

Regular Council Meeting Minutes

Meeting #: 16
Date: October 18, 2022
Time: 7:03 p.m. - 8:15 p.m.
Location: Council Chambers

Members Present

- Mayor Bent**
- Deputy Mayor Gosse**
- Councillor Tilley**
- Councillor Moores**
- Councillor Connors**
- Councillor Butler**
- Councillor Hillier**
- Councillor Hardy**
- Councillor Barrett**

Staff Present

- Gail Pomroy, Town Clerk**
- Liz Davis, Director of Financial Services**
- Brian Crawley, Chief Administrative Officer**
- Jennifer Norris, Director of Engineering and Public Works**
- Corrie Davis, Director of Planning and Development**
- John Heffernan, Fire Chief**
- Jennifer Lake, Director of Economic Development and Tourism**
- Maggie Hynes, Communications Manager**
- Mike Downey, Network Manager**

1. Land Acknowledgement

The Town of Conception Bay South would like to respectfully acknowledge the territory in which we gather, as the ancestral home-lands of the Beothuk and the island of Newfoundland as the ancestral homelands of the Mi'kmaq and Beothuk.

We also respectfully acknowledge Labrador as the traditional and ancestral homelands of the Innu of Nitassinan, the Inuit of Nunatsiavut, and the Inuit of NunatuKavut.

We strive for respectful partnerships with all the peoples of this province as we search for collective healing and true reconciliation and honour this beautiful land together.

2. ADOPTION OF AGENDAS AND MINUTES

2.a Adoption of the Meeting Agenda for October 18, 2022

Resolution #22-369

Moved By Councillor Hillier

Seconded By Councillor Connors

Be it so resolved that the agenda of the meeting of October 18, 2022 be adopted as presented.

Motion Carried

2.b Adoption of the Meeting Minutes of October 4, 2022

Resolution #22-370

Moved By Councillor Connors

Seconded By Councillor Moores

Be it so resolved that the minutes of the meeting of October 4, 2022 be adopted as presented.

Motion Carried

3. BUSINESS ARISING FROM PREVIOUS MINUTES

4. VISITORS, PRESENTATIONS AND PETITIONS

4.a Proclamation - Canadian Down Syndrome Week

Councillor Hardy proclaimed the week of October 23-29, 2022 as Canadian Down Syndrome Week in the Town of Conception Bay South. Kate Cleary and family from the Newfoundland Down Syndrome Society were in attendance.

4.b Child Abuse Prevention Month

Mayor Bent proclaimed the month of October, 2022 as Child Abuse Prevention Month in the Town of Conception Bay South.

5. NEW BUSINESS

Deputy Mayor Gosse invited residents to attend an in-person budget discussion to be held at the Royal Canadian Legion on Sunday, October 23, 2022 from 2 – 4 p.m. She also noted that there is an interactive budgeting tool on the Town's website. Deputy Mayor Gosse reported on the day of 2022 Fire Chief of the Day winner Riley Pinhorn.

Councillor Tilley advised this Saturday is the final bulk garbage drop off of the year.

Councillor Hillier commended teachers at Topsail Elementary School for their dedication to the safety of students.

Councillor Butler stated that the Week of October 16 – 22, 2022 is BDC Small Business Week, a nationwide celebration of entrepreneurs and small enterprises and the positive impact they have on our communities. This year, the theme for Small Business Week is Dare to do Things Differently: Power Up your Growth. As in previous years, the Town will be hosting their Bright Business Achievement Awards during Small Business Week, with the luncheon scheduled for Wednesday October 19th beginning at 12:00 PM at Manuels River. We are very pleased to have the continued support of Awards sponsors TD Canada Trust, BDC, and CBDC Cabot once again this year. 2022 has seen the return to some sense of normalcy, however many challenges remain for businesses owners that have a significant impact on our economy locally, provincially and nationally. Local entrepreneurs continue to show their adaptability and their ingenuity to meet the needs of their clients and customers, and find ways for their business to thrive. They are also making their businesses more inclusive and sustainable, while driving the economy on all levels. I encourage our residents to, in their own way, celebrate entrepreneurship and recognize the vital role played by entrepreneurs and employees, right here in our own community. As always, I would encourage you to support locally-owned and operated businesses whenever possible. Buy Local, Grow Local still rings true as a rallying call to make a tangible contribution to local businesses that support local jobs, services, and products. On behalf of Council, I would like to offer congratulations to all nominees of the Town's 11th Annual Bright Business Achievement Awards, and we look forward to announcing the winners on Wednesday afternoon.

Councillor Connors also encouraged residents to attend the budget consultation on Sunday at the Royal Canadian Legion or to use the online tools. He also thanked all small business owners in Conception Bay South.

Councillor Moores reviewed upcoming events for the Recreation and Leisure Services Department. She also thanked small business owners in Conception Bay South.

Councillor Hardy reminded residents of the Seniors' Halloween Social will be held at the Legion on Monday, October 31, 2022. There will be a prize for the most spectacular costume. She also encouraged residents to attend the upcoming Blood Donor Clinic on Tuesday, October 25, 2022 at the Foxtrap Parish Hall.

Councillor Barrett thanked members of Council and staff for the well wishes he had received with the birth of his child. He commented on the LAV III Monument Dedication Ceremony was a very moving event. He thanked everyone for their service. He also commented on the first full year of the current Council and reviewed items achieved. He also encouraged residents to be engaged in the 2023 Budget process.

Mayor Bent commented on the delays in roadwork that he has been receiving complaints about. He noted that the schedule is often out of the Town's control but that work is progressing and hopefully finished very soon. He also stated that he is looking forward to the Bright Business Awards event to be held tomorrow, October 19, 2022. He encouraged residents to attend the budget consultation on Sunday at the Royal Canadian Legion. Finally, he commented on the recent Growlers visit to the Conception Bay South Arena. He stated that it was great to have the Growlers back again.

6. RECOMMENDATIONS OF PLANNING AND DEVELOPMENT COMMITTEE (Chair, Councillor Hillier)

6.a 30-32 Lawrence Pond Road W

Resolution #22-371

Moved By Councillor Hillier

Seconded By Councillor Barrett

Be it so resolved, that in accordance with Sections 10.7 & 10.10 of the Town's Development Regulations, Application 2146 dated August 29, 2022 to develop a 29.7m² boat house and a 17.8m² wharf on the shoreline of Lawrence Pond, opposite 30-32 Lawrence Pond Road West, be approved on condition that a permit be issued only upon substantial

completion of the dwelling on the property at 30-32 Lawrence Pond Road West.

Motion Carried

6.b 5 Country Path Road

Resolution #22-372

Moved By Councillor Hillier

Seconded By Councillor Butler

Be it so resolved, that in accordance with section 15 of the Town's Fence Regulations, Application 2237 received on September 16, 2022 for a front yard fence at 5 Country Path Road be approved on condition that the fence be a maximum height of 1.2m from the front boundary line to the front building line, and a maximum height of 1.8m beyond the front building line, of the dwelling located at 3 Country Path Road.

Motion Carried

6.c 30 Flats Road

Councillor Tilley declared a conflict on this item as he has family who live in the area. He vacated the meeting at 7:36 p.m. and returned at 7:39 p.m.

Resolution #22-373

Moved By Councillor Hillier

Seconded By Councillor Connors

Be it so resolved that the Town engage Stantec Consulting to undertake sub surface geo-technical investigation at 30 Flats Road in accordance with their July 27, 2022 proposal at a cost of \$23,370.80 plus HST. Funds to be drawn from account 01-501-1000-7615.

Motion Carried

6.d 1287-1295 Conception Bay Highway

Resolution #22-374

Moved By Councillor Hillier

Seconded By Councillor Connors

Be it so resolved that the report and recommendations of Commissioner Jewczyk respecting Municipal Plan Amendment No. 24, 2022 and Development Regulations Amendment No. 42, 2022 be accepted as presented.

AND FURTHER

Be it resolved that, under the authority of Section 23 of the *Urban and Rural Planning Act, 2000*, the Town Council of Conception Bay South approves Conception Bay South Municipal Plan Amendment No. 24, 2022 and Development Regulations Amendment No. 42, 2022 as adopted.

Motion Carried

6.e Fence Regulations Amendment

Resolution #22-375

Moved By Councillor Hillier

Seconded By Councillor Barrett

Be it so resolved that the Conception Bay South Fence Regulations be amended by inserting new sub section 2(k) with the words "**Flanking Street Lot Line**" means a street line abutting the lot other than the Front Lot Line such as the side of a corner lot or the portion of the lot line to the side of the property on a lot bounded by a curved street, but excludes the Rear Lot Line." and renumbering the subsequent sub sections within section 2.

