



ROTHESAY COUNCIL

OPEN SESSION

Tuesday, November 12, 2013

MINUTES



PRESENT: MAYOR WILLIAM J. BISHOP
DEPUTY MAYOR NANCY GRANT
COUNCILLOR MATT ALEXANDER
COUNCILLOR PAT GALLAGHER JETTE
COUNCILLOR BILL McGUIRE
COUNCILLOR MIRIAM WELLS

TOWN MANAGER JOHN JARVIE
TOWN CLERK MARY JANE BANKS
DIRECTOR OF OPERATIONS (DO) BRETT McLEAN
DIRECTOR OF PARKS/REC (DPR) CHARLES JENSEN
DIRECTOR OF PLANNING/DEVELOPMENT (DPDS) BRIAN WHITE

ABSENT: COUNCILLOR PETER LEWIS
COUNCILLOR BLAIR MacDONALD
TREASURER SUSAN JOHNSON

PUBLIC HEARING **47 Clark Road (PID# 30275234) Amending Development Agreement**

Documentation

October 18, 2013	1 st Section 68 advertisement
November 5, 2013	2 nd Section 68 Advertisement
28 October 2013	Staff Report
DRAFT	Amending Development Agreement
5 November 2013	Recommendation from Planning Advisory Committee
Appearances:	B. White, MCIP, RPP Director of Planning/Development Services
	Phil Brodersen, Brodersen Realty Ltd.
Comments:	Letter from property owners 4 Grist Street (Nov 6, 2013)

Mayor Bishop called the Public Hearing to order at 7:00 p.m. and gave instructions to those in attendance. He noted the hearing had been duly advertised and Director of Planning and Development Services (DPDS) Brian White would be giving a presentation on the proposed amending agreement for 47 Clark Road.

DPDS White advised of the following: the proposal is to construct a 4000 square foot building with enhanced landscaping. He noted there are three existing buildings on the property that have been permitted through development agreements and the Planning Advisory Committee granted a variance to allow a fourth building. He noted there are strict requirements in the amending agreement to require enhanced landscaping, including certification by a qualified landscaper and a bond of 110% of the value as a security deposit to ensure the landscaping is completed. DPDS White further noted the landscaping must be completed prior to the issuance of an occupancy permit.

Counc. Alexander requested clarification on the landscaping required under the previous agreements, timelines for completion and the parking area. Counc. Wells noted the area along Clark Road is within the plow area and there will be a buffer hedge of cedar behind the proposed new building where it abuts residential property. Mr. Brodersen pointed out he has added shrubs and potted shrubs around the current buildings. DPDS White noted the strict

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requirements under the current proposed amending agreement and the required type of landscaping, including three landscaped islands. He also advised the Zoning By-law specifies driving aisle widths and parking spaces required and the development will be required to meet those requirements.

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 to the proposal. Mr. Nicholas Cadger (6 Grist Street) and Mr. Gary Creamer (4 Grist Street). The following comments were made: commercial development is moving too far down Clark Road onto residential properties; tree buffer was removed after hours; the corner is too busy; increased traffic and noise with delivery and garbage trucks on the property; privacy has been impacted; concerns about pedestrian traffic cutting through residential properties; hedge and trees have been removed and a pile of dirt remains; agreements have been amended multiple times and buffer zones are not in place.

Counc. Wells asked if there were any suitable options. Mr. Cadger suggested the development is not needed and the quality of life for area residents has been affected; particularly with the removal of the 50 year overgrowth as a buffer. DPDS White noted the Zoning By-law requires at least a 2 metre high fence or hedge where a commercial development abuts a residential property. Mr. Brodersen advised the back wall of the development will not have any windows and will look similar to a house. He also advised the property was not cleared after hours and Town staff were aware it was being done. Mr. Brodersen advised the required buffer and the building itself will provide privacy to the residential properties.

MOVED by Counc. Alexander and seconded by Counc. McGuire the public hearing be adjourned.

CARRIED.

The public hearing adjourned at 7:20 p.m.

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Mayor Bishop called the regular session to order at 7:21 p.m.

1. APPROVAL OF MINUTES Regular meeting 15 October 2013

MOVED by Counc. Gallagher Jette and seconded by Counc. Wells the minutes of 15 October 2013 be adopted as circulated.

