

Minutes
Resort Municipality Monthly Council Meeting
October 18, 2021
5:00 p.m.

The Monthly Council Meeting of the Resort Municipality was held on October 18, 2021 at the Resort Municipality Office and electronically with Zoom.

PRESENT: In Person: Mayor Matthew Jelley. Councillor: George Clark Dunning and Councillor Kay Hrycki. Zoom: Councillors: Bill Drost and Chris Robinson. In Person: CAO: Brenda MacDonald and Administrative Assistant: Heather Hay.

ABSENT: Deputy Mayor Lowther and Councillor Brammer.

VISITORS: In Person: Jim Brown. Zoom: Sandra and Ron LeBlanc, Marianne LeBlanc, Scott MacKenzie, Cody MacEachern, Sandy MacKay, Lloyd Adams, Tobi Grosman. Jim Andrews joined the meeting at 5:42 p.m. Bill Power joined the meeting at 6:02 p.m.

1. CALL TO ORDER:

Mayor Jelley called the meeting to order at 5:08 p.m.

2. APPROVAL OF AGENDA:

Mayor Jelley added 5.D.5. to the agenda under Trails and Paths Committee for UPEI Projects.

It was moved by Councillor Clark Dunning, seconded by Councillor Hrycki that the agenda be adopted as amended. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

3. APPROVAL OF MONTHLY COUNCIL MEETING MINUTES SEPTEMBER 20, 2021:

It was moved by Councillor Hrycki, seconded by Councillor Robinson that the Monthly Council Meeting Minutes of September 20, 2021 be adopted as presented. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

4. DECLARATION OF CONFLICTS OF INTEREST:

There were no conflicts of interest declared.

5. COMMITTEE REPORTS:

Follow Up Permits:

Swept Away Cottages – (PID # 624379 - Cavendish Road) – an application was received to construct one 1 bedroom cottage, seven 2 bedroom cottages and three 3 bedroom cottages, a laundry facility, a pool, a water building and a pool equipment building. Awaiting information from the owner and the Department of Health on the pool permit, development agreement and performance bond.

Anne's Windy Poplars - PID # 232215 (7195 Route 13) – an application was received to enclose the pool with a building on the site of 50'x 40'. Awaiting comments from the Department of Health and Wellness, the Provincial Fire Marshal's office and stamped drawings to be provided.

Marco Polo Land Inc. – PID # 232298 (7406 Route 13) – an application was received to locate three yurts on the property. Awaiting a comprehensive site plan from the owner.

Marco Polo Land Inc. – PID # 232298 (7406 Route 13) – an application was received to change 11 sites from 2 way sites into 3 way sites. Awaiting a comprehensive site plan from the owner.

Marco Polo Land Inc. – PID # 232298 (7406 Route 13) – an application was received to locate a tarp building on the property of 70' X 30'. Awaiting

Change of Use – Special Permit Use:

Anne's Windy Poplars - PID # 232215 (7195 Route 13) – an application was received to change the use of the property to a vacant land condominium. Awaiting information from the Department of Transportation, Infrastructure and Energy, Provincial Fire Marshal's office and the Department of Environment.

Subdivision Application:

Estate of Brian Stevenson – PID # 729087 (Cavendish Road) – an application was received to subdivide 17.96 acres off of the main property. Awaiting comments from the Department of Transportation on Access, that the perc tests be completed for the property to meet the requirements of the Zoning and Subdivision Control (Development) Bylaw and that a final survey plan be completed.

Signage Permit Applications:

Parks Canada – PID # 232405 (Cavendish Grove) – an application was received to construct a sign of 20'W X 7' 2 9/16" at the front of the property. The Council approved signage up to a maximum of 80 sq. ft. only on the site.

Subdivision Application:

Alex Gallant – to subdivide 0.04 acres from PID # 999052 and consolidate it with PID # 999060 on Angus Campbell Lane.

Official Plan and Bylaw Review:

Judy and Darcy Gallant – a request was made to rezone the property from RR (Rural) to R1 (Residential).

It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that the property owner submit a formal rezoning request to the planning board and Council to go through the rezoning process. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

A notice will be sent out in the weekly updates for any property owners wanting to put forward a request for rezoning to be looked at for their property to do so prior to the next meeting.