AND FURTHER:

Be it so resolved that the Conception Bay South Fence Regulations be amended by replacing sub section 13(b) with the words "Unless otherwise approved by Council, a fence on the flanking street lot line shall not exceed 1.5 metres in height."

FENCE REGULATIONS

1. TITLE

These regulations shall be known and cited as “Town of Conception Bay South Fence Regulations”.

2. INTERPRETATION

In these Regulations:

- (a) **“Regulations”** means the Town of Conception Bay South Fence Regulations.
- (b) **“Building”** means:
 - (i) a structure, erection, alteration or improvement placed on, over or under land or attached, anchored or moored to land,
 - (ii) mobile structures, vehicles and marine vessels adapted or constructed for residential, commercial, industrial and other similar uses,
 - (iii) a part of and fixtures on buildings referred to in subparagraphs (i) and (ii), and
 - (iv) an excavation of land whether or not that excavation is associated with the intended or actual construction of a building or thing referred to in subparagraphs (i) to (iii).
- (c) **“Building Line”** means a line established by an authority that runs parallel to a street line and is set at the closest point to a street that a building can be set.
- (d) **“Commercial Lot”** means a lot used exclusively or primarily for commercial purposes.
- (e) **“Corner Lot”** means a lot situated at the intersection of two streets.
- (f) **“Council”** means the Council of the Town of Conception Bay South or designate.

- (g) **“Electrical Fence”** means a fence through which electricity passes.
- (h) **“Erect”** includes alter, construct, reconstruct, plant, place, relocate and any work preparatory to erection and “erection” has a corresponding meaning.
- (i) **“Established Grade”** means average elevation of the finished grade of the ground immediately surrounding the structure, exclusive of any artificial embankment or entrenchment.
- (j) **“Fence”** includes railing, wall, line of posts, wire, gate, boards or other similar substances used to separate or divide any parcel of land or part thereof from any other parcel of land or part thereof, immediately adjacent thereto or to establish a property boundary.
- (k) **“Flanking Street Lot Line”** means a street line abutting the lot other than the Front Lot Line such as the side of a corner lot or the portion of the lot line to the side of the property on a lot bounded by a curved street, but excludes the Rear Lot Line.
- (l) **“Front Lot Line”** means the street line on which a lot has its civic address, except where a lot has two or more street lines, in which case the Council shall determine the front lot line.
- (m) **“Front Yard”** means a yard extending across the full width of the lot from the front lot line to the front wall of the main building on the lot.
- (n) **“Industrial Lot”** means a lot used exclusively or primarily for industrial purposes.
- (o) **“Lot”** means any plot, tract or parcel of land, which can be considered as a unit of land for a particular use or building.
- (p) **“Lot Line”** means any line defining the boundaries of a lot and shall include a front lot line, side lot line and rear lot line.
- (q) **“Rear Lot Line”** means the lot line or lines opposite the front lot line.

- (r) **“Rear Yard”** means a yard extending across the full width of the lot between the rear lot line and the rear wall of the main building on the lot.
- (s) **“Residential Lot”** means a lot used exclusively or primarily for a dwelling or dwelling unit.
- (t) **“Road Reservation”** shall mean the area as prescribed in the Road Reservation Regulations to be reserved for a street or street improvements.
- (u) **“Side Lot Line”** means the lot line or lines other than a front lot line or rear lot line.
- (v) **“Snow Fence”** means a light fence of lath and wire or constructed of polyethylene mesh.
- (w) **“Street”** means any street, road or highway or any other way designed or intended for public use for the passage of vehicles and pedestrians, owned by the Authority or other public agency and maintained at public expense, and is accessible to Fire Department vehicles and equipment.
- (x) **“Street Line”** means the edge of a street, road or highway reservation as defined by the authority having jurisdiction.
- (y) **“Town”** shall mean the Town of Conception Bay South.
- (z) **“Yard”** means any open, uncovered, unoccupied space appurtenant to a building.

3. APPLICATION

These Regulations shall apply within the boundaries of the Town.

4. CONFORMITY WITH REGULATIONS

No person shall erect, maintain or repair a fence except in accordance with these Regulations.

5. PERMIT REQUIRED

No person shall erect or repair a fence unless the Council approves the location and the Council has issued a permit for the erection or repair of the fence.

6. FORM OF APPLICATION

An application to erect a fence shall be made only by the owner or by a person authorized by the owner, in writing, on such form as may be prescribed by the Council, and every application shall include such plans, specifications and drawings the Council may require, and be accompanied by the permit fee required by the Council.

7. CONSTRUCTION MATERIALS

The material or materials used in the erection and repair of a fence shall only be of a type, which meets the approval of the Council.

8. WOODEN POSTS

All wooden posts required for the erection and construction of a fence shall be:

- (a) Installed a minimum depth of 600 millimetres below grade and if not pressure treated at plant, coated with a wood preserver for that portion of the fence post situated below established grade; and
- (b) Anchored by means of a concrete pier footing or wooden shoe and the concrete footing or wooden shoe shall be covered by soil.

9. METAL POSTS

All metal posts required for the erection and construction of a fence shall be in accordance with the following requirements:

- (a) All corner posts shall be installed a minimum depth of 900 millimetres below established grade and anchored by a concrete pier footing.
- (b) All line posts shall be installed a minimum depth of 600 millimetres below established grade and anchored by a concrete pier footing.

10. MAINTENANCE

Every person who owns a fence shall maintain such fence in a good state of repair. For the purposes of this section, “good state of repair” shall mean:

- (a) the fence is complete and in a structurally sound condition and plumb and securely anchored;
- (b) protected by weather-resistant materials;
- (c) fence components are not broken, rusted, rotten or in a hazardous condition;
- (d) all stained or painted fences are maintained free of peeling; and
- (e) that the fence does not present an unsightly appearance deleterious to abutting land or to the neighbourhood.

11. CLEAR VIEW

No fence shall be erected that obscures a clear view of street intersection, pedestrian pathways, driveways or other points of access or egress of vehicles or pedestrian traffic.

12. PROPERTIES ABUTTING A PARK, PUBLIC WALKWAY OR RIGHT OF WAY

The Council shall determine the style, type and height of fence to be erected or constructed on property, which abuts a park, public walkway or right of way.

13. CORNER LOTS

- (a) Unless otherwise approved by Council, no person shall erect a fence on a corner lot any closer than the front building line setback and within 3 metres of the side boundary on the flanking street lot line. The fence shall not create a visible obstruction at any intersection or driveway. In such cases, the Council will determine the height and location of the fence.
- (b) Unless otherwise approved by Council, a fence on the flanking street lot line shall not exceed 1.5 metres in height.

14. ROAD RESERVATION

No person shall erect a fence that projects into or onto the road reservation.

15. RESIDENTIAL LOT – FRONT YARD FENCE

No person shall erect a fence for residential purposes in the front yard with the following exceptions:

- (a) For the purpose of acting as a retaining wall (along the front or side of the property) provided the retaining wall does not impede sight distance.
- (b) On boundaries bordering public walkways where a maximum 1-metre high fence will be permitted.
- (c) In areas of adjoining driveways it will be permissible to construct curbing to a height of 150 millimetres or to erect fencing to a maximum height of 600 millimetres.
- (d) Where an established form of front yard fencing has been established along a street, a fence may be constructed that is consistent with this form of front yard fencing provided:
 - (i) It does not create a visual obstruction for vehicles entering or exiting the lot;
 - (ii) It does not create an obstruction to the travelling public;
 - (iii) It does not interfere with snow clearing operations;

- (iv) The fence is consistent and is in line with other fences in the immediate neighbourhood or meets the conditions established by the Town;
- (v) A fence built at the front property line shall not exceed 1.2 metres; and
- (vi) A fence built at the building line shall not exceed 1.8 metres.

16. RESIDENTIAL LOTS – REAR YARD AND SIDE YARD FENCE

Unless otherwise approved by the Council, the maximum height of a fence erected or constructed for residential purposes shall not exceed a height of 1.8 metres above established grade.

17. INDUSTRIAL AND COMMERCIAL LOT – FRONT YARD FENCE

Unless otherwise approved by the Council, a minimum setback of 10 metres shall be required between the front lot line and the erection or construction of a fence for industrial and commercial purposes and the maximum height of the fence shall not exceed a height of 2.7 metres above established grade.

