

BLACKS HARBOUR

BY-LAW NO. 04-96

**A BY-LAW RESPECTING THE PROCEDURES AND
ORGANIZATION OF THE COUNCIL OF BLACKS HARBOUR**

BE IT ENACTED BY THE COUNCIL OF BLACKS HARBOUR AS FOLLOWS:

Citation

1 This by-law may be cited as the Procedural By-law enacted pursuant to subsection 10.3(1) of the *Municipalities Act*.

Definitions

2 In this by-law

“Act” means the *Municipalities Act*, R.S.N.B 1973, Chapter M-22, as amended;

“clerk” means the village clerk of Blacks Harbour appointed pursuant to section 74 of the act;

“committee of council” means a committee provided for or created by the village under the authority of subsection 4(3) of the Act;

“council” means the mayor and councilors of the village;

“council chambers” means a room or rooms in the village hall used for meetings of council and includes other locations as required from time to time for meetings and authorized for such purpose by resolution of council;

“councillor” means a member of the council other than the mayor;

“deputy mayor” means the councillor elected pursuant to section 30 of the Act;

“mayor” means the mayor of the village duly elected to such post;

“member” means a person elected to the council;

“municipality” means Blacks Harbour;

“quorum” means a majority of the full number of members of the council, that number being determined in accordance with subsection 28(1) or the Act; and

“village” means Blacks Harbour incorporated pursuant to section 19 of the Act, the name and boundaries thereof being prescribed by regulation under the Act.

MEETINGS

First meeting

- 3(1) The clerk may fix a date for the first meeting of the council which date
- (a) shall not be earlier than the expiration of the ten day period referred to in subsection 42(1) of the *Municipal Elections Act* following the council’s election, and
 - (b) shall not be later than the 15th day of June following the council’s election;
- 3(2) If the clerk does not fix a date for the first meeting of the council under subsection (1), the first meeting of council shall be held in the council chambers in the village hall at 6:30 o’clock in the afternoon on the fourth Monday of May following its election.
- 3(3) A newly elected council
- (a) shall transact no business at its first meeting until the oaths of office have been taken and subscribed to by all members pursuant to section 33 of the Act,
 - (b) shall elect at its first meeting a deputy mayor from among the councillors, following nominations for that position and majority vote in the usual manner, and
 - (c) may call upon the clerk to allot a seat within the council chambers to each member who shall occupy that seat at all council meetings.

Regular meetings

- 4(1) The council shall hold regular meetings on the third Wednesday of each month in the council chambers at 6:30 o’clock in the afternoon, and 6:00 o’clock during the summer months of June, July, August and September, unless
- (a) such day be a public holiday, in which case the meeting may be held at the same hour on the next following day not being a public holiday, or
 - (b) otherwise determined by motion passed by the affirmative vote of at least two-thirds of the members present at the meeting to which the motion is put.
- 4(2) The clerk shall deposit in each member’s mail box in the village hall not later than 4:30 o’clock in the afternoon of the Friday preceding the day fixed for each regular

meeting, an information package including an agenda, business to be transacted at the meeting and other pertinent meeting documents.

4(3) No matter shall be placed on the agenda for consideration at any council meeting unless the request for consideration of the matter is received by the clerk before 4:30 o'clock in the afternoon of the day preceding the day in which the meeting is to be held.

4(4) Notwithstanding subsection 4(3) any matter not on the agenda may be introduced at a regular meeting of council with the unanimous approval of all members present.

4(5) As soon after the hour fixed for the holding of the meeting of council and a quorum is present, the mayor, or in his or her stead, the deputy mayor, or if neither be present a member elected as chairperson in their stead, shall take the chair and call the meeting to order.

Special meetings

5(1) The mayor, or other head of council from time to time, may summon a special council meeting at any time.

5(2) Upon receipt of a petition of the majority of the members, the clerk shall summon special meeting for the purpose and at the time mentioned in the petition.

5(3) When the office of mayor or of a councillor becomes vacant the clerk may call a special council meeting to declare that vacancy.

5(4) The clerk shall deposit in each member's mail box in the village hall not later than two days before the day fixed for the special council meeting, a notice of special meeting setting out the time of the meeting and the business to be transacted thereat, and the Clerk may also mail or deliver to the residence or place of business of each member within the same prescribed time the notice of meeting and business to be transacted thereat.

5(5) At a special meeting, the council shall consider

(a) only the business set out in the written notice calling the meeting except where otherwise determined by the unanimous consent of all the members present, and

(b) shall consider the business before it in the order in which the items appear on the notice of special meeting.

Emergency meeting

6(1) An emergency meeting may be called by the mayor, or in the absence of the mayor by the deputy mayor, or a majority of the councillors, at any time provided that a quorum can attend and the matter to be dealt with at the meeting is of such importance in

the public interest that the notice requirements of a special meeting cannot reasonably be met.

6(2) Business transacted at an emergency meeting shall be introduced for ratification at the next regular or special meeting of council.

Notice

7(1) Notice of all regular meetings of council shall be published in a newspaper published or having general circulation in the village not less than three days before the day fixed for such meeting, or in the alternative, the Clerk shall post such notice on the front door of the village hall, and a copy of such notice shall be available for examination by the public for at least three days before the day of the meeting in the office of the clerk during regular office hours.

7(2) Notice of a special meeting of council shall be published, and be available for examination, in the same manner for the same period as prescribed in subsection (1) and the notice shall contain a brief explanation of the business to be considered at such special meeting.

MEETINGS OPEN TO PUBLIC

8(1) Subject to subsection (2), all regular, special and emergency meetings of the council and all meetings of a committee of council, shall be open to the public.

