

Council Meeting for the Community of Malpeque Bay  
July 22, 2015  
Kensington Town Hall Board Room

Present: Herb Clark, Tyler Pickering, Tim Thompson, Jamie Crozier  
Regrets: Paul Brown, Trent Caseley, Myles Hickey

Administrator: Joanne McCarvill

The meeting was called to order by Chairman Crozier at 7:10 pm

The minutes of the May 13, 2015 meeting were adopted as circulated.

### **Street Lights**

Joanne identified that the cost of operating a street light within the municipality would be approximately \$150.00/year per light. Maritime Electric would facilitate the installation at no cost to the community. When a light is installed a contract needs to be signed by the community agreeing to pay for the service for one year.

The following areas were identified as potential spots where lighting would be beneficial:

Penderosa corner

Darnley corner

Ball field in Spring Valley

Malpeque corner (Joyce Bryenton will be contacted to see why light is not currently used)

Rte 103 and both ends of Memory Lane

Rte 20 and 104 – Joanne will contact Dawn Moase to find out the procedure to have this corner identified as ‘hazardous’ which would mean that the Province would look after the lighting.

It was moved by Herb Clark and seconded by Tim Thompson for Joanne to proceed with having street lights installed at the above mentioned sites provided residents who may be directly affected are contacted and agree to the installation. **Motion Carried**

### **Notional Allocation Funding**

It was identified that a five year plan for spending the total \$128,053 needs to be submitted by August 14, 2015.

Also identified was the ad that was placed in the County Line Courier looking for ideas for consideration by Council to provide support to community projects through the available funding. In addition letters were mailed directly to the following: Women’s Institutes, Hamilton, Malpeque, Sea View and Spring Valley Halls, Princetown United Church, Camp Triumph, The Harbour Authorities at Malpeque and Darnley, the Indian River Festival and Keir Memorial Museum seeking their proposals.

From that, Joanne received one request from Spring Valley regarding the Black Horse Corner which unfortunately is outside the community's boundaries. Joanne suggested they contact the Canada 150 project for possible funding. A second ad was placed on Monday, July 20, 2015 inviting the community to this meeting. There were no residents in attendance. Joanne had spoken directly with Camp Triumph identifying that funds were available and suggesting that they apply for project funding. She has also reached out to community members with capital investment ideas for their halls as identified below.

Besides the trail and equipment for the trail such as benches, refuse containers, signs, it was identified that an application for the purchase of AED's and training for the four community halls, Cabot Park, Twin Shores, Princetown United Church, and Keir Shore Memorial Museum, as well as sound systems, generators and heat pumps for the four community halls, possible project at Camp Triumph be prepared by Joanne for review by Council for submission by the August 14 deadline. Council can make adjustments to the application in the future. It was moved by Tyler Pickering and seconded by Herb Clark that:

**BE IT RESOLVED** that the Council for the Community of Malpeque Bay will submit three applications to the Infrastructure Secretariat under the Notional Allocation funding agreement. The first and second applications for the fiscal year 2015-2016 will be for Equipment for the Hiking Trail at Cabot Park and the Sea View Hall Academy of Music project, at total project cost of \$25,070.00 and a net cost to the municipality of \$444.00.

The third application being submitted (2016-2019) is for AED's and training for all community halls, Princetown United Church, Keir Memorial Museum, and Twin Shores, generators, and heat pumps for the four community halls and sound systems for Malpeque, Sea View and Spring Valley halls at a total project cost of \$79,025.00 and a net cost to the municipality of \$223.00. **Motion Carried**

### **Amalgamation**

It was noted that some members of council were in contact with people from adjoining communities concerning amalgamation and were hearing support for amalgamating with the Community of Malpeque Bay as being preferential to amalgamating with the Town of Kensington.

Joanne was asked to investigate the steps necessary to increase the boundaries of the municipality to include Clermont, Margate, Irishtown, Park Corner, French River, New London, Long River, Springbrook, Burlington, Clinton. The Municipalities Act identifies the following:

**12. (1) Where a municipality wishes to extend its boundaries to include an area for which no municipal government is provided under this Act, it may apply to the Minister for approval of the annexation of that area.**

**(1.1) No application shall be made under subsection (1) unless, at least four weeks prior to the date on which the council proposes to adopt the resolution extending the boundaries**

**of the municipality, the council causes a written notice to be sent to the residents of the area to be annexed, together with**