18. INDUSTRIAL AND COMMERCIAL LOT – REAR YARD AND SIDE YARD FENCE

- (a) Unless otherwise approved by the Town, the maximum height of a fence erected or constructed on an industrial and commercial lot shall not exceed a height of 2.7 metres above established grade in the area of the lot between the building line and street line and rear lot line provided the lot does not abut a residential lot.
- (b) Unless otherwise approved by the Town, in the case where an industrial or commercial lot abuts a residential lot or residential use zone, the maximum height of a fence erected or constructed on an industrial and commercial lot shall not exceed a height of 1.8 metres above established grade except where the side yard of a commercial or industrial lot is used for open storage and then a 2 meter fence must be provided.

19. AGRICULTURAL AND RURAL PROPERTY FENCE

Unless otherwise approved by Council, the maximum height of a fence erected on an agricultural or rural property shall not exceed a height of 1.2 metres and may be constructed of wire and wooden posts typical of boundary fences demarcating agricultural or rural property.

20. REAR YARD FENCES ABUTTING STREETS

No person shall erect or construct a fence along the rear lot line of a lot that abuts a highway or street unless it is in accordance with a style, type and height of fence as determined by Council.

21. ELECTRICAL FENCE

No person shall erect an electrical fence on any land except where required in a rural use zone to contain livestock or protect agricultural crops.

22. BARBED WIRE FENCES

- (a) No person shall erect a fence consisting wholly or partly of barbed wire or other barbed material on a residential lot or in a residential use zone.
- (b) Barbed wire may be used:
 - (i) along the top of a fence in excess of 2.1 metres enclosing a lot used for commercial or industrial purposes provided the industrial or commercial lot does not abut a residential lot or residential use zone; or
 - (ii) in a rural use zone to contain livestock or protect agricultural crops or land.

23. SNOW FENCE

No person shall erect or maintain a snow fence for the period of May 1st to October 31st in any year. Snow fences should only be erected for snow abatement purposes.

24. SWIMMING POOL FENCE

A 1.8-metre fence shall be erected and maintained completely surrounding the area of the lot in which a swimming pool is constructed, located or placed. The fence shall be located so as to maintain a minimum separation distance of 1.8 metres between the swimming pool and the fence.

- (a) The fence shall be constructed so that no openings are greater than 10 cm and that no grip, attachment, or opening will facilitate climbing.
- (b) A swimming pool fence shall not be constructed of chain link.
- (c) Where accessed by gate(s), all gates in the swimming pool fence shall meet the same height and construction requirements; the gate(s) shall have a properly maintained self-closing and self-latching device installed on the gate(s) on the pool side of the enclosed area at a position no less than 1.5 metres above the established grade and the gate(s) must be locked whenever the pool area is unsupervised.

The sidewalls of an aboveground pool shall not form part of the swimming pool fence.

25. RETAINING WALLS

- (a) Retaining walls shall not be placed on any right-of ways or easements.
- (b) Retaining walls shall not conflict with site grading requirements in new subdivisions unless approved by the Town of Conception Bay South Planning and Development Department.
- (c) Retaining walls shall be equipped with a guard as required by the National Building code of Canada.

- (d) Retaining walls under a height of 1.22 metres that have imposed loads from driveways, deck footings, house footings, sloped backfill or other structures are required to be designed by a professional engineer licensed to practice in Newfoundland and Labrador. The design engineer shall provide the Town with written verification that the wall has been constructed as per the submitted design drawings. Two sets of stamped drawings shall be submitted to the Town of Conception bay South Planning and Development Department for review.
- (e) Retaining walls with overall accumulative heights of 1.22 metres or higher shall be designed by a professional engineer licensed to practice in Newfoundland and Labrador. The design engineer will specify a distance from the boundary that is sufficient for the future maintenance of the retaining wall. The design engineer shall provide the Town with written verification that the wall has been constructed as per the submitted design drawings. Two sets of stamped drawings shall be submitted to the Town of Conception Bay South.

26. PUBLIC AUTHORITIES

The provisions of these Regulations shall apply to all public authorities except in those cases where an exception from the Regulations is required to respond to an emergency or for a public purpose.

27. RESPONSIBILITY FOR DAMAGE

The Council shall not be liable for any damages for the repair of any fence whatsoever where the Town, its employees or agents or otherwise have acted without negligence. In particular, the Council shall not be liable for any damages for the repair of any fence whatsoever during the normal operation of snow clearing on streets or sidewalks located within the Town.

28. COMPLIANCE WITH REGULATIONS

A fence in existence at the date of coming into effect of these Regulations which is not in accordance with the provisions of these Regulations may continue to exist provided the fence is maintained in a good state of repair and the fence is not deemed to be a safety hazard or obstruction by the Council. A fence which is in existence at the date of coming into effect of these Regulations shall not be

modified or replaced with a fence which differs in the height, type, style or material used in the erection or construction of the existing fence unless the fence is constructed in accordance with these Regulations.

29. PENALTIES

Every person who is guilty of an offence under these Regulations or who acts in contravention of or fails to comply with any provision thereof, or neglects or refuses to do so:

- (a) Shall be liable to penalties as stipulated in accordance with Section 420 of the *Municipalities Act, 1999*; or
- (b) Shall be subject to an Order under Section 404 (1) (i) of the *Municipalities Act, 1999*; or
- (c) Shall be subject to a Violation Notice issued under Section 421.1 (1) of the *Municipalities Act, 1999*; or
- (d) Shall be issued to a ticket under the *Provincial Offences Act* in accordance with Section 421.2 of the *Municipalities Act, 1999*.

30. REPEAL OF PREVIOUS REGULATIONS AND AMENDMENTS

All previous Town of Conception Bay South Fence Regulations and amendments are repealed.

31. COMPLIANCE WITH OTHER ACTS AND REGULATIONS

Nothing in these Regulations serves to exempt any person from obtaining any license, permission, permit, authority or approval required by any other regulation of the Town or any statute or regulation of the Province of Newfoundland and Labrador, and in such cases where more than one regulation or statute applies the more restrictive regulation or statute shall apply.

32. EFFECTIVE DATE

These Regulations shall come into force on the 19th day of October, 2022.

Motion Carried

6.f 20 Tilleys Road South

Resolution #22-376

Moved By Councillor Hillier

Seconded By Councillor Barrett

Be it so resolved, that in accordance with section 13(a) and 13(b) of the Town's Fence Regulations, Application No. 2116 received August 17, 2022 for a flanking street side yard fence at 20 Tilleys Road South, be approved on condition that the fence be a minimum of 1.3m setback from Maple Oak Place and a maximum of 1.8m high.

Motion Carried

6.g Committee Report

Resolution #22-377

Moved By Councillor Hillier

Seconded By Councillor Butler

Be it so resolved that the decisions and recommendations made at the Planning and Development Committee meeting on October 11, 2022 be accepted as presented.

- 40 Redwood Place
- 7 Seaspray Crescent & 330 Seal Cove Road
- Builders Forum Outcomes
- Boundary Change Proposals
- Notices Published
- Fence Regulations Amendment
- Department Update
- 167 Conception Bay Highway

Motion Carried

7. RECOMMENDATIONS OF ENGINEERING AND PUBLIC WORKS COMMITTEE (Chair, Councillor Tilley)

7.a Engineering and Public Works Committee Meeting

Councillor Tilley declared a conflict on this item for 764 – 766 Conception Bay Highway as he has family in the area. He vacated the meeting at 7:49 p.m. and returned at 7:52 p.m.

Resolution #22-378

Moved By Councillor Hardy

Seconded By Councillor Hillier

Be it so resolved that the recommendations and decisions of the Engineering and Public Works Committee held on October 11, 2022 be accepted as presented:

- Capital Project Update
- Water Statistics Update
- Waste Statistics Update
- Topsail Road - Cabot Road Intersection
- Billy Brook Stormwater Study
- Annual Yard Waste Collection Program
- ERSB 2023 Fee Schedule
- 12 Mission Road
- 764-766 Conception Bay Highway

Motion Carried

8. RECOMMENDATIONS OF RECREATION AND LEISURE SERVICES COMMITTEE (Chair, Councillor Moores)

8.a Recreation and Leisure Services Committee Report

Deputy Mayor Gosse declared a conflict on this item as it involves her family business. She vacated the meeting at 7:50 p.m. and returned at 7:52 p.m.

Mayor Bent declared a conflict on this item as it relates to the Recreation Master plan as he is employed by the CBS Soccer Association. He vacated the meeting at 7:50 p.m. and returned at 7:52 p.m.

