seconded by Counc. Shea the agenda be approved as circulated with the following changes:

Items 9.1 and 9.2 be brought forward and dealt with following Item 5.3.1

CARRIED.

3. OPENING REMARKS OF COUNCIL

Mayor Bishop noted the 3rd Big Rothesay Read book launch will happen on March 16th at 10:00 a.m. at Rothesay High School. He also noted there will be a Public Information Session about the Community Garden proposal on Tuesday, March 22nd at 7:00 p.m. in the Common Room.

4. DELEGATIONS

4.1 Kennebecasis Public Library

Heather Crawford, Chairperson

Michael Richard, Architect

Heather Crawford gave a brief presentation to Council with respect to the proposed new Library. She advised of the actions to date by the Board and Building Committee and showed concept plans for the proposal, noting the Schematic Design phase had been completed. A copy of the proposed internal layout was provided for reference. The total project cost is estimated at \$6.0 million. The next phases of the project are: Design Development, Contract Documentation, Tendering, and Construction. The Library Board is seeking the approval of Rothesay Council to fund its share of architectural services that will complete the Design Development and Contract Documentation stages (total \$260,000). It was noted if the project is over-budget it will be returned to the Building Committee. Counc. Cochrane clarified the entire project cost will be \$6.0 million complete (including furnishings, etc) so the tender will be less than that amount.

Mayor Bishop thanked Mrs. Crawford for her presentation.

5. CORRESPONDENCE FOR ACTION

5.1 14 February 2011 Letter from St. Joseph's Hospital Foundation RE: SJ Dragon Boat Festival support.

MOVED by Counc. Mullett and seconded by Counc. Shea Council give permission for the seventh Annual Dragon Boat Festival to be held at the Renforth Wharf and provide support.

CARRIED.

5.2 26 February 2011 Email from W. Northrup RE: hockey icetime.

MOVED by Counc. Cochrane and seconded by Deputy Mayor MacDonald the email from W. Northrup RE: hockey icetime dated 26 February 2011 be forwarded to the Parks and Recreation Committee.

CARRIED.

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5.3 9 March 2011 Memorandum from Treasurer Johnson RE: KVCrimestoppers funding request.

5.3.1 28 February 2011 Letter from KVCrimestoppers RE: 2011 Funding Request.

MOVED by Counc. Shea and seconded by Deputy Mayor MacDonald Council approve the 2001 Funding Request for KV Crimestoppers in the amount of \$2800.

CARRIED.

9. NEW BUSINESS

BUSINESS ARISING FROM PUBLIC HEARINGS

9.1 11-13 Sierra Avenue By-laws 2-10-01 and 2-10-02

- 8 March 2011 Memorandum from Planning Advisory Committee
- DRAFT By-law 2-10-01
- DRAFT By-law 2-10-02

Counc. Cochrane advised he was in favour of development but was not prepared to vote on the By-laws until previous reports were in front of Council to determine if previous commitments had been satisfied. Counc. Gallagher Jette expressed concerns about drainage issues and advised she was not prepared to vote on the By-laws without additional information. Deputy Mayor MacDonald advised he was not prepared to make a decision without further information.

MOVED by Counc. Gallagher Jette and seconded by Counc. Shea the rezoning application for 11-13 Sierra Avenue be returned to staff to provide further particulars with respect to:

- the watercourse and flooding issues experienced by residents
- the effect of building footprint on run-off and potential downstream effects
- potential environmental issues and possible Department of Environment requirements
- traffic volume, sidewalk status, streetlights and a left-turn lane

CARRIED.

9.2 Scovil/Green Road area – road closure By-law 2-11

DRAFT By-law 2-11

MOVED by Counc. Gallagher Jette and seconded by Deputy Mayor MacDonald By-law 2-11, Road Closure (Scovil/Green Road area) be referred to legal counsel.

CARRIED.

