

# **Minutes Of An Amherstburg Municipal Council Meeting Held On Monday, November 9, 2009 At 7:00 p.m.**

## **PRESENT:**

Mayor Wayne Hurst  
Deputy Mayor Robert Bailey  
Councillor Rick Fryer  
Councillor Robert (Bob) Pillon  
Councillor John Sutton  
Councillor Rosa White

## **ALSO PRESENT:**

Pamela Malott, CAO  
Brenda Percy, Manager of Council & Leg. Services/Clerk  
Paul Beneteau, Treasurer  
Lory Bratt, Planning Coordinator  
Dave Carpenter, Manager of IT  
Ron Dzombak, Manager of Recreational Services  
Ivano Fregonese, Supervisor Budget Services  
Jackie Hubbs, Manager of Development Services  
Lou Zarlenga, Public Works Manager

## **ABSENT WITH NOTICE**

Councillor Paul Renaud  
Carol Bendo, Human Resources Manager (Vacation)

## **CALL TO ORDER**

Mayor Hurst called the meeting to order at 7:00 p.m.

## **PRAYER**

Father Michael Michon, St. Josephs's (Rivard Canard) said prayer.

## **DISCLOSURE OF PECUNIARY INTEREST**

There were no disclosures of pecuniary interest.

**MINUTES OF PREVIOUS MEETING**

Moved by Deputy Mayor Bailey  
Seconded by Councillor R. White

That the minutes of the following Amherstburg Municipal Council meetings be adopted as circulated:

Special In-Camera held on October 19, 2009 at 5:30 pm;

1. Special Public regarding Official Plan Amendment No.1 held on October 19, 2009 at 6:00 pm;
2. Special Public regarding the Development Charges Study and By-Law held on October 19, 2009 at 7:00 pm;
3. In-Camera held on October 26, 2009 at 5:45 pm and
4. Public held on October 26, 2009 at 7:00 pm.

**Motion Carried**

**CHANGE TO PROCEDURAL BY-LAW TO MOVE SERVICE AWARD PRESENTATIONS AHEAD OF DELEGATIONS**

Mayor Hurst presented Service Awards to Town of Amherstburg staff.

**Report # 1 Brought forward After Presentations**

A report by Carol Bendo regarding Long Service Recognition.

Moved by Councillor R. Pillon  
Seconded by Councillor J. Sutton

That the report by Carol Bendo dated October 2, 2009 regarding Long Service Award Recognition be received.

**Motion Carried**

## **DELEGATIONS**

### **Delegation # 1**

Tim DeHetre addressed Council regarding the Alma Street Cul-de-Sac. Mr. DeHetre questioned if the Fire Chief was notified and had he seen the original plans and the changed plans. Mr. DeHetre questioned the decision made to make the changes, both lack of notice of said changes and the ruling of the OMB hearing with respect to curb cuts for access.

### **Report # 2 brought forward after Delegation #1**

A report by Lou Zarlenga regarding the Alma Street Cul-de-Sac and delegation by Tim DeHetre.

Moved by Councillor J. Sutton  
Seconded by Councillor R. Pillon

That the delegation by Tim DeHetre be received;

That the report by Lou Zarlenga dated November 5, 2009 regarding Alma Street Cul-de-Sac and delegation by Tim DeHetre be received.

And further that Administration bring back a copy of the OMB Hearing and report back to Council on the conditions of the ruling with respect to Alma Street.

### **Motion Carried**

#### **Discussion:**

Mr. DeHetre asked for a copy of the plans which reflect the changes to the cul-de-sac. Lou Zarlenga advised that the plans could be made available to Mr. DeHetre.

Mr. DeHetre advised that curb cuts made for access to driveways is contrary to the ruling from the Ontario Municipal Board dated July 12, 1990 which states that there be no access at the end of Alma Street to the river on the left hand side.

### **Delegation # 2**

Neil Stewart addressed Council regarding the Alma Street Reconstruction and Sewage Backup Pump Installation, a copy of Mr. Stewart's delegation is attached and forms an Addendum to these minutes.

**Report #3 brought forward after Delegation # 2**

A report by Lou Zarlenga regarding Alma Street Reconstruction, Sewage Backup Pump Installation and the delegation by Neil Stewart.