Resolution #22-379

Moved By Councillor Moores

Seconded By Councillor Hillier

Be it so resolved that the recommendations and decisions of the Recreation and Leisure Services Committee meeting of October 11, 2022 be accepted as presented.

- Correspondence - Dannic Place Playground
- Swim Lesson Program - Lifesaving Society
- Registration - Fall Set 2 Swimming Lessons
- Important Dates
- Obstructed Sightlines at Sweetenwater Cres.
- Future Street Hockey Event
- Recreation and Cultural Master Plan
- The Growlers

Motion Carried

9. RECOMMENDATIONS OF FINANCIAL AND ADMINISTRATIVE SERVICES COMMITTEE (Chair, Deputy Mayor Gosse)

9.a Accounts Payable Cheques

Resolution #22-380

Moved By Deputy Mayor Gosse

Seconded By Councillor Butler

Be it so resolved that approval be given to pay accounts payable cheques totaling \$245,765.51 as per the attached report.

Motion Carried

9.b Manual Cheques

Resolution #22-381

Moved By Deputy Mayor Gosse

Seconded By Councillor Hardy

Be it so resolved that approval be given to ratify the payment of manual cheques totaling \$23,345.91.

Motion Carried

9.c Direct Payments Register

Resolution #22-382

Moved By Deputy Mayor Gosse

Seconded By Councillor Tilley

Be it so resolved that approval be given to ratify the payment of direct payments totaling \$364,797.91.

Motion Carried

9.d Capital Invoice Approval

Resolution #22-383

Moved By Deputy Mayor Gosse

Seconded By Councillor Hardy

Be it so resolved that approval be given to pay capital invoices totaling \$212,478.45 as per the attached report.

Motion Carried

9.e Tax and Other Receivables Adjustments

Resolution #22-384

Moved By Deputy Mayor Gosse

Seconded By Councillor Barrett

Be it so resolved that approval be given to tax and other receivables accounts as follows:

- BEWHJ002 Request Denied

Motion Carried

9.f Canada Community Building Fund (Gas Tax) - Additional Project Applications

Resolution #22-385

Moved By Deputy Mayor Gosse

Seconded By Councillor Barrett

Be it so resolved that approval be given to submit the following Capital Investment Plan (CIP) applications for the 2019-2024 Gas Tax Funding to the Gas Tax Secretariat – Department of Municipal and Provincial Affairs:

Project Description	Estimated Cost
2023 Street Paving	\$1,500,000
Sidewalks	\$500,000
WWTP Roof Replacement	\$400,000
Total Cost	\$2,400,000

Motion Carried

9.g Open Air Fire Regulations

Resolution #22-386

Moved By Deputy Mayor Gosse

Seconded By Councillor Hillier

Be it so resolved that the Open Air Fire Regulations be adopted as presented.

OPEN AIR FIRE REGULATIONS

1. TITLE

These Regulations may be cited as the “Town of Conception Bay South Open Air Fire Regulations”.

2. DEFINITIONS

- (a) “**Chief**” shall mean the Fire Chief of the Conception Bay South Fire Department or other person designated by the Chief in and for the fire protection of the Town.
- (b) “**Fire Department**” shall mean the Conception Bay South Fire Department.
- (c) “**Open Air Fire**” shall mean any fire that is caused, set, lit or otherwise ignited outside the confines of any building. For the purposes of these Regulations, it does not include any fire that is caused, set, lit or otherwise ignited in open air fireplaces, grills, or barbecues or barrels.
- (d) “**Permit**” shall mean a permit for Open Air Fire.
- (e) “**Regulations**” shall mean the Town of Conception Bay South Open Air Fire Regulations.
- (f) “**Suitably Equipped**” shall mean being in possession of tools or equipment, including without limitation, brooms, rakes, back tanks, shovels, hoses and an adequate water supply, which shall be used to contain and/or prevent the spread of a fire ignited in the open air.
- (g) “**Town**” shall mean the Town of Conception Bay South as defined by the Act.
- (h) The Provincial Fire Index Levels are defined as:
 - a. **Low:** Fire starts are unlikely. Although fire may occur, weather and vegetation conditions will lead to less intense, slower spreading fires. Fires are not likely to become serious and should be easily controlled.
 - b. **Moderate:** Weather conditions are creating drier forest conditions. The risk of surface fires starting and spreading has increased. Wildfires maybe expected, but control is usually not difficult. Activities on forested land should be conducted with caution.

- c. **High:** Weather conditions have continued to dry forest vegetation increasing the risk of wildfires occurring. Fires may start easily, burn quickly, and challenge fire suppression efforts. Caution should be exercised when conducting activities on forested land. Open fires requiring a Permit to Burn are prohibited and industrial activities may be restricted.
- d. **Very High:** The fire risk is serious. Forest vegetation is very dry and fires will start easily, burn vigorously, and challenge fire suppression efforts. Burning Permits are suspended, open fires including campfires are prohibited and industrial activities may be restricted. Exercise extreme caution when conducting activities on forested land.
- e. **Extreme:** There is an extreme risk of fire and dangerous forest conditions exist. New fires will start very easily, spread rapidly, and challenge fire suppression efforts. Many forest related activities will be banned or restricted to ensure public safety. This includes closing access to forested areas, cancelling Burning Permits, restricting industrial activities, and prohibiting open fires and campfires.

3. APPLICATION OF REGULATIONS

These Regulations shall apply to all areas of the Town and during the entire year.

4. PERMIT

- (a) No person or persons shall cause, set, light or otherwise ignite an open air fire within the boundaries of the Town without first applying for and obtaining a permit from the Chief.
- (b) Notwithstanding Section 4(a), no permit is necessary to burn in a barrel, provided:
 - (i) The barrel is covered with a screen with a mesh no larger than ½ inch and completely contains the fire;
 - (ii) The barrel is located on private property and kept at least 15 metres from the nearest woods, brush, or flammable material;
 - (iii) The unit rests on legs or supports and is placed on mineral soil or non-combustible material having a surface area of a minimum of 1.5 square metres;

- (iv) The barrel is made entirely of non-combustible materials, is in good condition and an attendant is on the site; and
 - (v) The barrel ash is totally extinguished before being discarded on minerals soil at least 15 metres from any woods, brush, or flammable material.
 - (vi) Should the Provincial Fire Index reach **Very High** or **Extreme**, all barrel fires will be prohibited.
- (c) Notwithstanding Section 4(a), no permit is necessary to burn in an outdoor wood burning unit provided:
- (i) The unit is made entirely of non-combustible material;
 - (ii) The unit completely contains the fire;
 - (iii) The unit is screened to prevent the escape of sparks or other burning material;
 - (iv) The unit rests on legs or supports and is placed on minerals soil or non-combustible materials having a surface area of a minimum of 1.5 square metres, and
 - (v) The unit is located a minimum of 3.5 metres from the nearest woods, brush or other flammable material.
 - (vi) Should the Provincial Fire Index reach **Very High** or **Extreme**, all outdoor wood burning fires will be prohibited.
- (d) Propane Burning Units: Nothing in these Regulations shall prohibit the use of a propane burning unit. This includes a propane BBQ, heater, fireplace or firepit.

- (e) Any other fuel-based systems are not approved. This includes kerosene, alcohol or gas.
- (f) Where a permit is not required under sections 4.2 and 4.3, this shall not relieve a person from the requirements set out in Section 5 of these Regulations as if they were a permit holder.
- (g) Notwithstanding Section 4(a), following the Department of Fisheries and Land Resources Forest Fire Regulations under the Forestry Act (O.C. 96-178) no permit is required on a sand or gravel beach or quarry if:
 - (i) the fire is located at a distance of not less than 15 metres from the nearest woods, brush or other flammable material,
 - (ii) the fire does not exceed a surface area of 0.4 square metres,
 - (iii) the fire is located at a distance of not more than 1.25 metres from a body of water whose surface area exceeds 10 square metres;
 - (v) Should the Provincial Fire Index reach **Very High** or **Extreme**, all sand or gravel beach or quarry fires will be prohibited.
- (h) A permit may be issued by a member of the Conception Bay South Fire Department, on behalf of the Fire Chief from Station 1 in Kelligrews or Station 2 in Topsail, 7 days a week from 8:00 a.m. to 8:00 p.m.
- (i) In making a determination under Section (a), the Chief may take into consideration the following:
 - (i) The number of permits issued on a particular day;
 - (ii) The velocity of the wind;
 - (iii) The general weather conditions prevalent;
 - (iv) Whether or not the applicant is suitably equipped to ensure the fire is maintained under control;
 - (v) The proposed manner and method of burning;
 - (vi) Whether the applicant owns or is the occupant of the land upon which the burning is intended to occur, or has the written consent, produced prior to the issuance of the permit, of the owner of the land, which the burning will occur;