6. CORRESPONDENCE - FOR INFORMATION

6.1 18 February 2011 Email response from Town Manager Jarvie to J. Clark, 15 Cameron Road RE: flooded basement.

MOVED by Counc. Shea and seconded by Counc. Mullett the email response from Town Manager Jarvie to J. Clark, 15 Cameron Road RE: flooded basement dated 18 February 2011 be received/filed.

CARRIED.

6.2 21 February 2011 Fax from C. S. Ekdahl RE: “Day of the Honeybee 2011” proclamation.

MOVED by Counc. Gallagher Jette and seconded by Counc. Shea the fax from C. S. Ekdahl RE: “Day of the Honeybee 2011” proclamation dated 21 February 2011 be received/filed.

CARRIED.

6.3 4 March 2011 Email correspondence (various parties) RE: Oakville Acres detention pond progress.

MOVED by Deputy Mayor MacDonald and seconded by Counc. Shea the email correspondence (various parties) RE: Oakville Acres detention pond progress dated 4 March 2011 be received/filed.

CARRIED.

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7. REPORTS

7.0 March 2011 Report from Closed Session

MOVED by Counc. Cochrane and seconded by Counc. Shea **RESOLVED THAT:** It is the objective of Rothesay to provide flood protection for property downstream of PID 30021539 and PID 00441998 by establishing a storm water detention pond on the property to be acquired and on adjacent lands.

CARRIED.

MOVED by Counc. Cochrane and seconded by Deputy Mayor MacDonald **RESOLVED THAT:**

- (i) William C. Kean be authorized to commence and proceed with the expropriation process to acquire the following lands and premises for the purpose of drainage.

PID	Location
30021539 (Part)	Pettingill Road
00441998 (Part)	Pettingill Road

- (ii) Council appoint Kierstead Quigley and Roberts Ltd., deStecher Appraisals Ltd. and CBCL Engineering its agents to make surveys, do appraisals and conduct other investigations if required.

- (iii) Council hereby authorizes entry by its employees and by its said agents upon the lands and premises to be expropriated.

CARRIED.

MOVED by Counc. Cochrane and seconded by Deputy Mayor MacDonald **RESOLVED THAT:** The Mayor and Clerk be authorized to execute Forms A-2, Notices of Intention to Expropriate and related forms pursuant to the provisions of the *Expropriation Act*, 1973 RSNB ch. E-14, as amended and the Regulations thereunder with respect to the following parcel of land:

PID	Location
30021539 (Part)	Pettingill Road
00441998 (Part)	Pettingill Road

as generally shown on the sketch attached hereto.

CARRIED.

MOVED by Counc. Cochrane and seconded by Deputy Mayor MacDonald **RESOLVED THAT:**

- (i) The Mayor and Clerk be authorized to execute a Notice of Entry pursuant to the provisions of the *Expropriation Act*, Chap. E-14, RSNB, 1973 and amendments thereto and the Regulations thereunder with respect to the said lands and premises, such Notice to advise that the Town, its employees and its named agents intend to enter upon the properties in question commencing not earlier than March 15, 2011, and continuing as

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necessary but in no event later than August 31, 2011 for the purpose of conducting activity to determine the suitability of the said lands and premises for the said purposes.

- (ii) William C. Kean arranges that such Notice of Entry be given in accordance with the requirements of the *Expropriation Act*.

CARRIED.

MOVED by Counc. Cochrane and seconded by Deputy Mayor MacDonald **RESOLVED THAT:** Kierstead Quigley and Roberts Ltd. be retained to provide the Town with the survey documentation required to support the expropriation process with respect to the said lands.

CARRIED.

7.1 8 December 2010 Kennebecasis Valley Fire Department Inc. Board Meeting Minutes
MOVED by Counc. Cochrane and seconded by Counc. Gallagher Jette the Kennebecasis Valley Fire Department Inc. Board Meeting Minutes dated 8 December 2010 be received/filed.

ON THE QUESTION:

Counc. Cochrane noted the Fire Department audit will start later this week.

