

## MINUTES OF DECEMBER 10, 2018

### **6:30 PM PRE-MEETING**

#### REGULAR MEETING

A regular meeting of Council was held December 10, 2018 at 7:00 PM with Mayor Keating presiding. All members of Council and Clerk were present.

#### THE LORD'S PRAYER

#### APPROVAL OF AGENDA

It was moved by Councillor Kitchen and seconded by Councillor Best that *'The Agenda be approved.'* MOTION CARRIED

#### CONFLICT OF INTEREST DECLARATION

No conflict declared.

#### CHRISTMAS DECORATING CONTEST - PRESENTATION OF WINNERS

Announced as the winners of the 2018 Salisbury Christmas Decorating Contest were Rebecca Delarge, first; Beth McCully, second; and Wayne Wagner, third. No winners were present to accept their cash prizes and certificates, so Clerk's Office will contact them and make arrangements for presentation.

#### APPROVAL OF PREVIOUS MINUTES

It was moved by Councillor McNeil and seconded by Councillor Kitchen that the *'Minutes for the Council Meeting held on November 26<sup>th</sup> be approved.'* MOTION CARRIED

#### MANAGER OF WORKS REPORT

Clerk read update provided by Manager of Works, who was unable to attend meeting.

**Facility-Wide Backup Generator** - Still a few deficiencies to clear up with regards to the generator project.

**Albert Trail Culvert No.1 Replacement Project** - Last payment-approval will be ready for when Council meets as scheduled on December 28<sup>th</sup>.

**Access to Albert Trail between Fredericton Road and Route 106** - Councillor Best shared a complaint she received about ATV users on the trail often getting stuck in a muddy area behind a private property just past the guide rail not far from Lam Street. Complaints include belligerent behaviour. Councillors Kitchen and McNeil noted that complaints such as this should first be directed to the RCMP. Regarding ATV-access to the trail and requests that the Village open access to it off Lam, Councillor Kitchen added that it is not the Village of Salisbury's responsibility to provide a controlled-access, since doing so would encourage street-use of such vehicles, which is not legal. Meantime, Manager of Works will be asked to inspect condition of culvert and ditching in that area.

#### DIRECTOR OF PARKS & LEISURE REPORT

Clerk read brief update provided by Director of Parks & Leisure, who was unable to attend meeting.

**Outdoor Rink** - Rink has been flooded twice and, thanks to recent cold weather, is now open for public use.

**Christmas Tree lighting** - The lighting of two Christmas trees at Highland Park was a successful event. It was well-attended despite rain that evening. Those in attendance enjoyed Christmas carols and hot chocolate.

**DEVELOPMENT REVIEW COMMITTEE REPORT**

No report this meeting.

**BUSINESS ARISING FROM MINUTES**

Erosion

Councillor McNeil has corresponded with Village partners at Fort Folly Habitat Recovery (FFHR) regarding their project aimed at finding a solution to riverbank erosion in Salisbury. FFHR has accessed project files kept by Matrix Solutions Environment & Engineering. Councillor McNeil advised that the study proceed on FFHR's advise. Meantime, Matrix has closed its East Coast office in Fredericton and Ron Jenkins, a former Matrix staffer and Salisbury contact with regards to this project, is now an independent consultant.

HR Services

Nothing to report.

Asset Management

Nothing to report.

Auxiliary Generator

Previously discussed in Manager of Works Report.

Railway Trestle (Bridge)

Village insurance-provider has submitted risk inspection report.

**CORRESPONDENCE**

**The following items were discussed by accommodated and remaining correspondence placed on file:**

Southeast Regional Service Commission - PRAC decision - 22-unit residential-care home

Permit has received unanimous approval from Southeast PRAC (Planning Review and Adjustment Committee), subject to terms and conditions. Development must be in conformity with site-plan provided.

NB Environment & Local Government - 2019 Budget Information, including municipal tax base

NB Environment & Local Government - Community Funding and Equalization Grants 2019

NB Environment & Local Government - 2019-2023 Gas Tax Fund Allocation

With regards to municipal budget preparations, information received included that the Village's tax base increased by 2.09 per cent in 2018. Also, grant to Village from Province increased by \$2,589 to \$175,941.

Salisbury Public Library Board - Letter - Request for consideration of new location

Letter received from Library Board suggests finding a new location for the library or consideration be given to building a new library. Could be discussed further during upcoming budget deliberations.

Archway Insurance - Risk inspection report for railway trestle

To be discussed in closed meeting.