- (vii) Whether the applicant is 19 years of age or older and ensures that at least one other person, of 19 years of age or older, suitably equipped to control the fire, will be present while the fire is burning or smoldering;
- (viii) Any other manner the Chief determines relevant to safety.
- (j) Where the Chief determines that the proposed burning would be a hazard to safety or where there is a failure to meet the requirements of these Regulations, the Chief shall refuse to issue a permit. Furthermore, where a hazard to safety has been created, the Fire Department may extinguish the fire and anything else that is necessary to eliminate the hazard, the costs of which may be recovered from the person responsible for creating the hazard, as a civil debt.
- (k) The Chief may specify on the permit the hours of the day and the number of days during which the permit shall be valid, and in so doing, may distinguish between permits issued for commercial or other uses.
- (l) If the person attempting to obtain a permit is not the owner of the land on which the burning is intended to occur, then written consent of the owner of the land must be obtained before any permit is approved.
- (m) The Chief may include in a permit those items and conditions that he or she considers appropriate for the permit being sought.
- (n) A permit may, by oral or written notice be cancelled or suspended at any time by the Chief or his/her designate, and upon receiving notice of a cancellation or suspension, the permit holder shall immediately extinguish any fire caused, set, lit, or otherwise ignited under the permit.

5. DUTIES OF PERMIT HOLDER

- (a) The holder of the permit who causes, sets, lights, otherwise ignites an open air fire shall not leave the fire unattended and shall take every reasonable and reasonably foreseeable precaution to prevent the fire from

spreading and shall not leave the fire unattended until it is completely extinguished.

- (b) A permit holder shall not burn more than one pile of material at any given time.
- (c) A permit holder shall not ignite any fire when the wind is blowing of sufficient velocity such that it may jeopardize the permit holder's ability to control the fire.
- (d) The permit holder shall ensure that the method of burning and material burned is consistent with the information provided by the Chief when the permit was issued.
- (e) The Fire Department shall be immediately notified if the fire is or appears to be getting out of control.
- (f) No person or permit holder shall light, ignite, or start or allow or cause to be lighted, ignited or started, a fire of any kind whatsoever in the open air without being suitably equipped to contain or extinguish the fire.
- (g) The holder of the permit will not be permitted to burn any petroleum-based product, such as oil, rubber tires, plastic, shingles, electrical wire etc.
- (h) A person must not light any fire that will cause smoke from said fire to cause irritation to neighbouring properties.
- (i) The possession of a permit does not discharge the person to whom it is issued from responsibility for damage resulting from the open air fire.
- (j) A person to whom the permit is issued shall keep a copy of the permit on site where the burning is taking place.

6. PENALTIES

Every person who is guilty of an offence under these Regulations or who acts in contravention of or fails to comply with any provision thereof, or neglects or refuses to do so:

- (a) Shall be liable to penalties as stipulated in accordance with section 420 of the *Municipalities Act, 1999*; or
- (b) Shall be subject to an Order under section 404(1)(j) of the *Municipalities Act, 1999*; or
- (c) Shall be subject to a Violation Notice issued under section 421.1(1) of the *Municipalities Act, 1999*; or
- (d) Shall be issued a ticket under the *Provincial Offences Act* in accordance with section 421.2 of the *Municipalities Act, 1999*.

7. REPEAL OF PREVIOUS REGULATIONS AND AMENDMENTS

All previous Town of Conception Bay South Open Air Fire Regulations and amendments are repealed.

8. COMPLIANCE WITH OTHER ACTS

Nothing in these Regulations serves to exempt any person from obtaining any license, permission, permit, authority or approval required by any other Regulation of the Town or any Statute or Regulation of the Province of Newfoundland and Labrador, and in such cases where more than one Regulation or Statute applies the more restrictive Regulation or Statute shall apply.

9. EFFECTIVE DATE

These Regulations shall come into force on the 19th day of October, 2022.

Motion Carried

9.h Policy - Code of Conduct of Council

Resolution #22-387

Moved By Deputy Mayor Gosse

Seconded By Councillor Tilley

Be it so resolved that the Code of Conduct of Council be adopted as presented.

Code of Conduct for Members of Council

PURPOSE:

As local elected representatives we recognize that responsible conduct is essential to providing good governance for the Town of Conception Bay South.

We further recognize that responsible conduct is based on the foundational principals of integrity, accountability, respect, and leadership and collaboration.

In order to fulfill our obligations and discharge our duties, we are required to conduct ourselves to the highest ethical standards by being an active participant in ensuring that these foundational principles, and the standards of conduct set out below, are followed in all of our dealings with every person, including those with other members, staff and the public.

AUTHORITY:

This Code of Conduct is a complement to existing legislations and Town of Conception Bay South policies including, but not limited to:

- Municipalities Act, 1999
- Municipal Conduct Act
- Newfoundland and Labrador Human Rights Act
- Municipal Elections Act
- Workplace Harassment Policy, Town of Conception Bay South

STATEMENT OF POLICY:

This Code of Conduct applies to the members of the Conception Bay South Town Council. It is each member's individual responsibility to uphold both the letter and the spirit of this Code of Conduct in their dealings with other members, staff and the public.

Elected officials must conduct themselves in accordance with the law. This Code of Conduct is intended to be developed, interpreted and applied by members in a manner that is consistent with all applicable Federal and Provincial Laws, as well as the bylaws

and policies of the Town of Conception Bay South, the common law and any other legal obligations which apply to members individually or as a collective Council.

1.0 DEFINITIONS

Accountability – means an obligation and willingness to accept responsibility or to account for ones actions. Conduct under this principle is demonstrated when Council individually and collectively, accept responsibility for their actions and decisions.

Integrity – means being honest and demonstrating strong ethical principles. Conduct under this principle upholds the public interest, is truthful and honourable.

Leadership and Collaboration – means an ability to lead, listen to, and positively influence others; it also means coming together to create or meet a common goal through collective efforts. Conduct under this principle is demonstrated when a council member encourages individuals to work together in pursuit of collective objectives by leading, listening to, and positively influencing others.

Respect – means having due regard for others' perspectives, wishes and rights; it also means displaying deference to the offices of local government, and the role of local government in community decision making. Conduct under this principle is demonstrated when a member fosters an environment of trust by demonstrating due regard for the perspectives, wishes and rights of others and an understanding of the role of local government.

2.0 STANDARDS OF CONDUCT

Accountability is demonstrated through the following conduct:

- Members will be responsible for the decisions that they make and be accountable for their own actions and the actions of the collective Council.
- Members will listen to and consider the opinions and needs of the community in all decision-making, and allow for appropriate opportunities for discourse and feedback.
- Members will carry out their duties in an open and transparent manner so that the public can understand the process and rationale used to reach decisions and the reasons for taking certain actions.

Integrity is demonstrated by the following conduct:

- Members will be truthful, honest, and open in all dealings, including those with other members, staff and the public.
- Members will ensure that their actions are consistent with the shared principles and values collectively agreed to by Council.
- Councillors must work in the best interest of the municipality without regard for their personal interests.
- Councillors must act competently and diligently and perform at a level expected of those working in the public interest.
- Councillors must be prepared for meetings, aware of agendas, informed of issues, and contribute to debate in a manner that is meaningful, candid, honest, respectful and equitable.
- Councillors must only use the influence of their position for the exercise of their official duties.
- Councillors are prohibited from accepting gifts, favours, or free or discounted services from any individual, vendor, contractor or others which could reasonably be perceived to show undue favour, bias, or disadvantage to any individual or organization or could reasonably be perceived to place the Councillor in a conflict of interest.
- Councillors must not communicate on behalf of the municipality unless authorized by Council or by virtue of a position or role the Councillor has been authorized to take by Council.
- Councillors must report all expenses promptly, accurately, provide adequate detail, and shall maintain all receipts, invoices and other relevant financial records and details when claiming expenses.
- Councillors must ensure that the business of the municipality is conducted efficiently and must avoid waste, abuse, and extravagance in the provision and use of municipal resources.
- Councillors must not request, use, or permit the use of municipal-owned vehicles, land, equipment, materials, or other property for personal convenience or profit, except where such privileges are granted to the general public.
- Members will follow through on their commitments, correct errors in a timely and transparent manner, and engage in positive communication with the community.
- Members will direct their minds to the merits of the decisions before them, ensuring that they act on the basis of relevant information and principles and in consideration of the consequences of those decisions.
- Councillors must not make decisions, take positions, or make statements which are unreasonable, unjust, arbitrary, oppressive or discriminatory.
- Members will behave in a manner that promotes public confidence in all of their dealings.
- Members will comply with all applicable legislation, regulations and policies.

