

**February 21<sup>st</sup>, 2011**

The Regular Meeting of the St. John's Municipal Council was held in the Council Chamber, City Hall, at 4:30 p.m. today.

His Worship the Mayor presided.

There were present also: Deputy Mayor Duff; Councillors O'Leary; Hickman, Hann, Colbert, Breen, Galgay, Tilley, Hanlon and Collins.

City Manager (Acting)/Director of Corporate Services and City Clerk; Deputy City Manager/Director of Public Works and Parks; Director of Engineering; City Solicitor, Acting Director of Planning; and Manager, Corporate Secretariat were also in attendance.

**Adoption of the Agenda**

**SJMC2011-02-21/84R**

**It was decided on motion of Councillor Galgay; seconded by Councillor Collins: That the Agenda be adopted as presented.**

**Adoption of Minutes**

**SJMC2011-02-21/85R**

**It was decided on motion of Councillor Tilley; seconded by Councillor Hickman: That the minutes of the February 14<sup>th</sup>, 2011 meeting be adopted as presented.**

**Business Arising**

**Notice of Motion – Councillor Collins - By-Law #1514**

**Amendment #1516 Animal Control Regulation Section 3.2a**

Councillor Collins withdrew Notice of Motion given by him on February 7, 2011 to amend the Animal Control Regulations due to the fact that staff have been able to address the outstanding matter and therefore a amendment to the Regulations is not required at this time.

## **Notices Published**

1. A **Discretionary Use Application** has been submitted by Sonya Barnes for a proposed **Home Occupation at Civic Number 73 Keith Drive**. The proposed Home Occupation is a Dog Grooming Business. The approximate floor area of the business is 12 square metres and is located in the basement level of the dwelling. Proposed hours of operation are Monday - Friday. The applicant has proposed to groom two (2) dogs per day. Service is drop-off and pick-up. Two (2) on-site parking spaces are provided. The applicant is the sole employee. **(Ward 5)**

### **SJMC2011-02-21/86R**

**It was moved by Councillor Hann; seconded by Councillor Breen: That the application be approved.**

**The motion being put was unanimously carried.**

2. A **Discretionary Use Application** has been submitted by Quattro Holdings Ltd. requesting permission to establish a **Restaurant / Lounge at Civic Number 329-331 Duckworth Street** to accommodate the relocation of Magnum and Steins restaurant currently situated at **284 Duckworth Street**. The lounge will be located in the basement area of the building with the restaurant on the ground floor fronting Duckworth Street. **(Ward 2)**

One (1) Submission of objection

### **SJMC2011-02-21/87R**

**It was moved by Councillor Hann; seconded by Councillor: Breen: That the application be approved.**

**The motion being put was unanimously carried.**

## **Public Hearings**

### **a. Public Hearing Report dated February 15, 2011**

Re: Discretionary Use Application – Proposed Burger King Restaurant & Drive-Thru Operation - Civic Number 192-194 Torbay Road/Intersection of Torbay Road at Pearson Street – Applicant Hatch Mott MacDonald on behalf of Burger King Restaurants **(Ward 1)**

### **Memorandum dated February 17, 2011 from the Director of Planning**

Councillor Galgay presented a public hearing report held on February 15, 2011 regarding a Discretionary Use Application by Hatch Mott MacDonald on behalf of Burger King Restaurants for a proposed Burger King Restaurant and Drive-Thru at Civic Number 192-194 Torbay Road – intersection of Torbay Road and Pearson Street. Councillor Galgay

referred to the number of submissions included in the report, both in support and in opposition to the proposed application. He pointed out that the proposed operation is a discretionary use application, located in a commercial neighbourhood zone. He also noted that the proponent has put forward a number of measures to mitigate the concerns of the residents, however, he hoped additional work can be carried out to further accommodate the residents and arrive at a satisfactory compromise.

