

The City of Saint John

MINUTES – REGULAR MEETING COMMON COUNCIL OF THE CITY OF SAINT JOHN JULY 8, 2019 AT 6:00 PM IN THE COUNCIL CHAMBER

Present: Mayor Don Darling Deputy Mayor Shirley McAlary Councillor-at-Large Gary Sullivan Councillor Ward 1 Blake Armstrong Councillor Ward 1 Greg Norton Councillor Ward 2 Sean Casey Councillor Ward 2 John MacKenzie Councillor Ward 3 Donna Reardon Councillor Ward 3 Donna Reardon Councillor Ward 4 David Merrithew Councillor Ward 4 Ray Strowbridge

Also Present: City Manager J. Collin

Deputy City Manager N. Jacobsen City Solicitor J. Nugent Fire Chief K. Clifford Commissioner of Finance and Treasurer K. Fudge Deputy Commissioner Growth and Community Development P. Ouellette Deputy Commissioner of Transportation and Environment J.Hussey Commissioner of Saint John Water B. McGovern Common Clerk J. Taylor Deputy Common Clerk P. Anglin

1. Call to Order

2. Approval of Minutes

2.1 <u>Minutes of June 17, 2019</u>

Moved by Deputy Mayor McAlary, seconded by Councillor Merrithew: RESOLVED that the minutes of the meeting of Common Council held on June 17, 2019, be approved.

MOTION CARRIED.

3. Approval of Agenda

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan: RESOLVED that the agenda of this meeting be approved with the addition of items:

- 12.3 M&C 2019-168 South Bay Wellfield Performance staff report added
- 17.1 Sustainability Report Update
- 17.2 Appointments to Committees
- 17.3 South Bay Wellfield Update
- 17.4 Pension Plan Analysis Project

MOTION CARRIED.

Moved by Councillor Norton, seconded by Councillor Sullivan: RESOLVED that the item 17.3 South Bay Wellfield Update be moved ahead on the agenda.

MOTION CARRIED.

4. Disclosures of Conflict of Interest

City Solicitor J. Nugent, Deputy City Manager N. Jacobsen and Councillor G. Norton declared a conflict with the items 12.3 South Bay Wellfield Performance and 17.3 South Bay Wellfield Update.

5. Consent Agenda

5.1 Refer to Discussion 14.1

5.2 That the Saint John Board of Police Commissioners - 2018 Operating Budget - December Year End (Unaudited) Financial Results be received for information.

5.3 That the M.E. Carpenter Letter: Safe Pedestrian Access be received for information.

5.4 That the M.E. Carpenter Letter: Saint John Transit Evaluation be received for information.

5.5 That as recommended by the City Manager in the submitted report *M&C 2019-163: Proposal for Cured-in-Place Point Repair Liners*, the standing offer agreement for the supply and installation of Cured-in-Place Point Repair Liners and associated work be awarded to Industrial Hydro-Vac NB Limited for 2019 with an option to extend for years two through five.

5.6 That as recommended by the City Manager in the submitted report *M&C 2019-169: Online Payment Solution,* Common Council receive the report for information.

5.7 That as recommended by the City Manager in the submitted report *M&C 2019-173: Succeed and Stay Project - Research,* the City enter into an agreement with the University of New Brunswick for the Succeed and Stay Project.

5.8 That as recommended by the City Manager in the submitted report *M&C* 2019-164: Licence Agreement for Moonlight Bazaar on City Property,

- 1. That the City enter into a Licence agreement with Five & Dime Inc. hereby called the "Organizer" for \$1.00 to grant its agents, employees, partners and contractors access to and use the City owned property, identified as PID No. 8979 for the Moonlight Bazaar event, including the painting of a mural on the City retaining wall, and further removal of same, subject to the following terms and conditions:
 - a. the Licence shall commence on July 15, 2019 and conclude at 11:59 pm (local time) on July 21, 2019;
 - b. that Five & Dime Inc. shall, at no expense to the Licensor, obtain and maintain in full force and effect during the entire term of this Licence, a Commercial General Liability Insurance policy with policy limits of not less than five million dollars (\$5,000,000.00) inclusive per occurrence for bodily injury and property damage; which policy shall name the City as an additional insured and shall contain a cross-liability clause and host liquor liability coverage;
 - c. proof of insurance stated in (b) above is due on or before close of business July 12, 2019;
 - d. all damages, cost, claims, demands, actions, suits or other proceedings by whomsoever claimed, made, brought or prosecuted in any manner and whether in respect of property owned by others or in the Licensee does hereby indemnify and save harmless the Licensor from respect of damage sustained by others based upon or arising out of or in connection with the use of the Licensed Area;
 - e. the Organizer is responsible for security of the area and their property;