CARRIED.

Business Arising from Minutes

n/a

2. APPROVAL OF AGENDA

MOVED by Counc. Wells and seconded by Deputy Mayor Grant the agenda be approved as circulated with the following change:

Item 9.1 brought forward to Item 7.0

CARRIED.

3. OPENING REMARKS OF COUNCIL

Mayor Bishop advised those in attendance of the following: Enterprise Saint John held a meeting last week to update area Councils; the Remembrance Day Service at the qplex was well attended; he attended the KV Chamber of Commerce Business Awards and the Rotary Club dinner that honoured Lynn Irving. He also noted the KV Santa Claus Parade will take place on November 23 and the playground at Rothesay Elementary School has been successfully completed. Counc. McGuire noted the large attendance at the informal Remembrance Day service at the Rothesay Common cenotaph.

4. DELEGATIONS

n/a

5. CORRESPONDENCE FOR ACTION

5.1 Undated Enterprise Saint John True Growth Declaration

MOVED by Counc. Wells and seconded by Deputy Mayor Grant Council endorse the Enterprise True Growth Declaration.

CARRIED.

5.2 15 October 2013 Kennebecasis Public Library 2014 budget

MOVED by Deputy Mayor Grant and seconded by Counc. Wells the 2014 Kennebecasis Public Library budget be referred for budget consideration.

ON THE QUESTION:

Deputy Mayor Grant noted the new library is three times the original size and has more complicated building systems. She noted the four line items that have increased: building maintenance, building maintenance management, utilities and insurance and indicated they are not expected to be incremental increases year over year. It has won awards, including an Innovation Award from the New Brunswick Public Library Service and also the Business Award for community involvement. Deputy Mayor Grant advised responses have been received to the RFP and it appears costs may come in under budget.

CARRIED.

5.3 22 October 2013 Letter from NB Medical Education Trust RE: 2014 scholarship

MOVED by Deputy Mayor Grant and seconded by Counc. Wells the letter dated 22 October 2013 from NB Medical Education Trust RE: 2014 scholarship be referred for budget consideration.

CARRIED.

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5.4 23 October 2013 Email from Fundy Regional Service Commission RE: funding request from Saint John Airport Authority

MOVED by Counc. McGuire and seconded by Counc. Alexander the funding request from Saint John Airport Authority be referred to the Finance Committee for budget consideration.

ON THE QUESTION:

Mayor Bishop noted the airport is in a precarious position and there is a potential for a serious economic impact if it is unable to be sustainable. He noted the request is for \$150,000 a year for four years toward a marketing campaign to increase ridership. The contribution from Rothesay is about \$15,000 a year. Deputy Mayor Grant noted the Town makes significant contributions to many regional initiatives and questioned whether a marketing plan was an effective use of Town funds. Mayor Bishop advised ridership has to increase before grants can be obtained for upgrades to the facility. Counc. Wells suggested a marketing plan is a good idea to advertise better rates are available from the Saint John airport.

CARRIED.

5.5 24 October 2013 Email from Discover Saint John RE: 2014 funding

MOVED by Counc. Wells and seconded by Counc. Alexander the funding request dated 24 October 2013 from Discovery Saint John be referred for budget consideration.

CARRIED.

6. CORRESPONDENCE - FOR INFORMATION

n/a

7. REPORTS

Item 9.1 brought forward.

BUSINESS ARISING FROM PUBLIC HEARING

9.1 47 Clark Road Amending Development Agreement

5 November 2013

Recommendation from Planning Advisory Committee

DRAFT

Amending Development Agreement

MOVED by Deputy Mayor Grant and seconded by Counc. Wells Council authorize the Mayor and Clerk to enter into the amending agreement with Brodersen Realty Ltd. for the development of a fourth commercial building and enhanced landscaping at 47 Clark Road, PID# 30275234.