Southeast Regional Service Commission - RCMP Quarterly Report: July 1-Sep. 30, 2018

Councillors each received a copy of the report.

Southeast Regional Service Commission - Memo updating four local bylaw contraventions

A formal update of four local bylaw contraventions was provided by Southeast Regional Service Commission (SERSC), expanding on a similar update provided by Clerk at the Nov. 26<sup>th</sup> meeting of Council. Matters concerned pools without enclosures (2), an unpaved commercial parking area and driveway, and an electric fence for the purpose of keeping livestock (cows).

Southeast Regional Service Commission - November Development & Building Permit List

Three Development & Building Permits were approved in Salisbury by SERSC in November, two for accessory buildings and one for a wooden fence.

Fundy Royal MP Alaina Lockhart - Re: Call for Proposals - Dementia Community Investment Fund

Federal government has created a Dementia Community Investment Fund to support community-based projects aimed at promoting awareness of dementia and addressing stigma, optimizing the health and well-being of people living with dementia and their caregivers, and prioritizing populations more susceptible to the risk factors for dementia or experiencing barriers to accessing support.

**FIRE DEPARTMENT REPORT**

No report this meeting.

**RCMP REPORT**

Councillor McNeil reached out to the Village's new liaison with Southeast District RCMP, Sgt. Patrick Tardif, who will attend the meeting of Council scheduled for January 28<sup>th</sup>.

**MAYOR'S REPORT**

Union of Municipalities of New Brunswick - On November 30<sup>th</sup> and December 1<sup>st</sup>, attended UMNB meeting.

Funeral - On December 8<sup>th</sup>, attended Sis Bleakney's funeral.

**COUNCILLORS' REPORTS**

**Councillor Kitchen**

St. John Ambulance Christmas Dinner - On November 27<sup>th</sup>, attended St. John Ambulance Christmas Dinner.

**Councillor McNeil**

Christmas Tree Lighting - On December 2<sup>nd</sup>, attended Highland Park Christmas Tree Lighting.

Outdoor Rink - On December 1<sup>st</sup>, helped set up the outdoor rink. Twelve volunteers were there, including half a dozen firefighters who stayed after to flood the rink.

Fire Department Christmas Dinner - On December 3<sup>rd</sup>, attended Salisbury Fire Rescue Christmas Dinner.

**Councillor Bartlett**

Funeral - Attended Josie McLean's funeral.

Christmas Tree Lighting - On December 2<sup>nd</sup>, attended Highland Park Christmas Tree Lighting.

Library Christmas Party - Attended as the storyteller.

Legion Christmas Party - Attended as the storyteller. Had his picture taken with Santa Claus.

St. John Ambulance Christmas Dinner - On November 27<sup>th</sup>, attended St. John Ambulance Christmas Dinner.

**Councillor Best**

Nothing to report. Apologized for forgetting to attend recent Legion Appreciation Dinner. Was in Saint John that evening for a family matter.

Fire Department Question - Councillor Bartlett mentioned how at the height of the last post-storm power outage, during which members of Salisbury Fire Rescue were kept extremely busy, one of the fire fighters was musing if there should be a paid member on the force. Councillor Bartlett could not recall exactly who made the remark.

**CLERK'S REPORT**

Friends of the Moncton Hospital Foundation - Clerk was asked to check on past donations to the Foundation. In 2012, the Village donated \$50; in 2011, \$50; and in 2010, \$50. The Village has not donated to the Friends of the Moncton Hospital Foundation in the past five years. Since the Outside Grants budget is maxed out, Council declined to approve a donation this year.

Honourariums - Council approved honourariums to Village representatives on the boards of both Jordan Lifecare Centre and Community Business Development Corporation Westmorland Albert (CBDC), being Carolyn Kyle and Joyce MacDonald, respectively; as well as to Judy Marshall, who regularly caters Village functions.

JDI - Village has been informed that JDI is preparing to conduct a major forestry operation on a large parcel of land it owns in the Village limits north/northeast of Hilltop Subdivision. Residents have been informed via a post on the Village's Facebook page. Assistant Clerk reports cutting has begun. A contact with JDI indicated the cutting would respect the Village's noise by-law and be kept between the hours of 6:00 a.m. and 11:00 p.m. Councillor McNeil said the cutting is a good thing when one approaches it from an emergency-management point of view, considering the vast forest in that area of Salisbury and the potential threat of forest fire to residences.

