

**St. Albans City Council  
Minutes of Regular Meeting  
Monday, March 12, 2012**

**APPROVED**

The meeting was called to order by outgoing Mayor Martin Manahan at 6:30 p.m. Mayor Manahan immediately handed over the meeting to the newly-elected Mayor, Elizabeth Gamache.

Council present: Mayor Elizabeth Gamache; Aldermen Aaron O'Grady, Richard Peters, Chad Spooner, Timothy Hawkins, Jeff Young, and Ryan Doyle.

Staff present: Dominic Cloud, City Manager; Chip Sawyer, Director of Planning and Development; Peg Strait, Director of Finance and Administration; Susan Krupp, City Clerk; Sarah Duffy, City Accountant; Lindsey Bryant, Downtown Manager.

Visitors: Please refer to sign-in sheet.

1. Pledge of Allegiance was lead by Mayor Gamache.
2. Swear in Alderpersons from Ward Five and Six (City Clerk).  
Susan Krupp, City Clerk, swore in Ryan Doyle, ward 5, then Chad Spooner, ward 6.

3. Presentation of FY 11 audit, Fred Duplessis, Sullivan & Powers.

Mr. Duplessis explained that except for the omission of the pension fund, all major funds are presented in full conformance with General Association of Accounting Principles (GAAP). He noted that it is management's plan to address the pension issue before the end of the current fiscal year.

Following the opinion page is Management's Discussion and Analysis (MD&A). Mr. Duplessis explained that this section is a narrative analysis of what happened over the past year; it is prepared by management, and is unaudited. He pointed out that the numbers used in the analysis agree to the audited financial statement numbers.

He moved on to the audited financial statements, which begin on page 13. He explained that the unrestricted deficit for the governmental funds is created by certain long term liabilities, including compensated absences, and the net pension obligation due at 6/30/11. The enterprise funds both have positive unrestricted net assets.

Page 63 of the audit is the result of recent legislation requiring that all audits of municipalities be done according to Government Auditing Standards. It discusses what the auditor considers to be material weaknesses and/or deficiencies. Pages 63 through 68 comprise a discussion of findings along with management's response to each.

4. Request for water and sewer rate stabilization for St. Albans House (D&V), Jim Cameron, Lake Street Offices, LLC.

Mr. Cloud explained that water and sewer have both fixed and variable costs that are calculated based on the number of equivalent units (EU's) assigned to each physical location in the City and Town. EU's are determined by the activities carried out at each location: a restaurant typically has more EU's than an office building, for example. In the case of a redevelopment, the EU's are associated with the enterprise that was last there, and should remain with the site, as they will be used once development is complete; however, water and sewer are not used much during development, and can be a hardship for the developer. It is typical to assign one EU to a site being developed until development is complete and the new use has been determined. In response to a question from Mayor Gamache about what triggers the change, Mr. Cloud explained that upon action of the Council the developer is sent a letter with the reduced number and a time-certain during which it will be in effect.

In response to a question about the time-frame for completion of the project, Mr. Cameron explained that the project is phased; the first phase is scheduled to be complete at the end of April (2012). Alderman Young inquired about the resolution of the outbuilding. Mr. Cameron stated the building will come in behind the existing structure and be rehabbed. There are 17 parking spaces planned at the site, though they have not yet been approved. In response to a question from Alderman Young about the issues of color, Mr. Cameron stated he has some latitude about the choice of colors. He went on to say that there is some conflict between cost and aesthetics. For example, a nice quality shingle cannot be used because the existing shingles are not of high quality.

Mr. Cameron presented a photo of the St. Albans House as it will look when complete.

**Alderman Young moved to approve the rate stabilization at 1 EU for 12 months; Alderman Spooner seconded the motion; motion passed unanimously.**

5. Adjourn for Liquor Control.

**Alderman Spooner moved to adjourn as City Council and convene as Liquor Control Board; Alderman O'Grady seconded the motion; motion passed unanimously.**

Please refer to Liquor Control minutes following these regular meeting minutes.

6. Request for Peddler's Permit for Mike's Italian Ice (D&V), Chip Sawyer and Mike Salvaty.

Mr. Sawyer distributed a staff report explaining that this type of permit has not been granted by the City for some time, and staff is considering revisions to the ordinance governing them. The existing ordinance gives Council broad authority to approve a peddler's permit, or approve with conditions. In this case, staff has suggested that conditions might include time of day the activity may be carried out, locations, and expiration date of the license. The fee currently is \$10. Discussion ensued about possible conditions for this permit, such as 1) not on the west sidewalk of Taylor Park from May to October unless approved by the Farmers' Market, 2) product not sold within 100 feet of an establishment selling the same product, 3) permit valid for 6 months.