Development Permits:

Fairways Cottages – Property # 232348 (7444 Route 13) – an application was received to construct two porches of 6'X 6' on the duplex rental unit. It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that the planning board recommend to Council for approval in principle subject to: 1) meets the requirements of the Department of Tourism, 2) meets the requirements of the Provincial Fire Marshal's Office and 3) meets the requirements of the *Building Codes Act*. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

Jamil Dow – Property # 232959 (8544 Cavendish Road) - an application was received to construct an addition of 32' X 28' to increase the retail space on the existing building. It was moved by Councillor Clark Dunning, seconded by Councillor Chris Robinson that the planning board recommend to Council for approval in principle subject to: 1) meets the requirements of the Provincial Fire Marshal's Office and 2) meets the requirements of the *Building Codes Act*. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

Subdivision Application:

Abby Lane PEI Inc. – an application was received to subdivide Property # 496844 (397 Simpson Mill Road) into two lots. It was moved by Councillor Clark Dunning, seconded by Councillor Drost that the planning board

recommend to Council for approval in principle subject to: 1) meets the requirements of the Department of Transportation, Infrastructure and Energy, 2) meets the septic requirements for the proposed lots, 3) that clarification be received on the roadway as it has to be 66' wide to meet the bylaw requirements and 4) final survey plan to be completed. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

Jennie Macneill – an application was received to subdivide Property # 232512 (8523 Cavendish Road) into two lots. It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that the planning board recommend to Council for approval in principle subject to: 1) that a more detailed plan be provided, 2) meets the setback requirements for the new boundary lines and 3) that a final survey plan be provided of the property. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

Rezoning Application:

Estate of Brian Stevenson – an application was received to subdivide Property # 729087 (Cavendish Road) into a two phase subdivision for a proposed total of 40 lots. It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that the planning board recommend to Council to proceed to a public meeting. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

Temporary / Transient Use Permit:

Henderson Victor – an application was received to have a temporary / transient use permit for a taxi to operate at property # 831123 (28 Bayview Drive). It was moved by Councillor Clark Dunning, seconded by Councillor Robinson that a seasonal transient use permit be approved. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

AMD PEI Grown Inc. – PID # 232413 (8572 Cavendish Road) – an application was received to have a wine tasting event on the property on November 13, 2021. It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that approval be granted in principle subject to: 1) meets the requirements of the Department of Health and Wellness, 2) meets the requirements of the Provincial Fire Marshal's Office and 3) meets the requirements of the Liquor Control Commission. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

AMD PEI Grown Inc. – PID # 232413 (8572 Cavendish Road) – an application was received to have a cider tasting event on the property on November 27, 2021. It was moved by Councillor Clark Dunning, seconded by Councillor Drost that approval be granted in principle subject to: 1) meets the requirements of the Department of Health and Wellness, 2) meets the requirements of the Provincial Fire Marshal's Office and 3) meets the requirements of the Liquor Control Commission. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

AMD PEI Grown Inc. – PID # 232413 (8572 Cavendish Road) – an application was received to have a side coffee cart on November 6, 14, November 20, 28 and December 4 and 11, 2021. It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that approval be granted in principle subject to: 1) meets the requirements of the Department of Health and Wellness and 2) meets the requirements of the Provincial Fire Marshal's Office. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

Permits issued by the CAO:

Brian Dollar – to construct a deck of 12' X 28' on the front of the house at PID # 232553 (8387 Cavendish Road).

Walkway:

MacCoubrey Lane and Cawnpore Lane Trail will be happening this fall.

Work on Cavendish Road East is underway along with Cawnpore Trail and is expected to be completed during the next month.

Stanley Bridge Trail Project is still under review by the province.

Parks Canada sent a letter to the municipality again regarding the signage for Cavendish Grove and that they are proceeding to install the larger sign that what is allowed under the bylaw as they don't have to comply with the municipal signage standards since it is on Federal Land.

Mayor Jelley advised that at other Parks sites they do have signage that is half the size and are not willing to change the size of the sign for Cavendish.

