

# **Town of Drumheller**

## **COUNCIL MEETING**

### **MINUTES**



**September 17, 2007** 4:30 PM Council Chambers, Town Hall  
703 - 2nd Ave. West, Drumheller, Alberta

#### **PRESENT:**

**MAYOR:**

Bryce Nimmo

#### **COUNCIL:**

Karen Bertamini

Karen MacKinnon (left the meeting at 5:20 PM due to Notice of Disqualification being served)

Sharel Shoff

John Sparling

Terry Yemen

#### **CHIEF ADMINISTRATIVE OFFICER/ENGINEER:**

Ray Romanetz

#### **DIRECTOR OF INFRASTRUCTURE SERVICES:**

Wes Yeoman

#### **DIRECTOR OF CORPORATE SERVICES:**

Michael Roy

#### **ACTING DIRECTOR OF COMMUNITY SERVICES:**

Jerry Brett

#### **RECORDING SECRETARY:**

Linda Handy

#### **1.0 CALL TO ORDER**

Councillor T. Yemen asked for an addition to be placed on the agenda being a legal opinion from Town Solicitor, C. Kloot, Ross Todd & Company on the notice of disqualification under Section 174(d) of the Municipal Government Act (MGA) for Councillor MacKinnon's absence from Council meetings for a period in excess of eight (8) consecutive weeks. Mayor Bryce Nimmo asked for a show of hands from Council indicating agreement to the addition on the agenda. Council agreed unanimously. Mayor Nimmo asked Councillor MacKinnon to leave Council Chambers during Council's deliberations on the matter. Councillor MacKinnon stated that she also wished to speak to the matter regarding her absence at the July Council meeting and stated that she should remain at the table. She referenced the FOIPP Act and stated that as an officer or Councillor, she is allowed to be

present to answer to her absence. Mayor Nimmo reiterated that Councillor MacKinnon leave the room. Councillor MacKinnon left the room at 4:40 PM. Mayor Nimmo distributed the legal opinion from C. Kloot, Town Solicitor dated September 17, 2007 and Council was given the opportunity to read the document at that time.

Mayor Nimmo stated that C. Kloot was in attendance to answer Council's questions and speak to his legal opinion on the matter. C. Kloot stated that the legal opinion is based on the premise that the dates of Councillor Karen MacKinnon's absence and the attendance issues are correct; that is she has not complied by virtue of the fact she has not attended the Council meetings since June 25, 2007. C. Kloot further stated that once Council has made a decision of servicing notice that Councillor MacKinnon be called in and be allowed to speak to her reference to the one Council meeting. He further explained that In terms of the Municipal Government Act (MGA) Section 174(1) she is disqualified based on non compliance. *"A Councillor is disqualified from Council if (d) the Councillor is absent from all regular Council meetings held during any period of eight (8) consecutive weeks, starting with the date that the first meeting is missed, unless subsection (2) applies; "Subsection (2) reads as follows: (2) A councillor is not disqualified by being absent from regular Council meetings under section (1)(d) if the absence is authorized by a resolution of Council passed: (a) at any time before the end of the last regular meeting of the Council in the eight (8) week period; or (b) if there is no other regular meeting of the Council during the eight (8) week period, at any time before the end of the next regular meeting of the Council."* Section 175(1) of the MGA states *"A Councillor that is disqualified must resign immediately (2) If a Councillor does not resign immediately, (a) the Council may apply by originating notice to a Judge of the Court of Queen's Bench for (i) an Order determining the person was never qualified or has ceased to be qualified to remain a Councillor, or (ii) an Order declaring the person be disqualified from Council."* He stated that from the records she has not complied with the MGA and if she disputes this fact she may not wish to resign and then Council may wish to proceed to the Court of Queen's Bench. He further explained that for the purposes of justice both sides should be heard, especially if she does not agree. However, there is no discretion if she has not complied as the Act takes over for non compliance. He further stated that if in fact the dates are correct, as a Council there is no discretion on this matter; the only discretion is whether or not Council will proceed to the Court of Queen's Bench if in the event she refuses to resign. In response to a question, C. Kloot stated that this appeal process involves a period of time beyond the next election and this process does not prohibit the person from being re-elected. He stated that in his opinion if the matter proceeds to the next level, it will be heard after the October election, making it a moot point. He further explained that an application must be brought forward within three years of the notice of disqualification being served.