- Members shall avoid the improper use of the influence of their office.

Leadership and Collaboration is demonstrated by the following conduct:

- Members will behave in a manner that builds public trust and confidence in the local government.
- Members will consider the issues before them and make decisions as a collective body. As such, members will actively participate in debate about the merits of a decision, but once a decision has been made, all members will recognize the democratic majority, ideally acknowledging its rationale, when articulating their opinions on a decision.
- Members will recognize that debate is an essential part of the democratic process and encourage constructive discourse while empowering other members and staff to provide their perspectives on relevant issues.
- As leaders of their community, members will calmly face challenges, and provide considered direction on issues they face as part of their roles and responsibilities while empowering their colleagues and staff to do the same.
- Members will recognize, respect and value the distinct roles and responsibilities others play in providing good governance and commit to fostering a positive working relationship with and among other members, staff and the public.
- Members will recognize the importance of the role of the Chair of meeting, and treat that person with respect at all times.
- Members of Council shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from an individual member or a group of members of Council.
- Members of Council shall not:
 - o Maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff;
 - o Compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities; or
 - o Use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff's duties.

Respect is demonstrated through the following conduct:

- Members will treat every person with dignity, understanding and respect.
- Members will have consideration for every person's values, beliefs, and contributions to discussions.
- Members will demonstrate awareness of their own conduct, and consider how their words or actions may be perceived as offensive or demeaning.

- Members will not engage in behavior that is indecent, insulting or abusive. This behavior includes unwanted physical contact, or other aggressive actions that may cause any person harm or makes them feel threatened.
- Members will conduct themselves with decorum at Council and Committee meetings.

3.0 Social Media

- Councillors must not engage in conduct on personal or official social media platforms which would bring the integrity of themselves, the Council, or the Municipality into disrepute.
- Councillors must, where possible, conduct municipal business through official accounts and devices and avoid conducting Council business on personal devices or through personal accounts.

4.0 CONFIDENTIALITY

By way of their office, members of Council acquire confidential information from a variety of different sources including confidential personal information related to residents who have contacted their office. Confidential information includes information in the possession of, or received in confidence by the Town that the Town is prohibited from disclosing, or is required to refuse to disclose under the Access to Information and Protection of Privacy Act. Members shall not use information that is obtained in his or her capacity as a member and that is not available to the general public to further or seek to further the member's private interest or improperly to further or seek to further another person's private interest.

Members of Council shall not:

- Where a matter has been discussed "in camera" or "in a privileged meeting" and where the matter remains confidential, disclose the content of the matter or the substance of the deliberations of the meeting; and
- Disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council to do so.

5.0 PROCEDURE FOR COMPLAINTS

- Council or Councillors must take no action, and must to the best of their ability, ensure no action is taken, which would be reasonably perceived as a

reprisal against any person acting in good faith who brings forward a complaint or information which leads to a complaint.

- A Councillor or municipal official shall not file a complaint under this policy which is retributive, made in bad faith, or with malicious intent. A complaint will not be deemed to be retributive, made in bad faith, or malicious solely because it is ultimately determined to be unfounded.
- A Councillor shall not hinder, obstruct, attempt to obstruct, interfere with, threaten, harass or fail to cooperate with a person conducting an investigation under the Act and regulations, and this Code of Conduct.
- A complaint filed under this Code of Conduct shall be filed with the Chief Administrative Officer.
- Where the complainant is the Chief Administrative Officer, the complaint shall be filed with the Mayor. Where the Mayor is the respondent, the complaint shall be filed with the Deputy Mayor. Where the Chief Administrative Officer reasonably believes that neither the Mayor nor Deputy Mayor could act impartially and fairly, the Chief Administrative Officer may consult with the Department of Municipal and Provincial Affairs (The Department).
- Where the complainant is the Chief Administrative Officer, the following process will still apply, but the Mayor or Deputy Mayor will act as Chief Administrative Officer for the purpose of administering the complaint.
- The complaint shall be in writing. A complaint may be made by other means where the complainant has a limited ability to read or write English or has a disability or condition that impairs their ability to make a complaint.
- A complaint shall include the following:
 - The complainant's name
 - The names of the person or persons the complaint is about
 - A summary of the complaint, and any steps taken to resolve it
 - The date that the breach of the code occurred, if known
 - A description of how the complaint can be resolved, if applicable
- The Chief Administrative Officer may accept a complaint confidentially where, in the opinion of the Chief Administrative Officer, it is reasonable to do so, taking into account the public interest.
- A complainant may withdraw their complaint in writing or by other means. Notwithstanding, the Chief Administrative Officer or investigator may continue

investigating where it is reasonable to do so, taking into account the public interest.

- Where a complaint is received alleging criminal behaviour, or at any point it becomes apparent that criminal behaviour may have occurred, the Chief Administrative Officer shall immediately contact law enforcement, and notify the Department through the Minister's Office.
- A person may file a complaint within 6 months of becoming aware of a Code of Conduct violation. The Chief Administrative Officer may accept complaints outside of that timeframe in instances of harassment, bullying, financial impropriety, or where it is reasonable to do so, taking into account the public interest.

Informal Resolution

- Where the Chief Administrative Officer determines the complaint to be interpersonal in nature, or relates to a disagreement, the Chief Administrative Officer may ask the parties if they wish to resolve the complaint through mediation, or Alternative Dispute Resolution (ADR).
- ADR must not be used where there is a significant power imbalance between the complainant and respondent, where there is a reasonable apprehension of harm, where the allegations involve issues of financial impropriety, sexual harassment, violence, criminality, where either party does not consent, or where other circumstances would prevent the success of ADR.
- Informal resolution efforts shall be concluded within 20 business days, and may be extended for additional business days with consent of both parties and approval of council.

Referral to Council - Resolution or Agreement of Facts

- As per sections 14 (2) of the Act, where a complaint is successfully resolved or not resolved but complainants agree on the facts, the Chief Administrative Officer shall provide Council with a report.
- As per sections 14(4) and (5) of the Act, Council shall review the report at a privileged meeting of Council. Following the review of the report, Council shall open the meeting to the public and shall, by resolution, dismiss the complaint or make a determination that the Councillor contravened the Code of Conduct.
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- Where the Council determines that a Councillor has contravened the Code of Conduct, the Council may impose penalties in accordance with section 15 of the Act..

Formal Investigation

- Where the complaint is not resolved or the facts are not agreed on, the Chief Administrative Officer may investigate or appoint an investigator. There shall be 40 business days to conclude an investigation from the date the informal resolution period has expired. Upon request of the Chief Administrative Officer, Council may approve up to an additional 40 business days for the completion of an investigation.
- The investigator will notify the respondent within five business days of the failure of informal resolution and provide a copy of the complaint.
- The respondent may provide a written response to the Chief Administrative Officer no later than 10 business days after receipt of a copy of the complaint.
- The investigator will prepare a written report for Council.
- The report shall at a minimum outline the investigative process, facts, analysis, test (an assessment of the facts relative to the Code of Conduct), conclusion, and recommendations. The following format is flexible but may be of assistance.
 - Introduction
 - Investigative Process
 - Background
 - Events before the incident
 - The incident(s)
 - Events after the incident
 - Evidence
 - Analysis
 - Decision
 - Recommendation(s)
- Council shall review the report at a privileged meeting, and shall within 20 business days, dismiss the complaint or find that a Councillor contravened the Code at a public meeting.

- If Council finds a Councillor contravened the Code, Council may, by resolution, take an action as set out in Section 15 (Penalties) of the Municipal Conduct Act.

Motion Carried

9.i Policy - Code of Conduct for Municipal Officials

Resolution #22-388

Moved By Deputy Mayor Gosse

Seconded By Councillor Moores

Be it so resolved that the Code of Conduct for Municipal Officials be adopted as presented.

Code of Conduct for Municipal Officials

PURPOSE:

The purpose of this Code of Conduct is to establish rules of conduct for municipal officials. Part III of the **Municipal Conduct Act, 2022** (the Act), requires that municipalities establish a Code of Conduct to govern the conduct of municipal officials and sets out minimum requirements for the Code of Conduct.