- f. that the organizing committee has made satisfactory arrangements with the Saint John Parking Commission for the temporary relocation of the necessary parking spaces for the users of the parking lot for the length of time as noted above in (a);
- g. the provision of washroom facilities will be the responsibility of the Organizer;
- h. the site is to be thoroughly cleaned to the satisfaction of the City of Saint John representatives when the event has concluded;
- i. that Five & Dime Inc. or its representatives be authorized to make application for any permit that is required in conjunction with the Moonlight Bazaar event; and
- j. that the proponent provide \$1,000.00 to the City to be used for future maintenance of the art work, as the City deems appropriate, and
- 2. That the Mayor and Common Clerk be authorized to execute the Licence Agreement.

5.9 That as recommended by the City Manager in the submitted report *M&C 2018-160: Sale of Portion of Land at Mispec Beach to the Province*, Common Council enter into the Corporate Agreement of Purchase and Sale with Her Majesty The Queen in Right of the Province of New Brunswick, as represented herein by the Minister of Transportation and Infrastructure, attached hereto M & C # 2019-160, and further directs the Mayor and Common Clerk to execute any document necessary to effect the transfer.

5.10 That as recommended by the City Manager in the submitted report *M&C 2019-174: Naval Memorial – Harbour Passage – Licence Agreement with United Services Institute of New Brunswick ("RUSI"),* Common Council approve the proposed Licence Agreement between the City and Royal United Services Institute of New Brunswick Inc. ("RUSI") as attached to M&C 2019-174 and authorize its execution by the Mayor and Common Clerk once confirmation has been received that RUSI has been duly incorporated.:

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan:

RESOLVED that the recommendation set out in each consent agenda item respectively, with the exception of item 5.1 which has been referred as item 14.1 for discussion, be adopted.

MOTION CARRIED UNANIMOUSLY.

6. Members Comments

Council members commented on various community events.

7. Proclamations

7.1 <u>Hepatitis Awareness Day – July 28, 2019</u>

The Mayor declared July 28, 2019 as Hepatitis Awareness Day in the City of Saint John.

8. Delegations/Presentations

9. Public Hearings 6:30 PM

9.1 <u>Proposed Zoning Bylaw Amendment – 0 Heather Way with Planning Advisory</u>
<u>Committee report recommending Rezoning / Staff Presentation</u>
9.1.1 <u>Zoning Bylaw Amendment (1st and 2nd Reading)</u>

Ken Melanson presented the recommendations contained in the staff report.

The Common Clerk advised that the necessary advertising was completed with regard to amending Schedule A, the Zoning Map of The City of Saint John, by re-zoning a parcel of land having an area of approximately 55,603 square metres, located at 0 Heather Way, also identified as PID Number 55208300 from Two-Unit Residential (R2) to Mid-Rise Residential (RM) with no written objections received.

Consideration was also given to a report from the Planning Advisory Committee submitting a copy of Planning staff's report considered at its June 18, 2019 meeting at which the committee recommended the rezoning of a parcel of land located at 0 Heather Way as described above with Section 59 Conditions.

The Mayor called for members of the public to speak against the re-zoning with no one presenting.

The Mayor called for members of the public to speak in favour of the re-zoning with Andrew Toole representing the developer Dunnett's Landscaping Ltd. presenting.

Moved by Deputy Mayor McAlary, seconded by Councillor Merrithew:

RESOLVED that the by-law entitled, "A Law to Amend the Zoning ByLaw of The City of Saint John" amending Schedule A, the Zoning Map of The City of Saint John, by re-zoning a parcel of land having an area of approximately 55,603 square metres, located at 0 Heather Way, also identified as PID Number 55208300 from Two-Unit Residential (R2) to Mid-Rise Residential (RM), be read a first time.