Mayor Nimmo stated that Council must adhere to the MGA however Council should hear from Councillor MacKinnon and then make their decision. C. Kloot stated that a motion is necessary this evening on whether or not Council will serve notice of disqualification based on Section 174(1)(d) of the MGA. He further explained that should the motion to serve be

given in her presence, it would make no difference in his view. He further explained that Councillor MacKinnon should not vote on the matter because of the conflict. Councillor K. Bertamini referred to Page 3 of the legal opinion and asked C. Kloot for clarification on whether Council has discretion under the MGA of declaring the Councillor disqualified or not. C. Kloot explained that if a Councillor who fails to meet the minimum requirements for attendance as set out in Section 174(1)(d) is immediately disqualified from holding the position of Councillor unless the provisions of Subsection (2) apply. He further stated that in this instance, the provision of subsection (2) does not apply as no authorizing resolution was passed and the Councillor is therefore disqualified by operation of law. He stated that Council is not given the discretion under the MGA of declaring the Councillor disqualified or not, the only discretion given to Council is the discretion to apply to Court of Queen's Bench to enforce the disqualification if it so chooses. He further explained that if the Councillor refuses to resign this Council has the choice to seek a declaration; if the Councillor takes her seat at the table this evening, the Mayor must make a decision on whether or not to continue with Council business. Council can continue to see if the Council meeting will run effectively under these circumstances or adjourn and proceed to the Court of Queen's Bench.

Councillor J. Sparling stated that the motion would have to be put on the floor prior to allowing discussion on the matter. Mayor Nimmo clarified that Councillor MacKinnon will be called back to the table at which time a motion will be read and seconded into the record and Councillor MacKinnon will be allowed to speak on the motion prior to the vote on the motion. He further explained that if the vote is passed, a Notice of Disqualification will be delivered to her at which time she will be asked to resign immediately and vacate her seat at the Council table. In response to a question from Council on the requirement to go before the Court of Queen's Bench, C. Kloot explained that if Councillor MacKinnon does resign, there is no need for an application to the Court of Queen's Bench. If she does not resign, then a further motion is required. Council agreed that Councillor MacKinnon be given a copy of the legal opinion and an opportunity to read the document prior to discussion on the matter.

Mayor recessed the Council meeting at 4:55 PM.

Mayor reconvened the Council meeting at 5:10 PM. Councillor MacKinnon returned to the table at 5:10 PM.

**MO2007.175** Sparling, Yemen moved that Council shall serve notice of disqualification under Section 174(d) of the Municipal Government Act on Councillor MacKinnon in accordance with the terms of the prepared notice dated September 17<sup>th</sup>, 2007.

Discussion on the Motion:

Councillor J. Sparling stated that the records show that Councillor MacKinnon has not attended a Council meeting since June 25, 2007 and since that time Council meetings have been held on July 9, 2007, August 7, 2007 and September 10, 2007 and in this time

no motion has been passed excusing her absence. He stated that the motion on the floor deals only with the issue of serving notice of disqualification.