Municipal officials are expected to conduct themselves ethically and professionally, and in accordance with this Code of Conduct. The principles underlying the Code of Conduct are integrity, honesty, impartiality, responsibility and accountability

PROCEDURE:

This Code of Conduct applies to municipal officials acting in their official capacity as municipal officials, as well as a municipal official's off-duty conduct that is sufficiently connected to their position or that could reasonably discredit the reputation of the Municipality.

For the purpose of this Code of Conduct, Municipal Official is defined to mean a Chief Administrative Officer, an employee of a municipality, or any person acting with or without remuneration, under the direction of a municipality.

This Code of Conduct is intended to set out the expectations on municipal officials, and to be read in conjunction with any applicable employment policies or collective agreements. Nothing in this Code of Conduct is to be read in a way to limit an

employer's ability to manage the workplace or discipline employees for a breach of this Code of Conduct, regardless of whether a complaint has been made, in accordance with applicable labour and/or employment law.

PART I

Standards of Conduct

1. Standard of Conduct:

1.1. Standards of Professional Behaviour

- 1.1.1. Municipal officials must adhere to the policies and procedures of the Municipality.
- 1.1.2. Municipal officials must work in the best interest of the municipality without regard for their personal interests.
- 1.1.3. Municipal officials must act competently and diligently and perform at a level expected of those working in the public interest.
- 1.1.4. Municipal officials shall respect other municipal officials, Council, councillors, and members of the public.
- 1.1.5. Municipal officials must use language which is inclusive, respectful, and refrain from using language which could be interpreted as abusive or disrespectful.
- 1.1.6. Municipal officials must, in private and public, conduct themselves in a manner which does not bring disrepute to themselves, their position, the Council, or the municipality.
- 1.1.7. Municipal officials may not make decisions, take positions, or make statements which are unreasonable, unjust, arbitrary, oppressive, or discriminatory.

1.2. Use of Influence

- 1.2.1. Municipal officials must only use the influence of their position for the exercise of their official duties.

1.2.2. Municipal officials must not use their authority or influence in a manner that could reasonably be perceived as threatening, coercing, or improperly influencing the actions of any person.

1.2.3. Municipal officials are prohibited from accepting gifts, favours, or free or discounted services from any individual, vendor, contractor, or others which could reasonably be perceived to show undue favour, bias, or disadvantage to any individual or organization or could reasonably be perceived to place the official in a conflict of interest.

1.3. Misuse of Public Assets and Fraud

1.3.1. Municipal officials must report all expenses promptly, accurately, provide adequate detail, and shall maintain all receipts, invoices, and other relevant financial records and details when claiming expenses.

1.3.2. Municipal officials must conduct the business of the municipality in a manner that is efficient and must avoid waste, abuse, and extravagance in the provision and use of municipal resources.

1.3.3. Municipal officials must not request, use, or permit the use of municipal-owned vehicles, land, equipment, materials, or other property for personal convenience or profit, except where such privileges are granted to the general public, or except where authorized by Council or the CAO.

1.4. Confidentiality

1.4.1. Municipal officials must not disclose confidential information obtained in the course of their duties, except as required by law or as authorized by the Municipality to do so.

1.4.2. Municipal officials must not use confidential information or official information which is not in the public domain for personal or private gain, the private gain of others, or a corporation.

1.4.3. The collection, protection, access, use, disclosure, and disposal of personal information may only occur in compliance with the **Access to Information and Protection of Privacy Act, 2015**.

1.4.4. Confidential information means: information in the custody and/or control of the municipality that is prohibited from disclosure pursuant to legislation or court order or any other information that pertains to the business of the

municipality generally considered to be of a confidential nature, including, but not limited to:

- a) Any matter that falls under the exceptions to disclosure identified in the **Access to Information and Protection of Privacy Act** (ATIPPA), whether or not a request for access has been made;
- b) Personal information which would constitute an unreasonable invasion of privacy;
- c) Potential acquisitions or disposition of real property;
- d) Information which would reveal the substance of deliberation of a privileged meeting;
- e) Pending contracts including tenders, requests for proposals (RFPs), and records related to potential procurement;
- f) Draft documents and legal instruments including reports, policies, bylaws and resolutions that have not been the subject matter of deliberation in a meeting open to the public;
- g) Employment and collective bargaining matters;
- h) Legal matters;
- i) Law enforcement matters.

1.5. Social Media

1.5.1. Municipal officials must not engage in conduct on personal or official social media platforms which would bring the integrity of themselves, the council, or the Municipality into disrepute.

1.5.2. Municipal officials must, where possible, conduct municipal business with residents through official accounts and devices and avoid conducting municipal business on personal devices or through personal accounts.

1.6. Harassment and bullying

1.6.1. The obligations in this section are not intended to fulfill the requirement on a municipality as an employer to implement and maintain a harassment prevention plan, under section 24.1 of the **Occupational Health and Safety Regulations**.

1.6.2. Municipal officials must not engage in harassment or bullying.

1.6.3. All municipal officials shall treat members of the public, one another, staff, and volunteers appropriately and without abuse, bullying or intimidation, and

to ensure that their work environment is free from discrimination, bullying and harassment.

1.6.4. Harassment is defined as any objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome. Harassment may be intended or unintended. Harassment may include, but may not be limited to:

- a) Abuse of authority – harassment that occurs through a use of authority serving no legitimate work purpose.
- b) Discriminatory harassment – harassment that is based on actual or perceived prohibited ground of discrimination as outlined in the **Human Rights Act, 2010**, such as race, colour, nationality, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income, or political opinion.
- c) Sexual harassment – harassment which is gender-based or of a sexual nature.
- d) Bullying – a repeated pattern or mistreatment aimed at a specific person or group.

1.7. Legislative Compliance

1.7.1. A municipal official must reasonably comply with all obligations imposed on the municipal official by legislation, regulation, and municipal policy and procedures, including but not limited to:

- a) **Municipalities Act, 1999;**
- b) **Municipal Conduct Act;**
- c) **Municipal Elections Act;**
- d) **Public Procurement Act;**
- e) **Urban and Rural Planning Act, 2000;**
- f) **Access to Information and Protection of Privacy Act, 2015;**
- g) **Occupational Health and Safety Act;**
- h) **Human Rights Act, 2010;** and
- i) Any accompanying regulations

1.8. No Adverse Actions or Reprisals

1.8.1. Municipal officials must take no action, and must to the best of their ability ensure no action is taken, which would be reasonably perceived as a

reprisal against any person acting in good faith who brings forward a complaint or information which leads to a complaint.

1.9. Allegations in Bad Faith

1.9.1. A municipal official shall not file a complaint under this policy which is retributive, made in bad faith, or with malicious intent. A complaint will not be deemed to be retributive, made in bad faith, or malicious solely because it is unfounded.

1.10. Investigation

1.10.1. A municipal official shall not hinder, obstruct, attempt to obstruct, interfere with, threaten, harass or fail to cooperate with a person conducting an investigation under the Act, regulations, and this Code of Conduct.

2. Conduct Complaint and Investigation Procedure

2.1. Process

2.1.1. When a complaint is submitted alleging a breach of conduct under sections 3.2 (use of influence), 3.3 (use of public resources or fraud), or 3.6 (harassment and bullying) the Chief Administrative Officer (CAO) shall follow the procedure set out here.

2.1.2. When a complaint is received regarding another section of the Code of Conduct, the procedure followed is subject to the discretion of the CAO.

2.2. Receiving a Complaint

2.2.1. A complaint filed under this Code of Conduct shall be filed with the CAO.

2.2.2. In the event that the complainant or respondent is the CAO, the complaint shall be filed with the Mayor.

2.2.3. Where the complainant or respondent is the CAO, the following process will still apply, but the Mayor will act as the CAO for the purpose of administering the complaint.

2.2.4. The complaint shall be in writing.

2.2.5. Notwithstanding section 4.2.4 a complaint may be made by alternate means where the complainant has a limited ability to read or write English or has a disability or condition that impairs their ability to make a complaint.

2.2.6. A complaint shall include the following:

- The complainant's name;
- The names of the person or persons the complaint is about;
- A summary of the complaint, and any steps taken to resolve it;
- The date that the breach of the Code of Conduct occurred, if known; and
- A description of how the complaint can be resolved, if applicable.

2.2.7. Notwithstanding section 4.2.6, a CAO may accept a complaint confidentially where, in the opinion of the CAO, it is reasonable to do so, taking into account the public interest.

2.2.8. A complainant may withdraw their complaint in writing or by other means as per section 4.2.5. Notwithstanding, the CAO or investigator may continue investigating where it is reasonable to do so, taking into account the public interest.