MOTION CARRIED.

Read a first time by title, the bylaw entitled, "A Law to Amend the Zoning By-Law of The City of Saint John."

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan:

RESOLVED that the by-law entitled, "A Law to Amend the Zoning Bylaw of The City of Saint John" amending Schedule A, the Zoning Map of The City of Saint John, by re-zoning a parcel of land having an area of approximately 55,603 square metres, located at 0 Heather Way, also identified as PID Number 55208300 from Two-Unit Residential (R2) to Mid-Rise Residential (RM), be read a second time.

MOTION CARRIED.

Read a second time by title, the bylaw entitled, "A Law to Amend the Zoning By-Law of The City of Saint John."

9.2 <u>Proposed Zoning Bylaw Amendment – 646-648 Westmorland Road with Planning</u> <u>Advisory Committee report recommending Rezoning / Staff Presentation</u> 9.2.1 Zoning Bylaw Amendment (1st and 2nd Reading)

The Common Clerk advised that the necessary advertising was completed with regard to amending Schedule A, the Zoning Map of The City of Saint John, by re-zoning a parcel of land having an area of approximately 1,000 square metres, located at 648 Westmorland Road, also identified as PID Number 55208300 from Two-Unit Residential (R2) to Neighbourhood Community Facility (CFN) with no written objections received.

Consideration was also given to a report from the Planning Advisory Committee submitting a copy of Planning staff's report considered at its June 18, 2019 meeting at which the committee recommended the rezoning of a parcel of land located at 646-648 Westmorland Road as described above with Section 59 Conditions.

The Mayor called for members of the public to speak against the re-zoning with no one presenting.

The Mayor called for members of the public to speak in favour of the re-zoning with Mr. Harold McInnis East Side Food Bank and Rev. Greg McMullen St Mary's and St Bartholomew's Church presenting.

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan:

RESOLVED that the by-law entitled, "A Law to Amend the Zoning Bylaw of The City of Saint John" amending Schedule A, the Zoning Map of The City of Saint John, by re-zoning a parcel of land having an area of approximately 1,000 square metres, located at 648 Westmorland Road, also identified as PID Number 55208300 from Two-Unit Residential (R2) to Neighbourhood Community Facility (CFN), be read a first time.

MOTION CARRIED.

Read a first time by title, the bylaw entitled, "A Law to Amend the Zoning Bylaw of The City of Saint John."

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan:

RESOLVED that the by-law entitled, "A Law to Amend the Zoning Bylaw of The City of Saint John" amending Schedule A, the Zoning Map of The City of Saint John, by re-zoning a parcel of land having an area of approximately 1,000 square metres, located at 648 Westmorland Road, also identified as PID Number 55208300 from Two-Unit Residential (R2) to Neighbourhood Community Facility (CFN), be read a second time.

MOTION CARRIED.

Read a second time by title, the bylaw entitled, "A Law to Amend the Zoning Bylaw of The City of Saint John."

10. Consideration of By-laws

10.1 <u>ByLaw respecting Code of Conduct for Elected Members of The City of Saint John</u> (3rd Reading)

Moved by Councillor Reardon, seconded by Councillor Sullivan:

RESOLVED that the by-law entitled, "By-Law Number LG-5, A By-Law respecting the Code of Conduct for Elected Members of The City of Saint John", be read.

MOTION CARRIED.

In accordance with the Local Governance Act sub-section 15(3) the by-law entitled, "A ByLaw respecting Code of Conduct for Elected Members of The City of Saint John" instead of being read in its entirety was read in summary as follows:

"The *Local Governance Act* authorizes and requires local governments to establish a Code of Conduct Bylaw. The submitted *Code of Conduct Bylaw* includes the following mandatory provisions:

- Values of Members of Council
- Behavior of Members of Council
- Use of Local Government Property, Resources and Services by Members of Council
- Use of Communication Tools and Social Media.

The Code of Conduct Bylaw also addresses:

- Conflicts of Interest
- Roles and Responsibilities
- Gifts and Benefits
- Conduct at Meetings

- Handling of Confidential Information including a provision to not disclose confidential information following service on Council, and
- Remedial Action if Contravention occurs."