ON THE QUESTION:

There was a lengthy discussion with respect to the landscaping requirements, previous development requirements and the need for further information. The following comments were made: previous landscaping requirements have not been met; proposed landscape islands are not in suitable locations; enforceability of previous agreements and more strict requirements included in the current proposed agreement; matters of enforcement should be discussed in Closed Session and concerns were expressed at the Planning Advisory Committee meeting and addressed by DPDS White. Mayor Bishop noted the property is well-maintained and the new proposed agreement has stronger enforceability than previous agreements. Counc. Wells suggested Mr. Brodersen believes he has done a good job with landscaping on the property. Counc. Alexander suggested previous agreements should be reviewed as there is insufficient landscaping. Counc. Gallagher Jette suggested additional information is required, based on comments raised during the public hearing with respect to the removal of trees and requirements under the previous agreements. DPDS White advised

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the agreement does not nullify any enforcement issues and his recommendation remains in support of the Planning Advisory Committee to endorse the proposed agreement. Town Manager Jarvie noted the agreement is supplementary to the By-law and unless stated otherwise, the By-law requirements must be met, including the buffer area. He further noted there should be a fence and hedge around the property where it abuts residential properties. Council. Alexander suggested further development should not be considered if there are existing enforcement issues related to the property.

MOVED by Council. Gallagher Jette and seconded by Council. Alexander the amending agreement be tabled until the December Council meeting for further particulars and clarification as related to compliance issues discussed and whether the development should be going ahead with a new building until the concerns are addressed.

NAY vote recorded from Council. Wells.

CARRIED.

7.0 November 2013 Report from Closed Session

➤ Rothesay Common upgrade project

DPDS White and DPR Jensen gave a presentation with respect to the proposal for the Rothesay Common project to be presented to the public at an Open House, should Council wish to proceed. The presentation included ground level and aerial views from various angles, including the proposed service building façades. The project includes two basketball courts with an artificial ice surface, a new playground area, a service building with accessible public washrooms and stage area, re-lining of the brook and installation of a water feature, re-design of the walkways, enhanced landscaping and improved drainage. The footprint of the project is not much larger than what is currently in existence. It was noted the graphics will be presented at the Open House and residents will be encouraged to submit their comments.

MOVED by Council. Wells and seconded by Council. Alexander Council approve the design of the project for presentation at a public open house on November 21st at Rothesay Park School from 5:00 pm to 7:00 pm.

ON THE QUESTION:

Council. Gallagher Jette noted the changes that have been made to the proposal and asked if the proposal was subject to issues with the covenant being resolved or notwithstanding the covenant. Mayor Bishop advised the project would not proceed if the covenant is not changed. Council. McGuire commented on the changes proposed by Mr. Teed with respect to the covenant that will be presented to and discussed with the MLA. Council. Gallagher Jette asked if operational costs would be available at the Open House as related to the artificial ice surface. Town Manager Jarvie noted the mechanical design work has not been done yet as Council has agreed to move slowly with the project and have input at the various stages. He advised the preliminary estimate is approximately \$10,000 a month to operate the ice plant, based on operations from mid-November to the end of March. It was further noted costs are highest when the temperature difference is greatest so the operation period may be adjusted. Town Manager Jarvie noted there will be other costs associated with the operation as well.

NAY vote recorded from Council. Gallagher Jette.

CARRIED.

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MOVED by Counc. Wells and seconded by Deputy Mayor Grant Council approve the wording for the proposed amendment to the covenant as follows:

The first clause in the covenant to the Deed registered as document Number 89355 in book 25 at page 476 is amended as follows, '1. That no building shall be erected on the lands hereby conveyed and said lands shall be used and developed as a public park and for no other purpose, **save and except that a building may be erected on that portion of the property outlined in red on the plan attached hereto as Schedule "A" (the "Lands"), the said building to be ancillary to the operation of a public outdoor rink and recreational area adjacent to the Lands.**

ON THE QUESTION:

Mayor Bishop noted this restricts the proposed development to a small area of the Common and addresses concerns raised about development elsewhere on the Common. He advised the wording had been prepared in consultation with Mr. Teed. Town Manager Jarvie advised the draft covenant will be provided at the Open House on November 21st and the associated graphics will be posted on the website where residents will be encouraged to provide their comments.

CARRIED.

➤ **Municipal Police Agreement**

MOVED by Counc. Gallagher Jette and seconded by Counc. Alexander a meeting be scheduled with both Mayors, Town Managers and two Council representatives from Rothesay and Quispamsis to discuss and resolve the differences in the police agreement.

CARRIED.