Mr. Salvaty explained that he operated in Burlington at the Church Street Marketplace in previous years, but now resides in St. Albans, so would like to move the operation here. Mayor Gamache asked whether Mr. Salvaty has a shop; he replied "no" but is considering the possibility of a café with pastries. In response to a question from Mayor Gamache about the fees in Burlington, Mr. Salvaty said "depends on where you are. I was paying \$600 for a year." Mr. Salvaty has insurance for his business through the Essex Agency. He expects to begin operating in mid-April, depending on the weather.

Alderman Doyle asked about coordination with the Maple Festival, which occurs in April. Mr. Cloud responded by suggesting that if the permit is granted, its conditions should be consistent with the overall permitting scheme in effect for the Maple Festival weekend. Alderman Doyle also suggested that the 100-foot rule might apply to the same or similar products, rather than "same" products only. Mr. Salvaty explained that Italian ice is different than ice cream, as it is water-based.

Alderman Young asked whether Council could delegate this process to planning and development staff. Mr. Sawyer explained that changes to an ordinance require Council approval, and suggested it is up to Council where to limit the presence of the cart. Mr. Young concluded by observing that the process seems inordinately lengthy, and in most cases does not need to involve Council.

Mayor Gamache pointed out two options to consider moving forward: take a motion now or have a deliberative session at the end of the meeting.

**Alderman O'Grady moved to approve the permit application in areas specified on the staff report.**

Mr. Sawyer remarked that limitations to the permit are the decision of Council. The staff suggestion to limit use of the western sidewalk of Taylor Park during the Maple Festival is "just to reduce conflicts with the farmers' market, which happens from time to time and which we try to avoid as much as possible."

Alderman Hawkins suggested that unless we are in a contractual situation with the Farmers' Market and Maple Festival, it is not necessary to apply a condition based on their presence in the City. Mr. Cloud explained that the City has a "de facto relationship" with the Farmers' Market that is based in tradition.

Mayor Gamache commented that she failed to get a second on Alderman O'Grady's motion. **Alderman O'Grady withdrew his motion in the interest of further discussion and clarification.**

Alderman Hawkins suggested that if Mr. Salvaty wishes to make a deal with the Maple Festival or Farmers' Market, the City should not interfere. Mr. Cloud explained that the Farmers' Market considers the sidewalk on the west side of the park to be their space. The City is trying to formalize an agreement with the Festival, which has not been in writing up to this point. He went on to say that under the current relationship with the Market, "the sidewalk is not ours to give away."

Alderman Hawkins expressed concern about putting the cart on a sidewalk impeding someone's ability to travel within that space if in a location other than the park, and the possibility of "badgering" people that are utilizing the downtown. He went on to say that if the permit is approved tonight, in six months there might need to be additional conditions based on how it operates going forward. Mr. Sawyer explained that his office suggested a 6-month deadline for that purpose. He went on to say that the conditions presented by his office are suggestions only; the final decision is up to Council. Alderman Hawkins suggested the fee might be increased. Mr. Sawyer responded by saying a fee change will require an ordinance change. Alderman Hawkins summarized his points: Mr. Salvaty should not be prevented from making his own deals with the Farmers' Market and Maple Festival; he should also understand that the conditions might change.

Alderman Young wrapped up the discussion by saying that the Park Commission took this matter up when there was a request from a vendor to sell popcorn at concerts in the park 3 or 4 years ago. At that time the Commission was recruiting vendors, thinking it would enhance the park experience.

Mr. Cloud suggested the following motion.

**To approve Mr. Salvaty's application contingent upon the following conditions:**

- **the product may not be sold on or immediately adjacent to the western sidewalk in Taylor Park on Saturdays from 9 to 2 from May through October unless explicit permission has been granted by the Northwest Farmers' Market (that frees Mr. Salvaty to make his own deal);**
- **add in same or similar product (that the product not be sold within 100 feet of an establishment selling the same or similar product);**
- **that the license granted by the Council expire in 6 months;**
- **that the applicant not obstruct sidewalks so that patrons are free to pass by without undue influence (something other than badgering).**

**Alderman Spooner so moved; motion was seconded by Alderman O'Grady; motion passed unanimously.**

7. Request for Special Event Permit for Kingman Street Klassic (D&V), Kathy Manahan.

Alderman Hawkins suggested that this is another request that might be more appropriately handled by staff.