CARRIED.

7.2 26 January 2011 Rothesay Regional Joint Board of Police Commissioners Meeting Minutes

31 December 2010 RRJBPC Pre-audit Financial Statements

MOVED by Counc. Shea and seconded by Deputy Mayor MacDonald the Rothesay Regional Joint Board of Police Commissioners Meeting Minutes dated 26 January 2011 and the Pre-audit Financial Statements dated 31 December 2010 be received/filed.

CARRIED.

7.3 31 January 2011 Unaudited General Fund Financial Statements

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

CARRIED.

7.4 16 February 2011 Draft Public Works and Infrastructure Committee Meeting Minutes

MOVED by Counc. Mullett and seconded by Counc. Shea the draft Public Works and Infrastructure Committee Meeting Minutes be received/filed.

CARRIED.

➤ Windshield repair

MOVED by Counc. Mullett and seconded by Counc. Shea Council authorize Mr. Splane to be reimbursed for the replacement of the vehicle's windshield.

CARRIED.

7.5 25 February 2011 Draft Finance Committee Meeting Minutes

MOVED by Deputy Mayor MacDonald and seconded by Counc. Cochrane the draft Finance Committee Meeting Minutes dated 25 February 2011 be received/filed.

CARRIED.

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➤ Borrowing Authority – Utilities

MOVED by Counc. Cochrane and seconded by Deputy Mayor MacDonald Resolved: that the town of Rothesay submit to the Municipal Capital Borrowing Board an application for authorization to borrow or guarantee the repayment of money borrowed or deemed borrowed for capital expenses not to exceed the following terms and amounts:

Utilities Fund

Function	Purpose	Amount	Term
Environmental Health - Water	Municipal Water System Expansion	\$1,500,000	30 years

CARRIED.

➤ Gas Tax Funding 2005-2009

MOVED by Counc. Cochrane and seconded by Deputy Mayor MacDonald Resolved: That the document entitled Municipality of Rothesy Revised Gas Tax Capital Plan (2005-2009) be adopted, more specifically:

Project	Amount	Category
PSAB Valuation/Asset Management Software	\$ 200,000	Capacity building
Water Main Relining	150,000	Water
Storm Sewer/Drainage Improvements	300,000	Wastewater
Wastewater Pumping Station Upgrades	<u>750,000</u>	Wastewater
Total	\$1,400,000	

CARRIED.

➤ Gas Tax Funding 2010-2013

MOVED by Counc. Cochrane and seconded by Deputy Mayor MacDonald Resolved: That the document entitled Municipality of Rothesy Revised Gas Tax Capital Plan (2010-2013) be adopted, more specifically:

	2011	2012	2013	Total
Active Transportation Infrastructure				
<i>Sidewalk Improvements/Trails/Paths</i>	\$100,000	\$500,000	\$300,000	\$900,000
Water				
Water System Improvements		100,000	300,000	\$400,000
Wastewater				
<i>Storm Sewer/Drainage Improvements- Various streets</i>	500,000	1,100,000	300,000	\$1,900,000
Sewer System Improvements			300,000	\$300,000
Wastewater pumping station upgrades		100,000		\$100,000
Total	\$600,000	\$1,800,000	\$1,200,000	\$3,600,000

CARRIED.

➤ Public Sector Accounting Board (PSAB) Implementation

MOVED by Counc. Cochrane and seconded by Deputy Mayor MacDonald Resolved that Council award the PSAB valuation and inventory proposal to Dillon Consulting for the proposal price of \$60,000 plus taxes.

CARRIED.

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➤ Oakville Acres Flooding

MOVED by Counc. Cochrane and seconded by Deputy Mayor MacDonald Council cover 50% of the costs, to a maximum of \$15,000 for an engineering study on the pumping station in Quispamsis.

ON THE QUESTION:

Town Manager Jarvie advised the Town Engineer indicated the cost could be as much as \$30,000 so the recommendation was increased from \$13,000 to \$15,000.