5.A.1. Marco Polo Land Permit:

It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that the demolition permit be approved. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

5.A.2. Planning Board Members:

It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that Joanne Poirier and Kyle Glover be added as the new planning board members on the planning board. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

5.A.3 Linda Lowther Performance Bond Release:

It was moved by Councillor Hryckiwi, seconded by Councillor Robinson that the performance bond for Linda Lowther be released as all conditions have been met for the development agreement and the project has been completed. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

5.B. Monthly Finances:

Councillor Hryckiwi presented the monthly Finances September 30, 2021. The revenues were \$284,217.35 and the expenses were \$272,749.66. It was moved by Councillor Hryckiwi, seconded by Councillor Robinson that the monthly finances for September 30, 2021 be adopted as presented. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

5.C. Emergency Services Committee:

5.C.1. Emergency Plan:

Bradley MacIsaac completed his review the plan and had some recommendations for changes. The document was just sent back so the CAO has to go through it and review the comments before bringing back to the Council.

5.D. Trails and Paths Committee:

5.D.1 Cawnpore Lane Trail – Active Transportation:

Project is well underway and is expected to be completed over the next couple of weeks.

Stanley Bridge Trail Project:

The Department of Transportation is still working on some ideas for this portion of the project. Nothing will be done until the spring.

Route 6 East to MacCoubrey Lane and Cawnpore Lane:

Work is underway and expected to be completed within the next couple of weeks. We reached out to the Department of Transportation to see if we could get the remainder of the walkway completed under this phase. No information has been received back from the Department to date.

5.D.2. Swimming Rock Steps:

All work was completed at the Swimming Rock Site.

Payment has been made less the holdback for the project costs.

5.D.3. Speed Signs:

The speed sign stats are in the package.

5.D.4. Picnic Shelters:

Engineers worked on the tender to be finalized and it closed in early October. It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that the RFP be issued to Sperra Construction Group at a cost of \$64,296.00 plus HST. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

5.D.5. UPEI Engineering Project:

The School of Sustainable Design will be coming to Grahams Lane on October 26, 2021 at 3:30 p.m. to meet with a Council Member on the trail project.

Deputy Mayor Lowther will meet with the group.

6. Cavendish Sewer Utility:

6.A. Cavendish Sewer - Monthly updates and engineering:

IRAC approved the rate increase for the sewer fees.

Engineers are working on run times and information on LS # 4.

7. Business Arising from Minutes:

7.A. Eastlink Servicing – North Rustico:

It was moved by Councillor Hryckiwi, seconded by Councillor Robinson that \$17,160.00 be paid to Eastlink for internet services in North Rustico subject to funding being provided by the Department of Innovation. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

7.B. Municipal Election Regulations Amendment:

Information was provided to the municipality from the Department of Municipal Affairs based on a request for information on the amendments.

7.C. Council Remuneration Member:

Lloyd Adams and Bill Power on the committee and have been looking for a third member to fill the position. Another request will be sent out in the newsletter regarding someone to join the Council Remuneration Committee.

8. New Business:

8.A. Inclusive Communities Initiative:

Councillor Hryckiwi commented on the new funding initiative and funding opportunities available.

Councillor Drost advised that Peggy Miles would like to receive information on the program.

The CAO will forward the information along to Peggy.

8.B. Maritime Electric Streetlights:

Maritime Electric is finishing the final retrofits of lights in the municipality.

The information was sent through confirming the lighting required to Marianne LeBlanc at Maritime Electric.

9. Concerns:

9.A. Councillors:

Councillor Robinson raised comments from the previous meeting and he wanted to follow up on his comments on the view plains and his concerns over the artificial evaluation of farmlands when calculating the subdivision fees.

Mayor Jelley confirmed that the fees are based on the land valuation and assessment from the Provincial Taxation Office.

It was moved by Councillor Robinson that the municipality consider using the land valuation to establish fair market value on subdivided land per acre. No one seconded the motion. Motion Defeated.

It was suggested that the planning board review the subdivision fee requirements as part of the plan review and discuss with the consultant some of the concerns that have been raised on the fees.

9.B. Residents:

Darrell Doucette sent in an e-mail regarding the garbage truck dumping garbage at 11:00 p.m. now.

The CAO will follow up the owners of Cavendish Country Inn regarding the concerns and the timing of garbage pickup.

Tobi Grosman asked to address the Council.

Mayor Jelley advised that if the matter was something new to discuss then it can be presented to the Council but that public input had closed on the LeBlanc Major Variance Request for Ron and Sandra LeBlanc.