**Alderman Hawkins moved to approve the permit under the same conditions as the previous permit; Alderman Spooner seconded the motion; motion passed unanimously.**

Alderman Spooner thanked Kathy Manahan for sponsoring this event, which has been well received and highly successful in the past.

8. Second Reading of Changes to Land Use Regulations (Chip Sawyer).

a. Technical amendment regarding merger of Design Advisory Board and Planning Commission.

Section 704 sets up the design advisory board (DAB), which advises the zoning administrator and the development review board (DRB) on proposed development in the design districts, including downtown. Specifically, new development should follow certain historic and aesthetic strategies. Planning Commission and DAB were combined by Council last year "for efficiency." Council has been giving out three-year terms to the combined board; however, according to the bylaws, DAB members are required to be given a 2-year term. The suggested change to this section is to remove any limit to the terms. Suggested language: "The DAB board shall be appointed to terms decided by the City Council." The enabling statute allows Council to make these decisions, hence the decision has been made to eliminate any specific term.

b. Mr. Sawyer moved on to section 517, signs. LED sign technology is new and has not been previously addressed. At the first reading, Council suggested the Planning Commission consider two changes.

1) Remove the phrase 'individual proprietors' because it is confusing; replace with "expressive of the identity of St. Albans as a whole." 2) On page 11, Council asked Planning Commission to look at percentage of window display area that could be covered by temporary signs. It is believed Council's intent was to increase the space to be covered by temporary signs; however the Planning Commission had a different opinion. They proposed the space "be limited to fifteen (40) percent." This is obviously a typo; the Planning Commission suggests that the percent be 15 for temporary signs; permanent and temporary signs combined should not exceed 40% of the window space. At one point the total space as approved by the DAB was 25%, another 15% could be temporary signs approved by the zoning administrator, for a total of 40% coverage.

Discussion ensued about enforcement of these changes. Mr. Sawyer explained his department does try to enforce the 40% rule, although temporary signage can be a challenge. In response to a question from Alderman Hawkins about why we should be involved at all with the temporary signage issue, and a question from Alderman O'Grady about how we measure the 15%, Mr. Sawyer explained that it is a question of aesthetics, form and the look of the downtown. Mr. Sawyer: "The whole is greater than the sum of its parts. We want to be involved in making sure that certain properties don't go overboard and become a detriment to the downtown."

Discussion ensued about specific examples of cluttered windows in the downtown area. Mr. Cloud wrapped up the discussion by commenting that a lot of time and energy has gone into regulating permanent signs, and all that work can potentially be wiped out with a temporary sign that is unprofessional. Mr. Sawyer remarked that we are not trying to create a "sign police state," but the rule sends the message out that property owners should think about "the greater context" when putting up signs.

Mayor Gamache asked for comments from the public. Jeff Bean, resident, stated he was at the Planning Commission meeting where the sign issue was discussed. He recalls that the intent was 15% for temporary signs; however, the issue is to minimize the negative impact the temporary sign has on the overall appearance of the window.

Mr. Sawyer reminded the Mayor that changes should be read aloud, or a motion made to forego the reading.

**Alderman Spooner moved to forego the reading word-for-word, suggesting those who wish to read the changes may do so in the City Clerk's office; motion seconded by Alderman O'Grady; motion passed unanimously.**

9. Consider Changes to Land Use Regulations re Merger of Design Review Board and Planning Commission and sign regulations on Illumination (D&V)

**Alderman Spooner moved to accept the changes to the Land Use Regulations as presented; Alderman Hawkins seconded the motion.** Alderman Hawkins inquired about the difference between the Design Review Board and the Design Advisory Board. Mr. Sawyer explained that there is no difference. Alderman Hawkins went on to say that it appears staff is looking for specific qualifications in the Design Advisory/Review Board members, such as an interest in architecture. He asked whether combining the DAB and Planning Commission might make it tough to become a DAB member, and thereby make it tough to be a Planning Commission member. Following a brief discussion it was decided that being interested in architecture is just that, an "interest only," not a required expertise. Mr. Cloud explained that this language is in the statute. An interest in architecture is not required, it is meant to "set the flavor" of the Board. Alderman Hawkins explained that he does not want individuals to be required to be the caliber of a Laz Scangas or Sam Ruggiano to be on the Planning Commission. Mr. Sawyer assured him that is not the case, nor is staff recruiting on that basis.