**(a) a copy of the proposed resolution;**

**(b) a map illustrating the area to be annexed identifying the relevant properties by parcel number;**

**(c) a statement of the reasons for the extension;**

**(d) a statement of the municipal services to be provided in the annexed area;**

**(e) a statement of the financial implications with respect to real property tax and rates for municipal services.**

**(2) No application shall be made under subsection (1) unless supported by a resolution of the council.**

**(3) An application shall set out**

**(a) in general terms, the geographical of the area to be annexed;**

**(b) the reasons in favour of the proposed annexation; and**

**(c) the services to be provided and the level of municipal taxation to be applied to residents of the annexed area. 1983, c.33, s.12; 1995, c.32, s.7.**

Joanne will identify the relevant properties by parcel number and provide the financial implications of amalgamation. The municipal statement of services could include our dog by-law, the potential for communities to access funding by being incorporated, street lighting, and lower tax rate. (Unincorporated areas are part of Fire Districts and pay between \$70.00 and \$150.00 through their taxes directly to either the Kensington Fire Department or the New London Fire Department. Under an amalgamation scheme a property assessed at \$100,000 would pay municipal taxes of \$65.00 saving the tax payer money while increasing the tax base of the Community and possibly allowing for lowering the current 0.65 cents tax rate).

### **Review of Lease for Hiking Trail**

A lengthy discussion was held regarding liability should Council proceed with the development of the trail at Cabot Park.

Jamie had sent the draft lease to Jeff Cormier a lawyer with Key, Murray Law who identified the following: Hello Jamie,

Thanks for forwarding the material to me...I have reviewed it and offer my comments below.

In general, the lease appears standard to me. I would like to point out that the lease provides that the Community is to pay for all property taxes associated with the trails; therefore, you should ensure that you have had a discussion with the Province regarding what amounts this

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may be. Also, s. 24 obligates that the Community to provide a certified copy of the insurance policy to the binder. Often, landlords are agreeable to accepting a Certificate of Insurance (such as you have provided) instead of the full policy.

With respect to liability I noted that pursuant to the *Occupiers' Liability Act* (PEI) and also at section 13 of the lease, there will be an obligation on the Community to ensure that reasonable measures are taken to ensure the safety of the trail's users. Risk management is a key concept to reduce liability. Although there is no set requirements as to what may be reasonable, some items that come to mind to me include:

- Avoidance: prohibit certain uses or access (e.g. fencing/signs) to high risk areas, such as access near steep cliffs
- Reduction: regularly inspect, address and warn about hazards
- Planning, development, maintenance, repair and improvement of the trails where and when necessary
- Documenting and acting on trail accidents and claims
- Educating and training staff and volunteers
- Posting of trail signs at designated entrance points, as well as at reasonable intervals along the trail itself
- Prohibitions against consuming alcohol, creating disturbances, or destroying property on or near to the trail

Have you had any discussions with the Province regarding having the trail designated as a "trail" pursuant to the *Trails Act* (PEI)? If the Government makes this designation, the liability risk is reduced as a person using a designated trail, according to the *Trails Act*, "is deemed to have willingly assumed all risks that may be encountered using the trail, whether or not the person is on the trail."

I hope this to be of assistance to you. Please contact me should you have any questions.

Jeff

A few items were also noted by Council including:

The land being leased is identified in area Lot 19 – it is actually in Lot 18.

Payment of Property Tax will have to be further identified with concrete numbers for consideration by Council.

It was noted that the trail could not be designated as a “trail” because Council would be leasing the land. Joanne will contact Darlene Rhondenizer to seek advice.

Members identified concern regarding a potential law suit in excess of the 2 million dollars insurance; who would be liable, are councillors liable? Would the community be held liable to pay for a law suit in excess of 2 million dollars and how might that affect the day to day operation of the community.

The Municipalities Act states:

**66. The members of a council or a committee thereof, the administrator and any other person acting on their instructions or under the authority of this Act, are not personally liable for any loss or damage suffered by any person by reason of any act done or not done by any of them in good faith in the exercise or purported exercise of the powers conferred under this Act. 1987, c.49, s.10; 2006,c.13,s.7.**

Following from this there was concern expressed that if there is additional liability Council may or may not want to proceed with the trail project.

It was moved by Herb Clark and seconded by Tyler Pickering to contact Jeff Cormier and seek advice on the issue of liability. Motion Carried.

The Chair called for adjournment at 9:15. Motion Carried

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Jamie Crozier, Chairman

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Joanne McCarvill, Administrator