**SJMC2011-02-21/88R**

**It was then moved by Councillor Galgay; seconded by Councillor Collins: That the application be granted Approval-in-Principle subject to the following conditions:**

- 1. Submission by the applicant of detailed site, site-servicing and building plans for the development for review and approval by City staff;**
- 2. Compliance with all applicable requirements of the St. John's Development Regulations and all applicable requirements of the City's Department of Engineering, Public Works & Parks, Building & Property Management and Planning; and**
- 3. Preparation and execution of a development agreement for the application.**

Discussion ensued with members of Council supporting the motion to approve the application indicating their satisfaction with the measures taken by the proponent to mitigate as much as possible the issues that would adversely impact the neighbouring residents, and their commitment to continue to work with the City to alleviate as many concerns as possible. Members of Council took into account the fact that the property is zoned as Commercial Neighbourhood which allows an eating establishment as a discretionary use. They noted that the Torbay Road/Pearson Street intersection has always been a busy intersection and the traffic generated by the proposed operation will not be significant enough to change the current traffic pattern. However, members of Council encouraged the proponent to explore measures to further improve the buffering and lessen the noise levels.

Members of Council objecting to the motion expressed concern that the proposed use would exacerbate the current traffic problems experienced at the intersection. They agreed with the concerns expressed by the residents with respect to noise, garbage, odor and the close proximity of the operation to the residents' property lines and lack of adequate buffering.

Members of Council expressed concern with respect to the impact on the residents' quality of live, particularly as it relates to a drive-thru operation. It was noted also that the reason the proposed use is discretionary is because there are situations in the Commercial Neighbourhood Zone such as a drive-thru operation, that is a not desirable use, such as the use being proposed at the Torbay Road/Pearson Street intersection.

**The motion being put there voted for it the mover, seconder, Councillors Hanlon, Colbert, Hann and Tilley. Voting against the motion were His Worship the Mayor, Deputy Mayor Duff, Councillors Breen, Hickman, and O'Leary.**

**The motion to approve was carried.**

**Development Permits List**

Council considered the following Development Permits List for the period February 11 to 17, 2011:

DEVELOPMENT PERMITS LIST  
DEPARTMENT OF PLANNING  
FOR THE PERIOD OF February 11, 2011 TO February 17, 2011

Code	Applicant	Application	Location	Ward	Development Officer's Decision	Date
COM	Amanda Burton	Home Office	70 Old Petty Harbour Road	5	Approved	11-02-11
COM	Kevin Greene	Day Care	393 Topsail Road	3	Approved	11-02-11
COM	Carson Thistle	Office	7 Stamp's Lane	3	Approved	11-02-17

*	Code Classification: RES- Residential COM- Commercial AG - Agriculture	INST - Institutional IND - Industrial
**	This list is issued for information purposes only. Applicants have been advised in writing of the Development Officer's decision and of their right to appeal any decision to the St. John's Local Board of Appeal.	

Gerard Doran  
Development Officer  
Department of Planning



**Building Permits List**

**SJMC2011-02-21/89R**

**It was decided on motion of Councillor Hann; seconded by Councillor Galgay:  
That the recommendation of the Director of Building and Property  
Management with respect to the following Building Permits List be approved:**

2011/02/16

Permits List

**CLASS: COMMERCIAL**

WEI HANG FANG	655 TOPSAIL RD	CO RETAIL STORE
HELLO WORLD CREATIVE INC.	199 WATER ST	CO OFFICE
PET PLANET (LANDLORD WORK)	466 TOPSAIL RD	TI RETAIL STORE
BIRDHOUSE & BINOCULAR SHOP	124 DUCKWORTH ST	SN RETAIL STORE
MCGRATH-KELLY CO INC.	245-247 DUCKWORTH ST, FAT NANNY	SN RETAIL STORE
A1 AUTOMOTIVE LIMITED	395 EAST WHITE HILLS RD	SN COMMERCIAL GARAGE
PIPERS	33-37 ELIZABETH AVE	SN RETAIL STORE
DICKS AND COMPANY LIMITED	385 EMPIRE AVE	MS OFFICE
BMW	120 KENMOUNT RD	SN CAR SALES LOT
CHRISTINE'S PLACE	210 LEMARCHANT RD	MS TAVERN
MCDONALD'S RESTAURANTS OF	506 TOPSAIL RD	SN RESTAURANT
CANADIAN BLOOD SERVICES	7 WICKLOW ST	MS SINGLE DETACHED DWELLING
MCGRATH-KELLY CO. INC.	245-247 DUCKWORTH ST	CR RETAIL STORE
NEWFOUNDLAND BUY & SALE	50 O'LEARY AVE	RN OFFICE
AKES OFFSHORE PARTNER	215 WATER ST SUITE 803	TI OFFICE
CLARE BARRY	12 GLENEYRE ST	CR CLINIC