Councillor K. MacKinnon stated that she wished to speak opposing the motion. She stated that one can construe this particular section 174(1)(d) of the MGA to be providing for a particular object – that object would be a Councillor who is doing his or her duties as opposed to just collecting a cheque and laying around at home. She further stated that she missed the July meeting because her son broke his hip due to a motorcycle accident ; on August 7<sup>th</sup> she missed the Council meeting because of a vacation planned for more than one year to Sturgis, South Dakota, and on September 10<sup>th</sup>, she missed the Council meeting because she won tickets to the Country Music Awards held in Regina, Saskatchewan. She explained that all three meetings missed were scheduling difficulties as opposed to stealing wages from the electors. She stated that she was proud of the opportunity to serve the people of Drumheller and looks forward to a fine campaign and hopefully one day return to serve the people. She further stated that she is sorry for this application and that the intention of Section 174 of the MGA has been misunderstood in this particular incidence. She stated that she respects Council's decision who appear to be unanimously in support of the application and she has no choice but to resign effective immediately. She asked whether she can apply to make some report of this to a judge where she can state an appeal to the decision. Mayor Nimmo asked C. Kloot to speak to the question. He stated that the provisions of the MGA are clear on this matter. Councillor K. Bertamini requested that it be recorded that Council is not given the discretion in this case under the MGA; it is clear that Council has no choice in declaring a Councillor is disqualified if they have missed Council meetings in a period of eight (8) consecutive weeks.

Vote on Motion: Carried.

Mayor Nimmo served Councillor Karen Mackinnon with the Notice of Disqualification.

In response to a Councillor's question on the requirement for a motion to accept the resignation, C. Kloot stated that it was not required. He stated that the resignation is a unilateral act.

Councillor Karen MacKinnon left the meeting at 5:20 PM.

## **2.0 MAYOR'S OPENING REMARKS**

### **2.1 RCMP Staff Sgt. Update**

Mayor B. Nimmo stated that in discussions with the RCMP K Division, the new Staff St. is in the process of selling his house and he has purchased a home in Drumheller. The transfer should be completed shortly.

### **2.2 RCMP Additional Member Update**

Mayor B. Nimmo stated that in discussions with both the RCMP K Division and Town's CAO, a meeting will be arranged to finalize the funding agreement for an additional

member.

2.3 Mayor B. Nimmo advised that Council has been invited to attend the Centennial Plaque Unveiling Ceremony for the 100<sup>th</sup> Anniversary of the Court of Queen's Bench and the Law Society of Alberta at the Drumheller Court of Queen's Bench on September 27<sup>th</sup>, 2007.

### **3.0 PUBLIC HEARING**

### **4.0 ADOPTION OF AGENDA**

**Additions to Agenda:** Councillor K. Bertamini 14.1 Affordable Housing Project Update  
**MO2007.176** Sparling, Bertamini moved the adoption of the agenda as amended.  
Carried.

### **5.0 MINUTES**

#### **5.1. ADOPTION OF REGULAR COUNCIL MEETING MINUTES**

##### **5.1.1 Council Regular Meeting – September 10, 2007**

**MO2007.177** Shoff, Yemen moved the adoption of the regular Council minutes of September 10<sup>th</sup> as presented. Carried.

#### **5.2 MINUTES OF MEETINGS PRESENTED FOR INFORMATION**

##### **5.2.1 Municipal Planning Commission – July 26, 2007**

#### **5.3 BUSINESS ARISING FROM THE MINUTES**

### **6.0 DELEGATIONS**

### **7.0 COMMITTEE OF THE WHOLE RECOMMENDATIONS**

### **8.0 REQUEST FOR DECISION REPORTS**

#### **8.1 CAO**

##### **8.1.1 RFD – Palliser Regional Municipal Services – Land Use Planner Intern**

R. Romanetz advised that in their letter of August 28<sup>th</sup>, Palliser Regional Municipal Services (PRMS) explains that they are submitting an application to Alberta Municipal Affairs to host a Land Use Planner intern. The intent of the program to help train interns so that they may pursue a career in municipal planning and to assist Alberta municipalities in their succession planning efforts to recruit, train and retain competent municipal employees. He explained that the intern will visit the Town of Drumheller to obtain first hand exposure and experience in our development and GIS departments. He further stated that there is no cost to the municipality. Palliser's application requires a motion from Council.

**MO2007.178** Shoff, Bertamini that the Town of Drumheller supports Palliser Regional Municipal Services' application to host a planning intern under the Province of Alberta's

Municipal Internship Program and agrees that Palliser Regional Municipal Services will act as the managing partner. Carried.