Moved by Deputy Mayor Bailey  
Seconded by Councillor R. White

That the delegation by Neil Stewart be received;

And further that the report by Lou Zarlenga dated November 5, 2009 regarding Alma Street Reconstruction, Sewage Backup Pump Installation and the delegation by Neil Stewart be received.

**Motion Carried**

**Discussion:**

Councillor R. Pillon asked if gravel was returned to the property. Mr. Stewart advised that no work has been done to date. Lou Zarlenga advised that instruction was given to complete the work and make it passable; however, he had not had opportunity as of yet to visit the site. The Mayor asked that Lou Zarlenga attend the site in the morning.

Councillor R. Fryer sought an update on the plans to remediate the property.

**Delegation #3**

Wilf Fortowsky addressed Council regarding Abutting Landowner Provision. Mr. Fortowsky advised that he felt that he should have been provided notice of the sale as an abutting landowner. He also explained his concerns with respect to the safety of the site, requirements included within the Agreement between the Town and Allied Chemical and a need for the appropriate studies to be completed.

Moved by Deputy Mayor Bailey  
Seconded by Councillor J. Sutton

That the delegation by Wilf Fortowsky be received.

**Motion Carried**

**Discussion:**

Pamela Malott advised that should any rezoning application be brought before Council with regard to this property, Mr. Fortowsky and other rate payers surrounding the property would receive notice.

**Delegation # 4**

Gordon Freeman addressed Council regarding the Viability of Ranta Marina, a copy of Mr. Freeman's delegation is attached and forms an Addendum to these minutes.

Moved by Councillor J. Sutton  
Seconded by Councillor R. White

That the delegation by Gordon Freeman be received.

**Motion Carried**

**Delegation #5**

Carol Ferguson addressed Council regarding Policy #1 of Section 270 of the Municipal Act. She referred to the disposition of property policy, sections within the Municipal Act, lease with the Ranta Marina Boaters Association, Ranta Marina and concerns of lack of notice to the public.

**Report # 4 brought forward after Delegations # 3, 4 and 5**

A report by Pamela Malott regarding the release of the Ranta Marina Package.

Moved by Deputy Mayor Bailey  
Seconded by Councillor R. White

That the delegation by Carol Ferguson be received;

And further that the Report by Pamela Malott, CAO dated November 3, 2009 regarding the release of the Ranta Marina Package be received.

**Motion Carried**

**Discussion:**

Councillor R. Fryer referred to the opinion of the Town solicitor with respect to the lease with the Association to operate the marina and that it should await the expiry of the conditions on the Agreement of Purchase and Sale. Councillor R. Fryer questioned whether or not Council would still be entering into a lease with the Association, as approved by Council at an earlier meeting.

Councillor R. Fryer referred to the opinion of the Town solicitor with respect to the Allied Agreement, dated 01AUG84, which he notes does not have any force or effect with respect to restricting the right of Amherstburg to sell the marina to another party for a use other than recreational use for marina and park purposes. Councillor R. Fryer

questioned whether or not the Agreement with Price Waterhouse Cooper and Allied and General Chemical is still in effect since both have gone bankrupt or does the Town revert back to the original agreement with Anderdon. Councillor R. Fryer asked that a report be brought back public session.

## **REPORTS OF MUNICIPAL OFFICERS**

### **Report # 5**

A report by Pamela Malott, CAO regarding Disclosure of Final Costs for Kings Navy Yard Parkette.

Moved by Deputy Mayor Bailey  
Seconded by Councillor J. Sutton

That the report by Pamela Malott, CAO dated November 3, 2009 regarding Disclosure of Final Costs for Kings Navy Yard Parkette be received.

### **Motion Carried**

#### **Discussion:**

Councillor R. Fryer noted that the recommendation is to accept the report. He asked if Council is not required to concur with the portion required to be paid by the developer. Councillor R. Fryer indicated that the report had not been approved in a public meeting.

Councillor J. Sutton reminded Council that upon completion of the parkette, a legal opinion was requested from the Town solicitor regarding the breakdown of costs. It was dealt with in a public meeting of Council.

Councillor R. Fryer advised that Council also voted against paying for the upgrade of the stone, which is reflected as being a cost of the Town. He did not recall a motion approving the payment of the upgrade of the stone in the parkette. Administration was directed to bring the information back to Council.