7.1 31 December 2012 Kennebecasis Valley Fire Department Audited Financial Statements

MOVED by Counc. Gallagher Jette and seconded by Counc. Wells the 2012 Kennebecasis Valley Fire Department Audited Financial Statements be received/filed.

CARRIED.

7.2 17 September 2013 Fundy Regional Service Commission meeting minutes

MOVED by Counc. Gallagher Jette and seconded by Counc. Wells the Fundy Regional Service Commission meeting minutes dated 17 September 2013 be received/filed.

CARRIED.

7.3 25 September 2013 Rothesay Regional Joint Board of Police Commissioners meeting minutes

MOVED by Counc. McGuire and seconded by Counc. Alexander the Rothesay Regional Joint Board of Police Commissioners meeting minutes dated 25 September 2013 be received/filed.

CARRIED.

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7.4 30 September 2013 Unaudited Utility Financial Statements

MOVED by Deputy Mayor Grant and seconded by Counc. Alexander the unaudited Utility Financial Statements dated 30 September 2013 be received/filed.

CARRIED.

30 September 2013 Unaudited General Fund Financial Statements

MOVED by Deputy Mayor Grant and seconded by Counc. Alexander the unaudited General Fund Financial Statements dated 30 September 2013 be received/filed.

CARRIED.

25 October 2013 Draft Finance Committee meeting minutes

MOVED by Deputy Mayor Grant and seconded by Counc. Wells the draft Finance Committee meeting minutes dated 25 October 2013 be received/filed.

CARRIED.

➤ Comex Route 53

MOVED by Deputy Mayor Grant and seconded by Counc. Wells Council is against contributing to Comex #53.

ON THE QUESTION:

It was noted the route was initially designed for Quispamsis and aided in obtaining LEED certification for the qplex. A review of ridership figures indicates only 11% are Rothesay residents and further, Quispamsis residents are using Rothesay stops to access regular Comex services. Deputy Mayor Grant noted the current contract expires in 2014 and Rothesay's cost will increase from \$72,000 to \$80,000.

CARRIED.

➤ Special Council meeting (November 25, 2013)

Town Manager Jarvie advised typically the audited Financial Statements are received in the spring but the implementation of PSAB has delayed the process. He also noted the draft budget for 2014 will also be reviewed. Mayor Bishop suggested the meeting be held during the day.

MOVED by Counc. McGuire and seconded by Counc. Wells Council schedule a special meeting for Monday, November 25, 2013 at 12 noon, subject to availability of the auditors.

CARRIED.

7.5 7 November 2013 Memorandum from Town Manager Jarvie (Committee recommendations)

Town Manager Jarvie advised the memorandum was provided for clarification and introduction of the various motions arising from both Public Works and Infrastructure and Water and Sewer Committees. The Clerk suggested the Committee minutes be received and filed and the subsequent motions be made as indicated in the Town Manager's memorandum.

16 October 2013 Draft Public Works and Infrastructure Committee meeting minutes

MOVED by Counc. Alexander and seconded by Counc. Wells the draft Public Works and Infrastructure Committee meeting minutes be received/filed.

CARRIED.

23 October 2013 Draft Water and Sewer Committee meeting minutes

MOVED by Counc. Alexander and seconded by Counc. McGuire the draft Water and Sewer Committee meeting minutes be received/filed.

CARRIED.

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- Utility Capital and Operating Budgets

MOVED by Counc. Alexander and seconded by Counc. Gallagher Jette the Utility Capital and Operating Budgets be referred to the budget process.

CARRIED.

- 2014 Vehicle replacement

MOVED by Counc. Wells and seconded by Counc. McGuire the 2014 vehicle replacements recommendation be referred to the budget process.

CARRIED.

- Gondola Point Road pull-off (Our Lady of Perpetual Help)

MOVED by Counc. Wells and seconded by Counc. Alexander Council authorize the removal of the pull-off on Gondola Point Road at Our Lady of Perpetual Help Church for inclusion in the current project.

CARRIED.

- LED Streetlights

MOVED by Counc. Wells and seconded by Counc. Alexander Council authorize a letter to NB Power requesting LED streetlights in 2014.

ON THE QUESTION:

Town Manager Jarvie advised NB Power has not set their schedule for 2014 but they plan to have the entire province completed by 2016.