THIS WEEK \$ 104,231.00

**CLASS: INDUSTRIAL**

THIS WEEK \$ .00

**CLASS: GOVERNMENT/INSTITUTIONAL**

ACADEMY CANADA INC.	41 HARDING RD	RN SCHOOL
THE TOWER CORPORATE CAMPUS	276 WATERFORD BRIDGE RD, PH II	TI COMMERCIAL SCHOOL

THIS WEEK \$ 806,160.00

**CLASS: RESIDENTIAL**

AUSTIN REDLACK	4 DRAKE CRES	NC FENCE
AUSTIN'S CONTRACTING INC.	6 GEORGINA ST - LOT 427	NC SINGLE DETACHED DWELLING
JASON DINN & JOANNE HAYES	HOWLETT'S LINE	NC SINGLE DETACHED DWELLING
TRUE NORTH HOMES INC	12 ROSALIND ST, LOT 388	NC SINGLE DETACHED & SUB.APT
SHAWN RALPH	46 HUSSEY DR	EX MOBILE HOME
WILLIAM H. NOSEWORTHY &	18 OSBOURNE ST	EX SINGLE DETACHED DWELLING
BARRY OSMOND	7 ALDERBERRY LANE	RN SINGLE DETACHED & SUB.APT
DAVE BROPHY	14 ALEXANDER ST	RN SINGLE DETACHED & SUB.APT
JOHN MCEVOY	45 ANTHONY AVE	RN SINGLE DETACHED DWELLING
WILLIAM GILL	23 ATLANTIC AVE	RN SEMI-DETACHED DWELLING
JENNIFER CARROLL	18 BOULEVARD	RN SINGLE DETACHED DWELLING

GREG BLACKWOOD	64 BRAZIL ST	RN SINGLE DETACHED DWELLING
PAUL COOMBS & GEOFF THOMAS	71 CHEYNE DR	RN SINGLE DETACHED DWELLING
NATASHA HUNT	93 CORNWALL AVE	RN SINGLE DETACHED DWELLING
STEVE SMITH	24 EMPIRE AVE	RN SINGLE DETACHED DWELLING
TONY CHALIFOUR	98 HAMILTON AVE	RN SEMI-DETACHED DWELLING
ROBERT MORAN & STACEY MORAN	6 MONTGOMERY ST	RN SINGLE DETACHED DWELLING
PAUL HOUSE	6 MORISON PL	RN SINGLE DETACHED & SUB.APT
PETER MATHIOUDAKIS	49 MORRIS AVE	RN SINGLE DETACHED DWELLING
ROGER AND ARLENE SAUNDERS	55 REGENT ST	RN SINGLE DETACHED DWELLING
DANIEL WHIFFEN	46 ST. CLARE AVE	RN SEMI-DETACHED DWELLING
MARY STORDY	29 VICTORIA ST	RN TOWNHOUSING
AGNES MURPHY	7 WILLIAM ST	RN SINGLE DETACHED DWELLING
FRACFLOW CONSULTANTS INC.	6 ALBANY ST	SW SINGLE DETACHED DWELLING
FRANCINE & SHAWN WIGHT	38 FOREST RD	SW PARKING LOT

THIS WEEK \$ 1,113,600.00

**CLASS: DEMOLITION**

THIS WEEK \$ .00

THIS WEEK'S TOTAL: \$ 2,023,991.00

REPAIR PERMITS ISSUED: 2011/02/10 TO 2011/02/16 \$ 45,000.00

LEGEND

CO CHANGE OF OCCUPANCY	SN SIGN
CR CHNG OF OCC/RENOVTNS	MS MOBILE SIGN
EX EXTENSION	CC CHIMNEY CONSTRUCTION
NC NEW CONSTRUCTION	CD CHIMNEY DEMOLITION
OC OCCUPANT CHANGE	DV DEVELOPMENT FILE
RN RENOVATIONS	WS WOODSTOVE
SW SITE WORK	DM DEMOLITION
TI TENANT IMPROVEMENTS	