Jim Andrews addressed the Mayor and asked questions on the Major Variance for Ron and Sandra LeBlanc.

Mayor Jelley again advised that there was no further input being received from the public on the Major Variance Request for Ron and Sandra LeBlanc.

Bill Power asked about the Maritime Electric streetlights and that last year there was some discussion about adding streetlights.

10. "In Camera" Matters:

It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi to go "*In Camera*" under section 119(1)(f) of the Municipal Government Act. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

Eddie MacKenzie:

John Brewer – Subdivision Request:

Ron and Sandra LeBlanc:

It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that the meeting come out of "*in camera*" under section 119(2)(e) of the Municipal Government Act. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

Eddie MacKenzie:

It was moved by Councillor Clark Dunning, seconded by Councillor Robinson that the matter has now been resolved with Eddie MacKenzie as the plans were completed, the development agreement was completed and the fees have been paid and that no further legal action will be taken. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

John Brewer – Subdivision Request – It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that the Estate of Clarence Gallant needs to be resolved and a road maintenance agreement in place as well as the subdivision plan to be completed to meet all municipal and provincial standards and until all requirements are completed the application will not proceed forward. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

Ron and Sandra LeBlanc:

It was moved by Councillor Drost, seconded by Councillor Robinson that the Council approve the major variance request for Ron and Sandra LeBlanc.

Discussion:

Mayor Jelley advised that following the last Council last Council Meeting, the municipality has been provided with two letters from the adjacent landowners as was requested and the third owner as heirs of Horace Trimmins have not been able to provide proof that they legally are the owners of the road. There was a strict test applied by Council and these requirements have not been met.

Councillor Drost advised that the owners have shown that they did everything within their means to gather the information that was requested of them from the landowners immediately adjacent to them as well as the Heirs of Horace Trimmins. He took a drive to the subdivision and visited the properties and felt that the main concern was over a two storey house and not that the setbacks had not been met as the owners presented information on the impact of them with the contractor not placing the structure in the required setbacks. He feels that there is no weight or substance in the letters received by the adjacent landowners, other than the new structure will block their view.

Councillor Robinson advised that he also took a drive to the subdivision to check the properties and he feels that the owners have been put into a situation by the contractor and he feels that allowing the variance will allow them to continue with their project and it will not have a significant impact on adjacent landowners.

Councillor Hryckiw advised that the owners did not meet the requirements that were set by Council and the heirs have not provided proof of ownership of the right-of-way, so all conditions have not been met that were required.

Councillor Clark Dunning advised that the owners did not meet the requirements that were set out by Council and the heirs have not provided proof of ownership of the right-of-way, so all conditions have not been met that were required.

All in favor 2, 2 nay, 2 absent.

The Mayor had to vote based on the tie vote and offered the following comments prior to his decision,

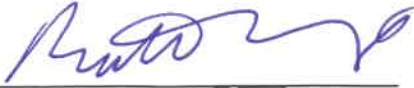
The Mayor advised that his decision is based on comments received from residents and other interested parties, while applying the test for a major variance as it failed to meet the requirements set forth in Section 15 of the Resort Municipality's Zoning and Subdivision Control (Development) Bylaw (the "Bylaw"), specifically, that no compelling reason was provided in the information submitted by the property owner to allow a major variance, namely;

1. The Property does not have any peculiar physical conditions which would make it impractical to develop in strict conformity with Bylaw standards;
2. Strict application of the Bylaw will not cause undue hardship; and
3. Reasonable use can be made of the Property without the variance as a development permit was issued by the Resort Municipality that did comply with setback requirements;

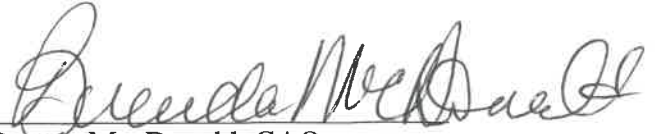
Mayor voted nay against the major variance request based on this reasoning, as well as the convention of maintaining the status quo where Council does not have a majority decision otherwise. Motion was denied.

11. ADJOURNMENT:

Mayor Jelley adjourned the meeting at 7:24 p.m.



Mayor, Matthew Jelley



Brenda MacDonald, CAO