#### 8.1.2 RFD – Appointment to the Drumheller Public Library Board

R. Romanetz presented an application from Peter Glossop to serve on the Drumheller Public Library Board. Ron Kenworthy has resigned his position and Linda Rondeau has moved from the Drumheller area. He stated that the Library Board members have reviewed Peter Glossop's application and they recommend approval.

**MO2007.179** Sparling, Shoff that Council approve the appointment of Peter Glossop to the Drumheller Public Library Board.

Councillors Bertamini and Shoff thanked Ron Kenworthy and Linda Rondeau for their efforts to the board.

Vote on Motion: Carried.

#### 8.1.3 RFD – Appointment to the Marigold Library Services Board

R. Romanetz advised that the Town of Drumheller has received a request from the Drumheller Public Library Board to appoint Ingrid Thornton as the Town's representative to the Marigold Library System with the alternate being Peter Glossop. Ron Kenworthy who served in this capacity has resigned from the Drumheller Public Library Board. He stated that the Library members recommend approval.

**MO2007.180** Shoff, Yemen that Council approve the appointment of Ingrid Thornton as the Town of Drumheller's representative to the Marigold Library System with Peter Glossop as the Alternate.

Councillor S. Shoff stated that the Library Board is very appreciative for having Ingrid Thornton serve in this capacity as well as the advocacy position where she promotes the library through events and other involvement. She is also Vice Chair on the Board.

Vote on Motion: Carried.

## 8.2 Director of Infrastructure Services

### 8.3 Director of Corporate Services

#### 8.3.1 RFD – 2007/08 Muni Sponsorship Grant Application

M. Roy advised that Administration has reviewed several projects for the 2007/08 Muni Sponsorship Grant Application and is putting forth the washroom project at the Aquaplex for Council's consideration. He explained that the project will provide public washroom facilities with the access only from the outside for the many visitors to the Spray Park. He explained that the Municipal Sponsorship Grant Program provides base funding of \$54,660

and this project qualifies as priority project. An additional \$32,796 is available for a total eligible grant of \$87,456 for this project. This project is expected to cost \$150,000 so an additional \$62,544 would be required to be included in the 2008 budget.

**MO2007.181** Bertamini, Yemen that Council authorizes Administration to apply for grant funding for the construction of washrooms at the Aquaplex/Spray Park and to include \$63,000 in the 2008 budget for this project.

Discussion on Motion:

Councillor K. Bertamini stated that the outside washroom will be a welcomed addition and take the pressure off of the Chamber, arena and aquaplex buildings. She further asked who would maintain the washroom facilities. W. Yeoman stated that to prevent interaction from the pool staff the linking door could be locked, making the washroom facility only accessible from the outside. Councillor K. Bertamini requested that the final design phase be reviewed by Council before the actual project is undertaken. The project is scheduled to begin construction in the spring.

Vote on Motion: Carried.

#### **8.4 Acting Director of Community Services**

##### **8.4.1 Drumheller Municipal Cemetery Brochure**

J. Brett presented the Drumheller Municipal Cemetery Brochure for Council's consideration. The amended guide includes the new rates as of July 1<sup>st</sup>, additional plots, columbarium and the three Fields of Honour. Discussion held on whether tree removal and hedge removal are covered in this brochure. Council requested wording change as follows: "All work, maintenance and alterations in the cemetery require approval or permission. The words "on monuments and grave sites" are to be eliminated. Council recommended that the Municipal Cemetery Brochure proceed to printing with the changes as noted.