CARRIED.

7.6 February 2011 Monthly Building Permit Report

MOVED by Counc. Shea and seconded by Deputy Mayor MacDonald the February 2011 Monthly Building Permit Report be received/filed.

CARRIED.

7.7 7 March 2011 Draft Planning Advisory Committee Meeting Minutes

MOVED by Counc. Gallagher Jette and seconded by Counc. Mullett the draft Planning Advisory Committee Meeting minutes dated 7 March 2011 be received/filed.

ON THE QUESTION:

A typographical error was noted and the minutes approved should read "February 7, 2011".

CARRIED.

➤ 11-13 Sierra Avenue (see Item 9.1)

Dealt with above.

7.8 8 March 2011 Operations Report

MOVED by Counc. Mullett and seconded by Counc. Shea the Operations Report dated 8 March 2011 be received/filed.

ON THE QUESTION:

It was noted there are arbitration matters with respect to the contracts for the water line extension, sewer extension Rothesay Road, Project 2010-01 and the water line extension, Dunedin Road. DO Hatcher advised there are processes in place for contract arbitration and the issues and possible costs are outlined in the correspondence.

CARRIED.

➤ Oakville Acres website information

MOVED by Counc. Mullett and seconded by Counc. Shea the DFO letter be posted to Rothesay's website to provide all information relating to Rothesay's application.

CARRIED.

8. OLD BUSINESS

N/A

9. NEW BUSINESS

BUSINESS ARISING FROM PUBLIC HEARINGS

(Refer to Public Hearings documentation)

9.1 11-13 Sierra Avenue By-laws 2-10-01 and 2-10-02

➤ 8 March 2011 Memorandum from Planning Advisory Committee

DRAFT By-law 2-10-01

DRAFT By-law 2-10-02

Dealt with above.

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9.2 Scovil/Green Road area – road closure By-law 2-11

DRAFT By-law 2-11

Dealt with above.

RECREATION

9.3 Quotation Call 2011-02ParksEQ – Compact Tractor 4

8 March 2011 Memorandum from Recreation Director C. Jensen with attachment

MOVED by Counc. Cochrane and seconded by Counc. Mullett Council award Quotation 2011-02 ParksEQ for the Compact Tractor 4 to Hall Brothers Enterprises Ltd. for the quotation price of \$64,958.11, inclusive of HST.

CARRIED.

9.4 Quotation Call 2011-01ParksEQ – Crew Cab Truck

9 March 2011 Memorandum from Recreation Director C. Jensen with attachment

MOVED by Counc. Cochrane and seconded by Counc. Mullett Council award Quotation 2011-01ParksEQ for the 2011 ¾ Ton Crew Cab to Downey Ford Sales Ltd. for the quotation price of \$49,258.96, inclusive of HST.

CARRIED.

DEVELOPMENT SERVICES

9.5 West Beach Estates Final Security Release

8 March 2011 Memorandum from DDS Drescher

MOVED by Counc. Cochrane and seconded by Deputy Mayor MacDonald THAT Council release \$14,200 as the balance of the security provided to the Town in the form of a Letter of Credit for the development of the final phase of West Beach Estates subdivision.

CARRIED.

Mayor Bishop referred to the presentation from the Kennebecasis Public Library. A financial plan with respect to the Library was requested. It was suggested a funding agreement between Rothesay and Quispamsis be signed prior to any future funding for the project and the agreement should be reviewed by Council.

MOVED by Deputy Mayor MacDonald and seconded by Counc. Mullett the Town Manager prepare a draft cost-sharing agreement for presentation to Quispamsis with respect to the construction of the proposed Kennebecasis Public Library.

CARRIED.

10. NEXT MEETING

The next regular meeting of Council will be Monday, April 11, 2011.

11. ADJOURNMENT

CARRIED.

The meeting adjourned at 10:15 p.m.

MAYOR

CLERK