CARRIED.

- Green Road project

Mayor Bishop suggested there should be a recommendation from the Treasurer as this is a large project and the other projects including Oakville Acres, Rothesay Common upgrade and the arena are major commitments as well. He commented there should be an overall picture. Town Manager Jarvie noted the Green Road project is fairly complex and the current estimate is approximately \$1 million. He noted there is a lot of work still to be completed for the 2013 season and the goal is to reach the point where Council approves projects enough in advance to have the engineering work completed in year 1 for projects in year 2. It was noted there is a private water system at the top of the hill and the project was brought forward as paving of Green Road has been on the capital works list for six years but the infrastructure work needs to be done prior to paving, particularly consideration for the extension of the water system and sanitary and storm sewers. Town Manager Jarvie suggested Council could authorize the engineering consulting work at this point and then make a decision whether to proceed with the construction project. Deputy Mayor Grant agreed with moving projects ahead as projects for 2013 were late getting started.

MOVED by Counc. Wells and seconded by Deputy Mayor Grant Council authorize staff to proceed with selection of engineering consultants for the Green Road project.

CARRIED.

7.6 21 October 2013 Draft Emergency Measures Committee meeting minutes

MOVED by Counc. McGuire and seconded by Counc. Wells the draft Emergency Measures Committee meeting minutes dated 21 October 2013 be received/filed.

ON THE QUESTION:

There was a lengthy discussion with respect to the current status of EMO in the Valley. Counc. McGuire advised a joint meeting had been held with Quispamsis representatives,

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protective services representatives and the KV EMO Director and provincial Regional Director. It was noted there was agreement for the need of a co-Director if Brian Shanks is unavailable. Deputy Mayor Grant asked when the generator would be installed at the Works Garage and where on Tennis Court Road the other generator would be installed. DO McLean advised there is lead time required to design the electrical installation and the Tennis Court Road generator would be for the lift station. Deputy Mayor Grant mentioned a recent newspaper article outlining training exercises be held in Quispamsis in 2014. Counc. McGuire advised it had been discussed and he understood they would be joint exercises. Deputy Mayor Grant suggested the decisions are being made unilaterally and not by the Committee and Rothesay is being excluded. Mayor Bishop advised the decision was made to proceed with joint emergency measures and joint exercises would be undertaken in 2014. It was suggested a letter be sent to the KVEMO Coordinator expressing the concerns of Rothesay. Counc. Gallagher Jette noted Mr. Shanks sits on the Fire Board and has commented Quispamsis has been more proactive than Rothesay in approaching emergency measures in the past. Town Manager Jarvie advised Mr. Shanks will be attending the December Council meeting for a presentation. He noted the memorandum referred to in the newspaper article was from the Quispamsis Town Manager and not Mr. Shanks. He also noted the Quispamsis exercise was not mentioned at the joint meeting and further commented on the need for a co-Director, who could possibly be a Rothesay resident.

7.7 22 October 2013 Draft Parks and Recreation Committee meeting minutes

MOVED by Counc. McGuire and seconded by Counc. Wells the draft Parks and Recreation Committee meeting minutes dated 22 October 2013 be received/filed.

CARRIED.

7.8 30 October 2013 Monthly Building Permit Summary report

MOVED by Counc. Wells and seconded by Counc. Alexander the October Monthly Building Permit Report be received/filed.

CARRIED.

7.9 4 November 2013 Draft Planning Advisory Committee meeting minutes

MOVED by Counc. Wells and seconded by Counc. McGuire the draft Planning Advisory Committee meeting minutes be received/filed.

ON THE QUESTION:

It was noted there have been changes to provincial policy regarding nursing homes and the developers of McNair Manor may be seeking Council's assistance in lobbying the government for changes.

CARRIED.

- Eriskay Drive – street renaming

MOVED by Counc. Wells and seconded by Counc. McGuire Council approve the new name of "Eriskay Drive" for the three (3) streets currently known as Robertson Drive, Clermont Lane and Eriskay Place.

CARRIED.

- Donlyn Drive – assent to public street

MOVED by Counc. Wells and seconded by Counc. Alexander Council vest the future street, Donlyn Drive (PID# 30186795) as shown on Plan No. 10410083 as a Public Street in accordance with Section 56 of the *Community Planning Act*.