### **Report # 6**

A report by Fire Chief Richard Murray regarding the Amherstburg Emergency Response Plan.

Moved by Councillor J. Sutton  
Seconded by Councillor R. Pillon

That the report by Fire Chief Richard Murray dated November 3, 2009 regarding the Amherstburg Emergency Response Plan be received.

**Motion Carried**

**Report # 7**

A report by Lory Bratt regarding the Development Charges Study and By-law.

Moved by Councillor J. Sutton  
Seconded by Councillor R. Fryer

That the report by Lory Bratt dated October 28, 2009 regarding the Development Charges Study and By-law be received;

That Council accept the recommendations in the Development Charges Study dated September 2009 prepared by Monteith Brown Planning Consultants;

And further that the **By-law 2009-81** being a Bylaw to establish Development Charges for residential Development be taken as having been read three times and finally passed and that the Mayor and Clerk be authorized to sign same and affix the corporate seal thereto.

**Motion Carried**

**Report # 8**

A report by Stephen Brown regarding the appointment of David Gibson as a Building Inspector.

Moved by Deputy Mayor Bailey  
Seconded by Councillor R. Pillon

That the report by Stephen Brown dated October 30, 2009 regarding the appointment of David Gibson as a Building Inspector who is available on request by the Chief Building Official to perform mandatory inspections as required by the Ontario Building Code be received;

And further that **By-law 2009-79** being a by-law to appoint a Building Inspector be taken as having been read three times and finally passed and that the Mayor and Clerk be authorized to sign same and affix the corporate seal thereto.

**Motion Carried**

**Report # 9**

A report by Lory Bratt regarding Solar Energy System additional project design detail update.

Moved by Councillor R. Fryer  
Seconded by Councillor R. Pillon

That the report by Lory Bratt dated November 4, 2009 regarding Solar Energy System additional project design detail update be received.

**Motion Carried**

**Report # 10**

A report by Paul Beneteau, Treasurer, regarding the 2010 Ontario Municipal Partnership Fund.

Moved by Councillor J. Sutton  
Seconded by Councillor R. White

That the report by Paul Beneteau, Treasurer, dated October 27, 2009 regarding the 2010 Ontario Municipal Partnership Fund be received;

That Council direct administration to send correspondence to the Minister of Finance, our local MPP, Mr. Bruce Crozier, with a copy to AMO, advising that any reduction at this time will have a severe impact on the ability of the Town of Amherstburg to continue to provide much needed services to our residence;

And further, that the funding guarantee remain in place for the 2010 year.

**Motion Carried**

**Report # 11**

A report by Ivano Fregonese, Supervisor of Budget Services regarding 2008 Year End Reserve Transfers.

Moved by Deputy Mayor Bailey  
Seconded by Councillor R. White

That the report by Ivano Fregonese, Supervisor of Budget Services dated November 3, 2009 regarding 2008 Year End Reserve Transfers be received;

That the amount of \$104,443, as identified in the accompanying schedule A be transferred from reserves to eliminate the 2008 Operating deficit;

That the amount of \$610,645, as identified in the accompanying schedule B be transferred from reserves to eliminate the 2008 Water Department deficit;

And further that the amount of \$965,972, as identified in the accompanying schedule C be transferred to reserves from the 2008 Waste Water Department surplus.

**Motion Carried**

**Report # 12**

A report by Tony Marra, GIS Coordinator regarding the Enterprise Licence Agreement with Environmental Systems Research Institute.

Moved by Councillor R. Pillon  
Seconded by Councillor R. White

That the report by Tony Marra, GIS Coordinator dated November 3, 2009 regarding the Enterprise Licence Agreement with Environmental Systems Research Institute be received;

And further that the Town of Amherstburg enter into an Enterprise License Agreement (ELA) with Environmental Systems Research Institute (ESRI) at no additional cost from the GIS budget.

**Motion Carried**

**Report # 13**

A report by Brenda Percy, Manager of Council and Legislative Services regarding leave of absence from Office for Councillor Paul Renaud.