2.2.9. Where a complaint is received alleging criminal behaviour, or at any point it becomes apparent that criminal behaviour may have occurred, the CAO shall immediately contact law enforcement, and notify the Department of Municipal and Provincial Affairs through the Minister's Office.

2.2.10. A person may file a complaint within 6 months of becoming aware of a Code of Conduct violation. The CAO may accept complaints outside of that timeframe in instances of harassment, bullying, use of public resources or fraud, or where it is reasonable to do so, taking into account the public interest.

2.3. Informal Resolution

2.3.1. Where the CAO determines the complaint to be interpersonal in nature, or relates to a disagreement, the CAO may ask the parties if they wish to resolve the complaint through mediation, or Alternative Dispute Resolution (ADR).

2.3.2. ADR must not be used where there is a significant power imbalance between the complainant and respondent, where there is a reasonable apprehension of harm, where the allegations involve issues of financial impropriety, sexual harassment, violence, criminality, where either party does not consent, or where other circumstances would prevent the success of ADR.

2.3.3. Informal resolution efforts shall be concluded within 20 business days, and may be extended for additional business days with consent of both parties and approval of council.

2.4. Resolution or Agreement of Facts

2.4.1. Where a complaint is successfully resolved or not resolved but complainants agree on the facts, the CAO shall write a report and either dismiss the complaint or make a determination that an official contravened the Code of Conduct.

2.4.2. Where a complaint is against a department head or an employee reporting directly to Council, or where the CAO determines it is necessary, the CAO shall provide the report to council and council shall either dismiss the complaint or make a determination that an official contravened the Code of Conduct.

2.4.3. The CAO or Council may decide upon appropriate penalties in accordance with applicable labour and/or employment law.

2.5. Formal Investigation

2.5.1. Where the complaint is not resolved or the facts are not agreed on, the CAO may investigate or appoint an investigator. There shall be 40 business days to conclude an investigation from the date the informal resolution period has expired. Upon request of the CAO, Council may approve up to an additional 40 business days for the completion of an investigation.

2.5.2. The investigator will notify the respondent within five business days of the failure of informal resolution and provide copy of the complaint.

2.5.3. The respondent may provide a written response to the CAO no later than 10 business days after receipt of a copy of the complaint.

2.5.4. The investigator will prepare a written report for council.

2.5.5. The report shall at a minimum outline the investigative process, facts, analysis, test (an assessment of the facts relative to the Code of Conduct), conclusion. The report may include recommendations.

2.5.6. Council shall review the report at a privileged meeting, and shall within 20 business days, dismiss the complaint or find that a municipal official contravened the Code of Conduct.

2.5.7. Council and/or the CAO may decide upon appropriate disciplinary penalties in accordance with applicable labour law.

3. Conflict of Interest

3.1. Disclosure Statements

3.1.1. A conflict of interest is defined as per section 5 of the Act.

3.1.2. The CAO will file a disclosure statement in accordance with section 4(2) of the Act.

3.1.3. Department heads and those reporting directly to Council shall file disclosure statements with the CAO, in the form set out in subsection 4(3) of the Act. However, disclosure statements from spouses of these municipal officials are not required.

3.1.4. Disclosure statements shall be filed with 30 days of employment, and on or before March 1 each year.

3.1.5. Where there is a change in the information contained in employee disclosure statements, the official must report the change(s) to the CAO within 60 days of becoming aware of the change(s).

3.2. Suspicion of Conflict of interest

3.2.1. Where a municipal official suspects they may be in a conflict of interest as defined by section 5 of the Act:

a) If the official is the CAO or reports directly to council, the CAO or official must disclose the suspected conflict of interest directly to Council and Council shall determine, within a privileged meeting, whether the CAO or official is in a conflict of interest;

b) All other officials, including volunteers, must disclose their suspicion to the CAO, and the CAO shall determine whether the official is in a conflict of interest.

3.3. Conflict of Interest Complaints

3.3.1. Where an individual believes a municipal official has acted in a conflict of interest, the individual may file a complaint with the CAO.

3.3.2. Where an individual believes a CAO has acted in a conflict of interest, the individual may file a complaint with Council.

3.3.3. A complaint shall be in writing and shall include the following information:

- a) The complainant's name;
- b) The nature of the conflict of interest; and
- c) the municipal officials actions in relation to the conflict of interest.

3.3.4. Notwithstanding section 5.3.3., a complaint may be made by alternate means where the complainant has a limited ability to read or write English or has a disability or condition that impairs their ability to make a complaint.

3.4. Conflict of Interest Investigations

3.4.1. For complaints relating to the CAO, a department head, or an employee reporting directly to council, the procedure below will be followed.

3.4.2. Where a complaint is received relating to another employee, the process followed shall be at the discretion of the CAO.

3.4.3. Where the complaint relates the CAO, Council shall fill the role of the CAO in the procedure outlined below.

3.4.4. The CAO shall send a copy of the complaint to the respondent within five business days after receipt of the complaint.

3.4.5. The respondent may provide a written response to the CAO no later than twenty business days after receipt of a copy of the complaint. The respondent shall be advised that their response will be provided to the complainant.

3.4.6. Where there is a written response, the CAO shall send a copy to the complainant within one business day after receipt of the written response.

3.4.7. The CAO shall review the complaint and the respondent's written response within ten business days after receipt of a written response, or where a written response is not provided, the CAO must review the complaint within ten business days after the time period to file the written response has expired, and must:

- a) prepare a written report of the complaint;

- b) refer the complaint to Council, along with a copy of the report, to consider in a privileged meeting;
- c) advise the complainant in writing, that Council is considering the complaint;
- d) within fifteen business days after receiving the report, Council may, by resolution, advise the CAO to:
- e) dismiss the complaint;
- f) make a determination that the municipal official acted in a conflict of interest; or
- g) order a third party investigation to determine whether the municipal official acted in a conflict of interest.

3.4.8. Where a complaint is made against a CAO, complaints will be made to council. Council will investigate the complaint in the manner described above.

3.4.9. Where a municipal official has been found to be in a conflict of interest, whether through their own disclosure or by complaint and investigation, the CAO and/or council shall take appropriate actions to resolve the conflict of interest. This may include removal of the municipal official from particular duties, decisions, or discussions, or evaluating an affected decision.

3.4.10. Notwithstanding section 5.4.8. and 5.4.9, and in accordance with section 18(5) of the Act, the CAO may provide advice to Council on a matter in which the CAO has a conflict of interest where:

- a) The CAO disclosed the conflict of interest and the nature of the conflict of interest to the council; and
- b) The council made the request for advice knowing of the CAO's conflict of interest.

3.4.11. Council and/or the CAO may decide upon appropriate disciplinary penalties in accordance with applicable labour and/or employment law.

Motion Carried

9.j Personnel - Director of Recreation and Leisure Services

Resolution #22-389

Moved By Deputy Mayor Gosse

Seconded By Councillor Hillier

Be it so resolved that approval be given to appoint Nick Miller as Director of Recreation and Leisure Services per the terms of the employment contract.

Motion Carried

9.k Financial and Administrative Services Department Update

Resolution #22-390

Moved By Deputy Mayor Gosse

Seconded By Councillor Hardy

Be it so resolved that the decisions and recommendations of the Financial and Administrative Services Committee be adopted as presented.

- Enforcement and Humane Services Statistics
- Fire Department Statistics
- Donation Request
- Capital Project Update
- Breakwater Funding opportunities
- Multi Unit Residential Properties - Waste Collection
- Departmental Report

Motion Carried

**10. RECOMMENDATIONS OF ECONOMIC DEVELOPMENT AND TOURISM
(Chair, Councillor Butler)**

No meeting held.

11. OTHER COMMITTEE REPORTS

Councillor Tilley commented on the latest meeting of the Eastern Regional Service Board. He noted that tipping fees has increased again and encouraged residents to recycle more.

Councillor Barrett commented on the most recent Parks Commission meeting.

Councillor Connors stated that he and Deputy Mayor Gosse attended the most recent meeting of the NEAJC.

11.a Naming Committee

Resolution #22-391

Moved By Councillor Tilley

Seconded By Councillor Moores

Be it so resolved that the street within the subdivision under construction at 1651 Conception Bay Highway be named "Nextor Place".

Motion Carried

12. ADJOURNMENT

The meeting adjourned at 8:15 p.m.

Resolution #22-392

Moved By Councillor Butler

Seconded By Councillor Moores

Be it so resolved that the meeting adjourn.

Motion Carried

Darrin Bent, Mayor

Gail Pomroy, Town Clerk