CARRIED.

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8. UNFINISHED BUSINESS

8.1 Kennebecasis Park Emergency Access (*tabled January 2013*)

7 November 2013 Memorandum from Deputy Mayor Grant
8 January 2013 Memorandum from DO McLean

MOVED by Deputy Mayor Grant and seconded by Council. Wells the Kennebecasis Park Emergency Access be removed from the table.

CARRIED.

MOVED by Deputy Mayor Grant and seconded by Council. Alexander Council establish an Ad Hoc Committee on the Entrance to Kennebecasis Park in accordance with the proposal as presented, effective January 1, 2014.

ON THE QUESTION:

Deputy Mayor Grant noted that access to Kennebecasis Park has been a concern for a number of years but there is increased train and vehicular traffic and it is becoming more dangerous. She advised the goal of the committee is to develop partnerships and noted it will require multiple partnerships, years of work and millions of dollars to find a solution.

CARRIED.

8.2 Sunday Shopping Hours

7 November 2013 Memorandum from Town Manager Jarvie

MOVED by Council. Alexander and seconded by Council. McGuire the memorandum dated 7 November 2013 from Town Manager Jarvie RE: Sunday Shopping be received/filed.

CARRIED.

TABLED AGENDA ITEMS (*no action recommended at this time*)

8.3 Traffic By-law 3-03 (*tabled August 2013*)

8 August 2013 Memorandum from DO McLean

No action required.

8.4 Sign By-law Amendment – By-law 3-10-2 (*tabled October 2013*)

8 October 2013 Memoranda PAC/Town Clerk/DPDS White
DRAFT By-law 3-10-2

MOVED by Council. Alexander and seconded by Council. Wells Sign By-law Amendment 3-10-2 be removed from the table.

CARRIED.

MOVED by Council. Alexander and seconded by Council. McGuire Council direct the Planning Advisory Committee to review the Sign By-law and consider or develop an amendment with respect to community-type signage (Lions Club) and provide details so it could be dealt with to address the concerns of community groups as expressed during the public hearing.

ON THE QUESTION:

Council. Wells advised the Planning Advisory Committee discussed the amendment extensively and the proposal was in line with surrounding communities and requested clarification as to whether the policy should address exceptions to the requirements rather than fully removing the restrictions. She suggested the rule should remain and there should be an outline on how to deal with exceptions to the rule; noting the community groups did not seem to be in opposition to that approach. Council. Alexander agreed there should be a process. Council. McGuire suggested the permission be granted for a year or two years at a

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time; noting the Lions Club for instance advertises 7 times a year and the Legion promotes their Sunday brunch every week. He suggested there should be some leeway but they must apply for an exception so the Town can maintain some control over signage.

CARRIED.

9. NEW BUSINESS

BUSINESS ARISING FROM PUBLIC HEARING

9.1 47 Clark Road Amending Development Agreement
5 November 2013 Recommendation from Planning Advisory Committee
DRAFT Amending Development Agreement

Dealt with above.

OPERATIONS

9.2 Street Reconstruction Gondola Point Road Contract T-2013-11

6 November 2013 Memorandum from DO McLean

MOVED by Counc. Gallagher Jette and seconded by Counc. McGuire the memorandum from DO McLean dated 6 November 2013 RE: Contract T-2013-11 Street Reconstruction Gondola Point Road be received/filed.

CARRIED.

DEVELOPMENT SERVICES

9.3 Encroachment Agreement – Kennebecasis Park

6 November 2013 Memorandum from DPDS White (66 Park Drive)

MOVED by Counc. Alexander and seconded by Counc. McGuire Council authorize the Mayor and Clerk to enter into an Encroachment Agreement with Carolyn Diane Demers-Flood and Brian Joseph Flood of 66 Park Drive, PID# 30094239.

CARRIED.

10. NEXT MEETING

It was noted there will be a special meeting of Council on Monday, November 25, 2013 at 12 noon.

The next regular meeting will be held on Monday, December 9, 2013.

11. ADJOURNMENT

MOVED by Counc. Gallagher Jette and seconded by Counc. McGuire the meeting be adjourned.

CARRIED.

The meeting adjourned at 8:58 p.m.

MAYOR

CLERK