**Motion passed unanimously.**

10. Consider Increase to Land Development Fees and Fines (D&V), Chip Sawyer.

Mr. Sawyer explained that for some time the City has been looking at fines and fees for land development applications for two reasons: to ensure amounts are in line with what other communities are charging; and to look for opportunities to increase zoning revenues. Mr. Holdsworth, the City's recently-departed zoning administrator, completed an analysis of some proposed fees, comparing our fees to those of other municipalities, and summarizing fees during the last six months of operation. Mr. Sawyer pointed out that zoning permit fees can be set by a majority vote of Council. Also, the City currently has no fines—they are being proposed for the first time. Mr. Holdsworth's analysis showed that with nominal fee increases, zoning revenues could have increased by about 30%, or \$6,100 over the past six months.

Municipalities in the analysis included St. Albans Town, Montpelier, Burlington, South Burlington, and Milton. It was discovered that Montpelier has lower fees than ours, but are considering fee increases. The conclusion of staff is that the City can realize increased revenue with these fees, and the fees will not be inordinately higher than other municipalities. In response to a question from Mayor Gamache about the value the City would receive from the increased revenue, Mr. Sawyer explained that the additional revenue will support the annual planning and development budget. In response to a question from Alderman Young about one of the fees on the schedule, Mr. Sawyer clarified that the fee for a design review application is \$15 for those who come in ahead of time and follow the rules; it is \$45 for those who come in "after the fact." Alderman Young asked why swimming pools are separated out. Mr. Sawyer explained that there are additional safety regulations that apply to pools. A set-back parking violation occurs when someone parks their personal vehicle in the area of their property where nothing should be built or installed, with the exception of fencing. In response to a question from Alderman Doyle, Mr. Sawyer explained that a recess fee is charged when an applicant requests that the discussion of an application be held over to another meeting.

Alderman Young commented that he understands and agrees that an appropriate fee should be assessed for specific services; however, the volume seems excessive.

Alderman Hawkins commented on the after-the-fact certificate of compliance that is in the new fee schedule at \$100. He stated that anyone can obtain such a certificate at any time, therefore it is not possible to obtain one after-the-fact. Mr. Sawyer agreed. Alderman Hawkins continued by clarifying that a new build that fails to obtain a certificate of occupancy before entering the property constitutes an after-the-fact event. Alderman O'Grady made reference to Chris Boyd, a State officer, who grants state certificates of occupancy, unrelated to municipal certification. Mr. Sawyer explained that the \$100 fee for an after-the-fact certificate of compliance is an error.

Alderman Doyle commented that the other communities in the analysis do not have before/after DRB review application and abutter's notice fees. Mr. Sawyer observed that in some cases the comparison between municipalities is not apples-to-apples. The analysis does not show instances where fees may be bundled in with others. Alderman Hawkins commented that the proposed fees and fines are overdue.

**Alderman Hawkins moved to approve the land development fees and fines with appropriate corrections; motion seconded by Alderman O'Grady.**

Alderman Doyle referenced the language about "smaller projects," inquiring whether there is an effort to require smaller projects to obtain fewer permits than larger ones. Mr. Sawyer commented that the section will be removed; it was suggested as part of the bylaw change for maintenance projects; that change is still in process.

**Motion passed unanimously.**

11. Election of Council President (D&V).

**Alderman Peters nominated Alderman Hawkins "because he has served on numerous boards and commissions and has a vast knowledge of City business." The nomination was seconded by Alderman Doyle.**

Alderman Hawkins commented that perhaps the election should be delayed until the issue with the recount of ward 5 is resolved. He went on to say that the most senior member of the Council might be a better choice, Alderman Spooner in this case. Alderman Hawkins added that he is doing a lot of other things

just now, so he would like to pass on the nomination. Alderman O'Grady suggested that the ward 5 issue involves the Council's current president; therefore it might be appropriate to table the election of a president, or elect an interim president. Mayor Gamache commented that in her opinion, the ward 5 issue is not between Mr. Luneau and Mr. Doyle, rather it is an issue relating to election results creating the situation that the Council has no current president. The president is elected annually, so the election of a new one is appropriate at this time.

**Alderman Peters withdrew his nomination of Alderman Hawkins; Alderman Hawkins nominated Alderman Spooner; the motion was seconded by Alderman Young; the motion passed 6-0.**

## 12. Mayor's Report

- Committee Structure.

Mayor Gamache announced she would like to maintain the finance and public safety/quality of life committees. She announced the finance committee will be comprised of Aldermen Hawkins, Young and Peters with Alderman Hawkins retaining his position as chair. Aldermen O'Grady, Spooner, and Doyle are assigned to the public safety/quality of life committee; Alderman Spooner will continue his role as chair.

A Council retreat will be scheduled soon for the purpose of goal setting and strategic planning.

- Public comment.