Moved by Deputy Mayor McAlary, seconded by Councillor Merrithew: RESOLVED that the by-law entitled, "*By-Law Number LG-5, A By-Law respecting the Code* of Conduct for Elected Members of The City of Saint John", be read a third time, enacted, and the Corporate Common Seal affixed thereto.

MOTION CARRIED.

Read a third time by title, the by-law entitled, "By-Law Number LG-5, A By-Law respecting the Code of Conduct for Elected Members of The City of Saint John."

10.2 <u>Public Presentation – Proposed Municipal Plan Amendment re: Policies related</u> to Green Energy Development

Deputy Commissioner Ouellette read into the record a public presentation to amend the *Municipal Plan* policies including amending Sections 2.4 The Rural Areas, 2.5 Lands Common to the Primary Development Area and The Rural Areas, 7.8 Energy Efficiency and subsections 3.6.1 Rural Resource and 3.7.1 Parks and Natural Areas in addition to other relevant subsections and policies in order to facilitate Green Energy Developments and facilitate the ability to construct green energy projects involving wind and solar in limited designations in the Municipal Plan.

As advertised, written objections to the proposed amendment may be made to Council by August 7, 2019. Enquiries may be made to the Common Clerk or the Growth and Community Services.

11. Submissions by Council Members

12. Business Matters - Municipal Officers

12.1 <u>General Fund Debt Management Policy FAS-006</u>

Councillor Merrithew, Chair of Finance commented on the importance of the General Fund Debt Management Policy. The Commissioner of Finance outlined the report details.

Moved by Councillor Merrithew, seconded by Councillor Sullivan:

RESOLVED that as recommended by the City Manager in the submitted report entitled *M&C 2019-167: General Fund Debt Management Policy FAS-006,* Common Council approve the General Fund Debt Management Policy FAS-006

MOTION CARRIED.

12.2 <u>2019-2020 Arena Rental Fees and Ice Allocation Policy</u>

Referring to the submitted report entitled *2019-2020 Arena Rental Fees and Ice Allocation Policy* Deputy Commissioner T. O'Reilly illustrated the proposed 2019-2020 rates and the rate comparison throughout the region and Atlantic Canada.

The City Manager commented that the cost recovery model referred to in the report is set for one season only. The rates are estimated operating cost-recovery shared by the Saint John Taxpayers and Arena Users. Capital Costs are not addressed. Going forward all aspect of City finances involving the arena rental fees will be reviewed.

Moved by Deputy Mayor McAlary, seconded by Councillor Hickey:

RESOLVED that as recommended by the City Manager in the submitted report entitled *M&C 2019-166: 2019-2020 Arena Rental Fees and Ice Allocation Policy*, Common Council:

- 1) Endorse the changes proposed in M&C 2019 166 to how the City charges fees for rental of ice at the four City-operated arenas,
- 2) Endorse a continued investment of additional City taxpayer contribution to reduce the cost of youth access to ice at the City's four City-operated arenas,
- 3) Approve the arena hourly rental rates at the four City-operated arenas for one year starting October 11, 2019 as proposed in M&C 2019- 166, and
- 4) Approve the updated City of Saint John Ice Allocation Policy as attached to M&C 2019 166.

MOTION CARRIED.

City Solicitor J. Nugent, Deputy City Manager N. Jacobsen and Councillor G. Norton withdrew from the meeting.

12.3 <u>M&C 2019-168 South Bay Wellfield Performance</u>

Referring to the submitted report entitled *M&C 2019-168 South Bay Wellfield Performance* the Commissioner of Water advised of the proactive steps required to reduce demand on the wells and protect the South Bay Wellfield from the risk of saltwater intrusion. The West Side Water Servicing Adjustments will transition sections of West Side to water from the Loch Lomond Drinking Water Treatment Facility. Other areas will remain on the South Bay wells.

The City is pursuing legal remediation from the consulting firm, BGC Engineering Inc. the SCDWP Groundwater Advisor that recommended the South Bay Wellfield as a sustainable source for the City.