New Fire Truck - Hold-Back Payment - It was moved by Councillor McNeil and seconded by Councillor Kitchen that *'The Village of Salisbury issue the final payment to Maxi-Metal Inc. for the remaining 10% hold-back of the 2019 Freightliner for a total of \$50,845.41, including HST.'*

Councillor McNeil noted that the Village is a little late on this, but there were some minor deficiencies that have since been taken care of. He reports that the truck works great. MOTION CARRIED

Swearing-In of New Councillor - Newly-elected by acclamation, Robert Campbell will be sworn-in as Councillor on Friday, December 28<sup>th</sup> at 9:00 a.m. Year-end motions will also take place at that meeting.

Court Decision - The court decision with respect to the zoning violation at 3063 Main Street was received by the Village lawyer earlier today. There remains a 30-day window for appeal by the residents of 3063 Main. Councillor McNeil read from the final three pages of the decision by Mr. Justice George S. Rideout:

“ [28] *I read the materials supplied to the Court and I believe the Village Council has operated in an honest and open manner attempting to uphold its municipal plan. In essence, the legislation under the Community Planning Act is designed to make any alterations to the municipal plans follow a set procedure. However, if the municipality decides to maintain the plan as adopted, it certainly is within its authority to reject a rezoning request. I have grave doubts that this type of decision is open to or will be successful on a judicial review.*

[29] *That being said, the applicants have attempted to frame their application as claiming a breach of procedural fairness. With the greatest respect, the Dangremonds have openly disobeyed zoning bylaws, building permit requirements and a settlement agreement reached by the parties. After the Dangremonds were told that horses were not permitted on the property, the horses continued to reside on the property. Construction of fencing and buildings on their property continued without a building permit and contrary to the order of the Village.*

[30] *The Dangremonds acquired the property in question in April 2016 and, to my knowledge, the horses came to the property around that time and they are still on the property. The Dangremonds were told that they were not permitted to carry out the construction, they did without a permit and they were told that having horses on the property was a violation of the zoning by-laws. Throughout the process, the Dangremonds have flaunted the laws of the Village. Lori Bickford, in her affidavit, says at paragraph 9 that the Dangremonds continued to build without a permit and included pictures. At paragraph 19, Lori Bickford testified that she spoke to the applicant Gerritje Dangremond telling her that she was not permitted to keep the horses on the property but the horses are still there over a year after the discussion.*

[31] *The Dangremonds have argued that they were denied procedural fairness. As I view the facts, the Dangremonds were fairly treated. The Village Council would be within its rights to simply decide not to consider the request for a zone change because the request is contrary to the zoning by-laws and the community plan. However, they gave the Dangremonds the opportunity to speak to council. It is argued that the council had already made up its mind. While this may be so, it could also be that council did not hear anything from the Dangremonds which would give the Village reason to start the process to alter the municipal plans and the existing zoning.*

[32] *As I have said, I have grave doubts that a judicial review is appropriate for a denied zone change application. That being said, I have reviewed all of the steps taken by the applicants, the Dangremonds, and the Village of Salisbury. In my opinion, what was done by the Village of Salisbury was procedurally fair and reasonable in the circumstances. I do not believe there was any other legal alternative available.*

DISPOSITION

[33] *I must therefore dismiss the request of the applicants, Gerritje and Jan Dangremond, contained at paragraphs “f” to “j” of their application. I hereby order the payment of court costs to the Village of Salisbury in the all-inclusive amount of \$1,500.00.*

*DATED at Moncton, N.B., this 10<sup>th</sup> day of December 2018.*

*(Signed by)  
George S. Rideout  
Justice of the Court of Queen’s Bench  
of New Brunswick ”*

It was moved by Councillor Kitchen and seconded by Councillor Bartlett to ‘*Enter into a closed meeting.*’ MOTION CARRIED

**CLOSED MEETING - Legal**

It was moved by Councillor McNeil and seconded by Councillor Kitchen to ‘*Return to the regular meeting.*’ MOTION CARRIED

**DATE OF NEXT MEETING - 9:00am, Friday, December 28, 2018**

Radar Speed Sign - It was moved by Councillor Kitchen and seconded by Councillor McNeil that ‘*The Village of Salisbury purchase the SAFE PACE Cloud System at a cost of \$1,115.40 plus tax, a shipping fee of \$200.00 plus tax, and an annual network fee of \$425.00 plus tax.*’ MOTION CARRIED

**ADJOURN**

It was moved by Councillor Best to ‘*Adjourn the meeting.*’ MOTION CARRIED (8:47 PM)