**Payrolls and Accounts**

**SJMC2011-02-21/90R**

**It was decided on motion of Councillor Hann; seconded by Councillor Galgay:  
That the following Payrolls and Accounts for the week ending February 17,  
2011, be approved:**

**Weekly Payment Vouchers  
For The  
Week Ending February 17, 2011**

**PAYROLL**

Public Works	\$ 465,037.91
Bi-Weekly Management	\$ 725,435.40
Bi-Weekly Administration	\$ 549,055.28
Regional Fire	\$ 654,966.92

**ACCOUNTS PAYABLE** \$ 2,020,804.15

**Total: \$ 4,415,299.66**

**Tenders**

- a. Tender - Lease of two (2) New or Used Articulated Dump Trucks for Robin Hood Bay
- b. Tender – Lease of Two (2) Dozers for Robin Hood Bay
- c. Tender – Lease of Articulated Loader for Robin Hood Bay
- d. Tender – Supply of Fertilizer and Limestone
- e. Tender – Supply of Fall Bulbs
- f. Tender – Monitoring, Inspection, Servicing and Maintenance of Alarm Systems – Various Locations

**SJMC2011-02-21/91R**

**It was decided on motion of Councillor Hann; seconded by Councillor Galgay: That the recommendations of the Director of Finance and City Treasurer and the Director of Building and Property Management be approved and the tenders awarded as follows:**

- a. **Nortax Canada @ \$366,494.40 (taxes included)**
- b. **Nortax Canada @ \$1,259,823.84 (taxes included)**
- c. **Toromount Cat @ \$83,846.00 (taxes included)**
- d. **Eastchem Inc. @ \$36,596.87 (taxes not included)**
- e. **Pat’s Plants & Gardens @ \$14,178.30 (taxes not included)**

- f. **Umbrella Security @ \$72,749.40 which includes HST and is for a three year period**

**71 Bay Bulls Road – Frank Hearn**

Council considered a memorandum dated February 17, 2011 from the Acting City Solicitor regarding the above noted.

**SJMC2011-02-21/92R**

**It was moved by Councillor Hickman; seconded by Councillor Collins: That property owner, Frank Hearn, be compensated in the amount of \$24,454.00 plus legal fees, for land expropriated by the City at 71 Bay Bulls Road for a stream upgrade structure, as recommended by the Acting City Solicitor.**

**The motion being put was unanimously carried.**

**Snow Clearing Report for the period January 1<sup>st</sup> to February 18<sup>th</sup>, 2011**

Council considered the snow clearing report for the period January 1<sup>st</sup> to February 18<sup>th</sup>, 2011 showing a negative variance of \$248,734.00.

**Email dated February 16, 201 to members of Council from Roger Head thanking a City worker who came to his assistance while clearing snow**

Council acknowledged the above noted email.

**Deputy Mayor Duff**

**SJMC2011-02-21/93R**

**It was moved by Deputy Mayor Duff; seconded by Councillor O’Leary: That the Development Agreement for the Proposed Burger King Restaurant & Drive-Thru Operation, Civic Number 192-194 Torbay Road/Intersection of Torbay Road at Pearson Street, encompass the commitments made by the proponent to address the issues and concerns of the residents, specifically regarding the catalyst ventilation system; the location of the waste management enclosure; the order of the speaker phone, as well as the other issues identified in the proposal by the developer.**

**The motion being put was unanimously carried.**



**Councillor O’Leary**

Councillor O’Leary thanked the City for its support of the Coalition for Alternatives to Pesticides-NL Public Forum held on February 17, 2011, and as well, thanked representatives of the various groups and organizations who took part in the forum.

**Councillor Hickman**

Councillor Hickman commented on the recent very successful 2011 Hospitality NL Conference and Trade Show and commended the dedication of staff and the various groups and organizations responsible for the celebration, marketing and promotion of the tourism industry.

**Adjournment**

There being no further business, the meeting adjourned at 5:45 p.m.

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**MAYOR**

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**CITY CLERK**