The Commissioner stated that Saint John Water continues to serve customers across the City with safe, clean, drinking water quality that exceeds the New Brunswick and the Canadian guidelines for drinking water quality. Regular testing of the water supplies from both the South Bay Wellfield and the Loch Lomond Drinking Water Treatment Facility (LLDWTF) confirms that Saint John has two excellent sources of high-quality drinking water. Water quality results are available on the City's website.

A series of public open houses has been scheduled by the City to answer residents' questions about the Loch Lomond switchover. Communications resources are also being made available to the public. An interactive map for residents is available on the webpage to assist residents determine if they will be receiving well water or water from the Loch Lomond Drinking Water Treatment facility.

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan: RESOLVED that as recommended by the City Manager in the submitted report entitled

M&C 2019-168 South Bay Wellfield Performance Common Council adopt the following:

Whereas, in preparation for carrying out the Safe, Clean Drinking Water Project (SCDWP), the City of Saint John explored potential sources of safe, clean drinking water; and

Whereas, in 2012, the South Bay Aquifer was identified as a potential source of groundwater; and

Whereas the City engaged engineering consultants to carry out due diligence, to verify the quality and quantity of water in the South Bay Aquifer; and

Whereas the City's engineering consultants advised that the South Bay Aquifer could supply a sufficient quantity of safe, clean drinking water to service West Saint John; and

Whereas, in reliance upon that advice, the City arranged, as part of the SCDWP, to supply drinking water to West Saint John from three wells that draw water from the South Bay Aquifer; and

Whereas, in 2018, following the implementation of that decision, the City was advised by the same engineering consultants that, contrary to prior advice, the South Bay Aquifer cannot supply an adequate quantity of water for West Saint John without well water levels falling below sea level, and below the minimum prescribed level set out in the Approval to Operate granted by the New Brunswick Department of the Environment and Local Government for the West Wells; and Whereas, in order to address the long-term risk of saltwater intrusion into the South Bay Aquifer, and in order to ensure compliance with the Approval to Operate, it is necessary to reduce the quantity of water drawn by the City from the South Bay Aquifer; and

Whereas the City has identified an interim solution, that involves supplying areas of West Saint John with safe, clean drinking water from the Loch Lomond Drinking Water Treatment Facility;

Now therefore be it resolved that the City implement the interim solution described in M&C No. 2019-168 of supplying water from the Loch Lomond Drinking Water Treatment Facility to Lower West, Milford, Randolph, Fundy Heights, Duck Cove and Sand Cove neighbourhoods, as shown in a yellow colour on the plan titled West Side Water Servicing Adjustments in Appendix 1 while it develops a long-term solution to ensure a long-term sustainable supply of safe, clean drinking water for West Saint John.

MOTION CARRIED.

City Solicitor J. Nugent, Deputy City Manager N. Jacobsen and Councillor G. Norton reentered the meeting.

13. Committee Reports

14. Consideration of Issues Separated from Consent Agenda

14.1 (5.1) That the Fundy Regional Service Commission - Audited Financial Statements for the Year Ended 31 December 2018.

Moved Deputy Mayor McAlary, seconded by Councillor Reardon: RESOLVED that the Fundy Regional Service Commission be requested to present to council on their mandate, achievements to date and plans for the future.

MOTION CARRIED.

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan: RESOLVED that the Fundy Regional Service Commission – Audited Financial Statements for the Year Ended 31 December 2018 be received for information.

MOTION CARRIED.

15. General Correspondence

15.1 <u>Ticket Purchase Request – New Brunswick Afrofest</u>

Moved by Deputy Mayor McAlary, seconded by Councillor Hickey:

RESOLVED that the Ticket Purchase Request – New Brunswick Afrofest be approved and the Office of the Common Clerk be directed to purchase tickets for those Council members wishing to attend the event.

MOTION CARRIED.

16. Supplemental Agenda

17. Committee of the Whole

17.1 Sustainability Report Update

The City Manager commented that the City received a Cabinet Confidence document; and recommends that Council request the Government of New Brunswick to release the Cabinet Confidence document publicly; thereafter Council will debate the report.