Moved by Councillor J. Sutton  
Seconded by Councillor R. White

That the report by Brenda Percy, Manager of Council and Legislative Services, dated November 9, 2009 regarding leave of absence from Office for Councillor Paul Renaud be received;

That Council pass a resolution authorizing Councillor Paul Renaud to be absent from meetings of Council for up to three months;

That the matter be brought back to Council in three months for further review;

And further that Councillor R. Pillon be appointed as an alternate member to sit on the Traffic Committee during Councillor Renaud's absence.

**Motion Carried**

Discussion:

Mayor Hurst asked that notification be given that Councillor Pillon has been appointed as an alternate member.

**Report # 14**

A report by Ron Dzombak regarding the Lion's Pool 5 Year Cost.

Moved by Deputy Mayor Bailey  
Seconded by Councillor R. Fryer

That the report by Ron Dzombak dated October 29, 2009 regarding the Lion's Pool 5 Year Cost be received.

**Motion Carried**

**Report # 15**

A report by Pamela Malott CAO and Nustadia Recreation Inc. regarding the Development Manager Monthly Report.

Moved by Councillor J. Sutton  
Seconded by Councillor R. Pillon

That the report by Pamela Malott CAO and the Development Manager Nustadia Recreation Inc. and Pamela Malott dated November 3, 2009 regarding the Amherstburg Recreation Complex Monthly Project Summary Report be received.

**Motion Carried**

**Report #16**

A report by Lou Zarlenga regarding the Amherstburg Water Treatment Plant generator replacement.

Moved by Councillor J. Sutton  
Seconded by Councillor R. White

That the report by Lou Zarlenga dated November 4, 2009 regarding the Amherstburg Water Treatment Plant Generator be received;

And further that Council concurs with the recommendation of Administration to proceed to tender this project.

**Motion Carried**

**CONSENT CORRESPONDENCE**

Moved by Deputy Mayor Bailey  
Seconded by Councillor R. Fryer

That the following correspondence be received:

1. Notification of the January 1, 2010 reporting requirement for the Customer Service Standard, Accessibility for Ontarians with Disabilities Act, 2005 (AODA) - Ministry of Community and Social Services - November 2, 2009;
2. Receipt of Town of Amherstburg Resolution on MPAC Evaluation of Solar Energy Development - County of Brant - October 23, 2009;
3. Support of Town of Amherstburg Resolution on MPAC Evaluation of Solar Energy Development - Town of Rainy River - October 15, 2009;
4. Support of Town of Amherstburg Resolution on MPAC Evaluation of Solar Energy Development - Township of Faquier-Strickland - October 29, 2009;
5. Receipt of Town of Amherstburg Resolution on MPAC Evaluation of Solar Energy Development - County of Simcoe - October 27, 2009
6. Gosfield and Comber Wind Energy Projects Newsletter - Brookfield -October 2009;
7. Windsor Residence Name Change - Windsor Residence - October 27, 2009
8. Sustainable Communities Conference and Trade Show February 10-12, 2010 - FCM - October 24, 2009;
9. Closing of Prison Farms in New Brunswick, Ontario, Manitoba, Saskatchewan and Alberta - Township of Frontenac Islands - October 30, 2009
10. Waste Diversion Act Review - AMO Alert No. 09/070 - October 22, 2009;
11. Bill 168, Violence & Harassment in the Workplace - AMO Alert No. 09/071 - October 22, 2009;
12. Minister of Finance Delivers Fall Economic Statement - AMO Alert No. 09/072 - October 22, 2009;
13. Waste Diversion Act Review - AMO Alert No. 09/075- October 28, 2009;
14. Consultation on Blue Box Changes - AMO Alert No. 09/076 - November 3, 2009;
15. Good Government Bill Contains Minor Changes for Municipalities - AMO Alert No. 09/077 - November 3, 2009;

16. Local Government Week - MMAH and Ministry of Consumer Services - October 22, 2009;
17. Proposed Changes to the Municipal Elections Act , 1996, the Municipal Act, 2001, and the City of Toronto Act, 2006 - MMAH - October 27, 2009;
18. Residential-Farmland Property Tax Concerns - County of Perth - October 26, 2009;
19. Ministry of Natural Resources Provincially Significant Wetlands - Township of Wainfleet - October 15, 2009;
20. Law 35th Anniversary Celebration & Symposium - November 20, 2009 - University of Windsor - November 3, 2009;
21. Infrastructure Initiatives - AMO - October 19, 2009;
22. Training Courses - Fuels Safety - October 26, 2009;
23. Flu Plans & Changes at AFHT - Amherstburg Family Health Team;
24. Windsor Endowment for the Arts Annual Meeting - November 12, 2009 - Windsor Endowment for the Arts - October 28, 2009;
25. Mayor to Mayor Campaign Launched in Buy American Battle - City of North Bay - October 20, 2009 and
26. Southern Ontario Development Program (SODP) - Information and Insight - Windsor Essex Development Commission -October 22, 2009 TP.