Jeff Bean, resident, welcomed the new member and mayor, and went on to point out that he is a staunch proponent of low cost activities for kids. He asked that as Council moves into the new year they be proactive rather than reactive in identifying people and programs that need their support in the budget.

## 13. Other Business

- Ms. Strait announced that due to the change in Council personnel a revised corporate bank resolution must be signed for Peoples Trust Company. Signatures will be obtained at the end of the meeting.

- Alderman O'Grady asked what happened with the building the truck went through. Mr. Cloud explained that the City abated taxes for the former owner, but not the current owner. The City has a safety order in place, along with "intense fines." Mr. Cloud went on to say the City is working with the property owner and his engineer. Quite a bit of work has been done inside, but winter is a tough time to rehab a building. The City has let the owner know it is disappointed with progress. The new owner believes the building can be saved.

- Alderman O'Grady inquired whether the reliability of the electronic voting machine used to count ballots can be verified in light of the events that unfolded with the ward 5 election results. Ms. Krupp explained that the machine is thoroughly tested before every election. She went on to say that the number of voters on the checklist does not always match the number of ballots. For example, some people just voted for the presidential nomination, or just for their ward candidate. There is also the instance of voters who are given ballots and then indicate they don't want some or all of them. She went on to explain that if a tabulator is used, the State does not require an exit checklist. She commented that in the future she would like to set up a second tabulator to count the school votes instead of transporting school ballots offsite. Alderman Young explained that on the night the vote took place there were a number of ballots the tabulator could not read. Ms. Krupp explained that some of these were later accepted by the tabulator, others were not.

- Ms. Krupp asked Alderman O'Grady to explain the purpose of a meeting that was held at the Town offices today at 3:00. Alderman O'Grady explained that the Town and City BCA's met for the purpose of discussing the legislative redistricting of the City and Town. The discussion was about whether there would be two single-person districts, or one 2-person district. The motion was made to accept the latter, which is the current status. That motion will have to be approved by the legislature. In response to a question from Mr. Sawyer, it was pointed out that the new City district contains "a sliver" of the Town. Ms. Krupp explained that during the November elections both City and Town will be asking legislators to be present to explain the redistricting, primarily because some residents who are currently in the Town will be in the City.

Alderman Young pointed out that the Town does not currently have wards, which will complicate the change for Town residents who come into the City.

- Alderman Spooner announced that dog licenses are due April 1, and that there is a rabies clinic scheduled at Walkers on March 24 from 10:00 a.m. to 1:00 p.m.

- Alderman Hawkins announced a joint study committee meeting at the BFA library on Wednesday, March 21 at 6:00 p.m. He asked whether staff has provided a plan of action for selection of members to boards, specifically a methodology of how the word gets out that positions are available, and the selection process itself. Mr. Cloud responded by saying there is dialog going on with several council members, the resolution will come before Council in April.

- Alderman Young announced that there is a branding committee meeting Thursday morning, the 15<sup>th</sup>, at 9:30 a.m. The committee is in the second phase of branding in the downtown. Also, a design review committee meeting will be held Thursday evening the 15<sup>th</sup>. Park Commission meets Wednesday, the 21<sup>st</sup> to discuss this year's plans for the Park.

14. Warrants: 2/22/12 and 3/7/12 (D&V).

**Alderman Spooner moved to approve the warrants of 2/22 and 3/7; Alderman Young seconded the motion; motion passed unanimously.**

15. Minutes: 2/13/12, 2/27/12 (D&V).

**Alderman Spooner moved to approve the minutes of 2/13; Alderman Young seconded the motion.**

Alderman Doyle raised a question about page 3, section b. Specifically, the minutes state that "window LED signs will be prohibited where only lettering and logo elements and not the background are illuminated." Alderman Doyle commented that that language seems to be in contrast to what was intended. Mr. Sawyer commented that in fact, the language is the exact opposite of the intent. Language will be changed to say the "window LED signs will be allowed."

**Alderman Spooner withdrew his motion to approve the minutes of 2/13/12; Alderman Young withdrew his second. Alderman Spooner moved to approve the minutes of 2/13/12 with the one correction; Alderman O'Grady seconded the motion; motion passed with Alderman Doyle abstaining.**

**Alderman Young moved to approve the minutes of 2/27/12; Alderman Peters seconded the motion; motion passed with Aldermen Spooner, O'Grady and Doyle abstaining.**

13. Executive Session

**Alderman Spooner moved to enter executive session to consider negotiating or securing real estate purchase options and labor negotiations where premature disclosure may serve to prejudice the City; motion was seconded by Alderman Peters; motion passed unanimously.**