Responding to question, the City Solicitor advised that the document provided to the City by the province has impressed on the top of the page that the report is "Advice to Cabinet and Common Council: Confidential – Not for Distribution or Release". The provincial legislation *Right to Information and Protection of Privacy Act* (RTIPPA) expressly provides that a public body must not disclose advice given to Cabinet.

Moved by Councillor Sullivan, seconded by Councillor MacKenzie: RESOLVED that Common Council formally request to the Government of New Brunswick the public release of the Saint John Sustainability Report; after which Common Council will determine its position on the aforementioned report.

MOTION CARRIED with the Deputy Mayor McAlary and Councillors Norton and Casey voting nay.

Responding to question "Will the release of all relevant information include any and all advice received from senior staff?" the City Manager responded that all the information will be included.

Moved by Councillor MacKenzie, seconded by Councillor Sullivan:

RESOLVED that Common Council formally request that all parties publicly release all analysis, information and products associated with the work and deliberations of the Joint Sustainability Working Group.

MOTION CARRIED with Councillor Casey voting nay.

17.2 Appointments to Committees

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan:

RESOLVED that as recommended by the Committee of the Whole having met on July 8th, 2019 Common Council approve the following appointments:

Community Grants Evaluation – to appoint Amit Tamarak for a three year term from July 8, 2019 to July 8, 2022.

Fort LaTour Development Authority – to appoint Jane Fullerton for a three year term from August 23, 2019 to August 23, 2022.

Growth Committee – to appoint Councillor David Hickey from July 8, 2019 to the end of his current term on Council.

PRO Kids – to re-appoint Devin Burnham for a three year term from August 23, 2019 to August 23, 2022.

Saint John Community Arts Board – to appoint Lisa Hrabluk, Joanna Killen, Suping Shi, and Trina Thorpe each for a three year term from July 8, 2019 to July 8, 2022.

Saint John Energy – to re-appoint Bill Edwards for a three year term from July 8, 2019 to July 8, 2022; and to re-appoint Stephen MacMackin for a three year term from September 4, 2019 to September 4, 2022.

Saint John Free Public Library – to appoint Mohamed Bagha for a three year term from August 23, 2019 to August 23, 2022.

Saint John Substandard Properties Appeal Committee – to appoint Don Cullinan for a three year term from July 8, 2019 to July 8, 2022.

MOTION CARRIED.

Councillor Hickey expressed interest to fill a vacant position on the Arts Board.

Moved by Councillor Reardon, seconded by Councillor MacKenzie: RESOLVED that Councillor Hickey's request to apply to be a member of the Arts Board be referred back to the Nominating Committee.

MOTION CARRIED.

17.3 South Bay Wellfield Update Hydrogeological Assessment

Moved by Councillor Reardon, seconded by Councillor Armstrong: RESOLVED that as recommended by the Committee of the Whole having met on June 24th, 2019 concerning the South Bay Wellfield Sustainable Yield and Potential Claim Against BGC Engineering Inc., Common Council approve the following: 1. That, pursuant to its contractual obligations, The City of Saint John provide 30 days' notice to BGC Engineering Inc. of termination of its contract with the City relating to the Hydrogeological Assessment of the South Bay Wellfield; and further

2. That The City of Saint John initiate the Dispute Resolution Process leading to arbitration under the contract between the City and BGC Engineering Inc. relating to the Hydrogeological Assessment of the South Bay Wellfield; and further

3. That the City of Saint John retain Torys LLP for legal services required in relation to the South Bay Wellfield for an amount not to exceed \$275,000.00 plus HST and disbursements.

MOTION CARRIED.

17.4 Pension Plan Affordability

Moved by Councillor Reardon, seconded by Councillor Hickey: RESOLVED that as recommended by the Committee of the Whole having met on July 8, 2019 Common Council approve a maximum of \$70,000 be allocated from the Restructuring Reserve Fund to support the Pension Plan Affordability Analysis Project.

MOTION CARRIED with Deputy Mayor McAlary and Councillor Armstrong voting nay.

18. Adjournment

Moved by Councillor MacKenzie, seconded by Councillor Armstrong: RESOLVED that the meeting of Common Council held on July 8, 2019, be adjourned.

MOTION CARRIED.

The Mayor declared the meeting adjourned at 8:55 p.m.