##### **8.4.2 Pet Owner's Guide Brochure (Dog Map)**

J. Brett presented the Pet Brochure which was initially designed in 2001. He explained that the map has been upgraded to include Drumheller's Animal Control Bylaw (23.00) and Parks Bylaw (21.80) designation of certain locations within the municipality as off-leash areas for use by pets and their owners. Wording added as follows: Dogs on leash are permitted on all sidewalks, trails and other public spaces that are not specifically designated as "Animals Prohibited". Councillor Yemen stated that in his opinion the map is confusing and enforcement of the policy would be difficult. He stated that he already sees areas that where dogs are prohibited that it is not being enforced. He stated that he would rather see a pet friendly community brochure that would request residents and visitors to note signs where pets are prohibited. R. Romanetz stated that prohibited areas are already signed that way. Councillor S. Shoff agreed with Councillor T. Yemen in that she has seen dogs at the Spray Park, which is a prohibited area. Councillor Bertamini stated that she is in favour of seeing a lot more areas where people can go with their pets so she

will not support the brochure. She stated that the problem is with irresponsible pet owners. She stated that she would like to see the fines clause highlighted. Council agreed that the prohibited areas are confusing should the bylaw officer have to enforce due to non compliance. R. Romanetz recommended that the restricted areas be signed accordingly. Council recommended that the Pet Brochure proceed to printing with the areas highlighted as noted including the reference to the fines for non compliance.

## **9.0 PRESENTATION OF QUARTERLY REPORTS BY ADMINISTRATION (next presentation date October 29, 2007)**

- 9.1 CAO
- 9.2 Director of Infrastructure Services
- 9.3 Director of Corporate Services
- 9.4 Director of Community Services

## **10.0 PUBLIC HEARING DECISIONS**

## **11.0 DELEGATION DECISIONS**

## **12.0 UNFINISHED BUSINESS**

## **13.0 NOTICES OF MOTIONS**

## **14.0 COUNCILLOR REPORTS**

14.1 Councillor K. Bertamini stated that Drumheller's Affordable Housing Program Conditional Grant Funding was approved in the amount of \$2.8 million based on construction cost in December, 2005. The Funding Agreement approval was announced in January, 2007 however by this time, Alberta had seen and continues to see escalating construction costs and a shortage of contractors. However, the Town felt that the project would still be manageable by creating partnerships. The Town was successful in partnering with the Drumheller Rotarians for funding towards the appliances for the laundry units and with the Drumheller Institution on using inmates who have their first year carpentry for the framing portion of the project. The Town was also successful in receiving a grant from Alberta Real Estate Board in the amount of \$75,000 to help with the cost of hiring a project manager. Drumheller's project was first tendered in July, 2007 with no submissions received and a second invitation to tender was called in August, 2007 with the same disappointing results. Town Administration then approached a contractor to seek his interest and he did submit a price. Although the price is within the current rate for construction, it is significantly higher than the estimate within our original application. The contractor is committed to building the structure as long as he is able to undertake the concrete work by freeze-up. She stated that through the efforts of Mayor and Council there is an urgency to meet with our MLA, Jack Hayden to request extra funding. She further stated that this matter is important to the community because Drumheller has been waiting a long time for these 20 additional units with 12 handicapped units which will help to fill the



gaps in Drumheller's housing continuum.

**MO2007.182** Bertamini, Shoff that Council approach the provincial government for additional funding for Drumheller's Affordable Housing Project because of the cost over runs.

Discussion on Motion:

In response to a Council's question, R. Romanetz explained that the Town is in this position today because of what is going on with the economy in Alberta. He stated that although the price is in line with what everyone else is seeing in the province, it is because of the high cost of inflationary pressures and the unavailability of contractors. He explained that the project is more than 1/3 over budget.

Vote on motion: Carried.

**15.0 IN-CAMERA MATTERS MO2007.183** Sparling, Shoff that Council go in camera at 6:00 PM. Carried.

15.1 Personnel Matter

**MO2007.184** Bertamini, Shoff that Council revert to regular meeting at 6:18 PM. Carried.

15.1 Personnel Matter

**MO2007 185** Sparling, Bertamini that Council accept the Mayor's recommendation for compensation for the Chief Administrative Officer (CAO) based upon the CAO's performance evaluation dated September 17, 2007. Carried.

There being no further business the Mayor declared the meeting adjourned at 6:20 PM.

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MAYOR

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CHIEF ADMINISTRATIVE OFFICER