**Motion Carried**

**CONSENT BUSINESS LICENSES**

Moved by Councillor R. Pillon  
Seconded by Councillor J. Sutton

That the following business licence application be received and approved subject to compliance with By-Law 2009-44, all agencies and regulations;

1. Application from Karen Kehoe- Dwyer for a Restaurant Licence in the name of Snack Attack;

And further that the licence be issued by our licensing officer once the applicant has met all of the special conditions as listed in By-Law 2009-44.

**Motion Carried**

**CONSENT OTHER MINUTES**

Moved by Councillor J. Sutton  
Seconded by Councillor R. White

That the minutes of the following meetings be received:

1. A meeting held by the Committee of Adjustment on August 25, 2009 at 7:30 am;
2. A meeting held by the Committee of Adjustment on September 29, 2009 at 7:30 am;
3. A meeting held by the Advisory Committee on the Environment (ACE) on September 10, 2009 at 6:30 pm;
4. A meeting held by the Community Spirit Committee on September 23, 2009 at 5:00 pm;
5. A meeting held by the Traffic Committee on October 14, 2009 at 1:00 pm and
6. A meeting held by the Police Services Board on September 15, 2009 at 4:30 pm.

**Motion Carried**

### **CORRESPONDENCE**

#### **Correspondence #1 Snow Removal - Mr. Robert Punga**

Moved by Councillor R. Fryer  
Seconded by Councillor R. Pillon

That the correspondence by Mr. Robert Punga dated November 2, 2009 regarding snow removal be received;

And further that Council direct Administration to respond back to Mr. Punga regarding the snow removal by-law and snow plow procedures.

**Motion Carried**

#### **Discussion:**

Councillor R. Pillon referred to the trails and asked that Administration report back on how trails will be cleared of snow.

Councillor R. Fryer noted that any costs associated would need to be included in the 2010 budget.

#### **Correspondence #2 The Melodies of Christmas - Amherstburg Rotary Club and the Down River Entertainers**

Moved by Councillor J. Sutton  
Seconded by Councillor R. White

That the correspondence by the Amherstburg Rotary Club and the Down River Entertainers regarding The Melodies of Christmas be received;

And further that all Council, Town Staff and Residents be encouraged to attend and support the event.

**Motion Carried**

### **UNFINISHED BUSINESS**

There were no items from the Unfinished Business Items list as of November 9, 2009 discussed.

### **NEW BUSINESS**

The Mayor announced that the tender results for the South Gateway Feature would be discussed at the public meeting scheduled November 10, 2009.

### **BY-LAWS**

#### **Confirmatory By-Law**

Moved by Deputy Mayor Bailey  
Seconded by Councillor R. Fryer

That **By-Law 2009 - 82** being a By-Law to confirm all resolutions of the Municipal Council be taken as having been read a first, second and third time, be finally passed and the Mayor and the Clerk be authorized to sign same and affix the Corporate Seal thereto.

**Motion Carried**

### **NOTICE OF MOTION**

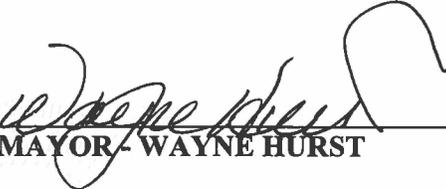
There were no notices of motion.

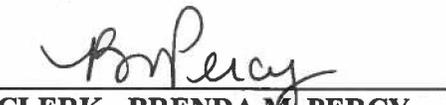
**ADJOURNMENT**

Moved by Councillor J. Sutton  
Seconded by Councillor R. White

That Council rise and adjourn at 8:30 p.m.

**Motion Carried**

  
MAYOR - WAYNE HURST

  
CLERK - BRENDA M. PERCY

November 9, 2009

**Mayor and Members of Council.**

**My name is Neil Stewart, I live at 42 Alma Street.**

1. I appeared before Council October 13, 2009 and questioned when the construction of Alma Street from Laird Avenue to the river was to be completed. Mr. Zarlenga advised the work would be done in two weeks which would be October 27, 2009. As of today's date the work has still not been completed. October 15, 2009 the gravel which had been placed between our driveway and the curb and gutter to give us access to our driveway was removed to prepare for the pouring of the cement pad up to our property line this work has not been completed therefore denying us access to our driveway. Might I remind you that this work began mid-August 2009. So, once again I ask When is this work to be completed?
  
2. After a second sewage back-up problem in the area of Alma and Laird in August 2008 on November 13, 2008 a back-flow prevention device was installed at 42 Alma Street. In February 2009 we had a sewer backup problem with some damage done in the lower level. April 17, 2009 we received a letter from Mr. Zarlenga stating that Public Works is currently working on an alternate method of isolating our home from the sewage collection system and recommending that during heavy rainfalls the use of our plumbing facilities should be avoided. It is now November 9, 2009 and we are still operating under this advisory. I am asking the Council to approve the placement of a Port-a-John, at the Town's expense, to be placed on our property until this issue is resolved. We have lived at this location for 32 years and never had a problem until the sewer separation work was done in 2006. I hope that the remedies being proposed by Public Works are not just a band-aid solution to a far greater problem.

Neil Stewart

**DELEGATION – NOVEMBER 9, 2009**  
**RANTA MARINA**  
**Gord Freeman**

Tonight I am reviewing the facts that you have been given in past meetings promoting the sale of Ranta Marina. I am doing this at this time because I truly believe the sale will not be consummated due to the many issues surrounding it.

At the last Council Meeting all of you praised the Association for the excellent job they had done over the past two years in running the Marina. Just think, how much better they could do with a longer lease; giving stability to the market of renting boat wells. Instead of being three quarters full-- to being full with a waiting list is not unreasonable.

The argument that the Marina is “little used” is a fallacy. For every boat slip rented at least one family is using the facilities. The launching ramp wasn’t even mentioned in the last CAO report to council. There are 800 to 1000 launchings a season and along with the many social gatherings and potential waterfront activities, this site is very much a core facility.

The tourism potential is very substantial and the downtown businesses could participate if they wanted to. The biggest events used to be the international bass tournaments which were discouraged by town employees, but they could be resurrected with a lot of time and effort by the Association’s paid staff. A coordinated effort could be made to accommodate these people for food and lodgings downtown. Other water festivals could be held allowing citizens to use the park facilities and ramps. The potential is truly unlimited!

The way the budget is set up for the Marina is the biggest deterrent to viability. All budget amounts are called a deficit and the only way to reduce these deficits is to come in under budget. No other recreational facility is treated in such a fashion. On top of this the Marina is charged interest for the accumulated deficit which this year amounted to \$36,000 – How do you do this? If you used the same reasoning for the Arena because of its three times larger “deficit”, the Arena should be paying over \$100,000 a year in interest, which is preposterous. Since amalgamation the Arena would have accumulated over \$3,500,000 in deficits plus over \$1,000,000 in interest. If we want to run the town like a business, as one of you stated, I would think all recreational facilities should be treated equally. By using the Marina method of deficit accrual the Arena would be owing \$4,500,000

before the new Arena is begun.. Of course, this is absurd and this use of creative accounting should be stopped.

A new lease should be multi year with all expenses paid by the Association. I say this because maintenance can be handled by members or town volunteers or contracted out at much better rates than the town can secure. I believe the key here is that no town employees be involved in the running of the Marina. Past experiences have taught many lessons to avoid! The ill-fated dredging is one good example.

The only thing to be paid by the town would be off season insurance which because it is still a town facility should be covered anyway by the blanket insurance policy. No other facility is charged insurance.

There is just not enough allotted time for me to go into greater detail with the above arguments, but I just want to leave with you the thought; that this deal can be reversed. The show of overwhelming public support for our only public Marina must indicate to you that the decision to sell was not well researched and should not have proceeded. Never again will we acquire a waterfront facility which was donated and built with federal and provincial grants and private donations. Except for the dredging debacle the town has not invested a cent in the Marina and yet you are willing to give it up.

Gord Freeman