8(2) If it is necessary at a meeting of a council or a committee of council to discuss any of the following matters, the public may be excluded from the meeting for the duration of the discussion:

(a) information the confidentiality of which is protected by law;

(b) personal information;

(c) information that could cause financial loss or gain to a person or the municipality or the village or could jeopardize negotiations leading to an agreement or contract;

(d) the proposed or pending acquisition or disposition of land for a village purpose;

(e) information that could violate the confidentiality of information obtained from the Government of Canada or from the Province;

(f) information concerning legal opinions or advice provided to the village by a village solicitor, or privileged communications as between solicitor and client in a matter of village business;

(g) litigation or potential litigation affecting the village or any of its agencies, boards or commissions, including a matter before an administrative tribunal;
 (h) the access to or security of particular buildings, other structures or system, including computer or communication systems, or the access to or security of methods employed to protect such buildings, other structures or systems;

(i) information gathered by police, including the Royal Canadian Mounted Police, in the course of investigating any illegal activity or suspected illegal activity, or source of such information; or

(j) labour and employment matters, including the negotiation of collective agreements.

8(3) If a meeting of a committee of council is closed to the public pursuant to subsection (2), no decisions shall be made at the meeting except for decisions related to

- (a) procedural matters,
- (b) directions to an officer of the village, or
- (c) directions to a solicitor for the village.

8(4) If a meeting is closed to the public pursuant to subsection (2), a record shall be made containing only the following:

- (a) the type of matter under subsection(2) that was discussed during the meeting;
and
- (b) the date of the meeting.

8(5) The record made under subsection (4) shall be available for examination by the public in the office of the clerk during regular office hours.

DECISIONS OF COUNCIL

9(1) All decisions of a council shall be

- (a) made in a regular or special meeting of the council, and
- (b) adopted by a by-law or resolution of the council.

9(2) No act or decision of a council is valid unless it is authorized or adopted by a by-law or resolution at a council meeting.

QUORUM

- 10(1)** A majority of the council shall constitute a quorum.
- 10(2)** If no quorum is present fifteen minutes after the time appointed for the meeting, the clerk shall take down the names of the members than present and the council shall stand adjourned until either the meeting is rescheduled or the next regular scheduled meeting.
- 10(3)** If during the course of a meeting the number of members becomes less than a quorum then proceedings shall cease and the council shall stand adjourned.

CALL TO ORDER

- 11(1)** Subject to subsection (2), as soon after 6:00 o'clock in the afternoon of the day for a regular council meeting or as soon after the hour of the meeting set by the notice calling a special meeting as there is a quorum present, the mayor shall take the chair and call the council to order.
- 11(2)** When the mayor or deputy mayor are not present within fifteen minutes of the time set for the meeting, the clerk shall call the council to order and, if a quorum is present, the members thereof shall choose a chairperson by open vote and that chairperson shall preside during the meeting or until the arrival of the mayor or deputy mayor.

DUTIES OF MAYOR AND COUNCILLORS

Mayor's duties

- 12(1)** The mayor shall
- (a) preside at all meetings of council, except as otherwise provided herein,
 - (b) provide leadership to council,
 - (c) communicate information and recommend actions to council for the improvement of the village's finances, administration and government,
 - (d) speak on issues of concern to the village on behalf of council, and
 - (e) perform any other duties conferred upon him or her by the Act, by by-law or by council.
- 12(2)** Notwithstanding subsection (1), the mayor is subject to direction and control of council and shall abide by the decisions of council.

12(3) In the absence or inability of the mayor to act, or if the office of mayor is vacant, the deputy mayor shall act in the place of the mayor, and while so acting, he or she possesses the powers and shall perform the duties of the mayor.

Councillor's duties

13(1) A councillor shall

- (a) consider the welfare and interests of the entire village when making decisions,
- (b) bring to the attention of council matters that may promote the welfare or interests of the village,
- (c) participate in developing and evaluating the policies and programs of the village,
- (d) participate in meetings of council, council committees and any other body to which he or she is appointed by council, and
- (e) perform any other duties conferred upon him or her by the Act, by by-law or by council.

PROCEEDINGS

14(1) At meetings of council it shall be the duty of the mayor, or in his/or her absence, the deputy mayor, or other presiding officer to

- (a) open the meeting of council by taking the chair and calling the members to order,
- (b) announce the business before the council in the order in which it is to be acted upon,
- (c) receive and submit in the proper manner all motions presented by the members,
- (d) put to vote all questions which are regularly moved and seconded, or necessarily arise in the course of proceedings and to announce the result,
- (e) decline to put vote motions which infringe the rules of procedure,
- (f) ensure that each member present shall announce his or her vote on a motion openly and individually and that the clerk records it,
- (g) restrain the members, within the rules of order and within the confines of the subject being debated, when engaged in debate,

- (h) enforce on all occasions the observance of order and decorum among the members,
- (i) call by name any member persisting in breach of the rules of order of the council, thereby ordering him or her to vacate the council chamber,
- (j) receive all messages and other communications and announce them to council,
- (k) authenticate by a signature when necessary all by-laws, resolutions and minutes of council,
- (l) inform council when necessary or when referred to for that purpose on a point of order or usage, and
- (m) represent and support the council declaring its will and implicitly obeying its decision in all things.

14(2) When in the opinion of the mayor of a member of the public is guilty of improper conduct at a council meeting, the mayor may expel that person from the meeting forthwith.

ORDER OF PROCEEDINGS

Agenda

15(1) The clerk shall have prepared and printed for the use of the members at all meetings of council an agenda under the following headings:

- (a) call to order;
- (b) prayer;
- (d) recording of attendance;
- (e) disclosure of conflict of interest;
- (f) approval of council minutes;
- (g) accounts;
- (h) reading of petitions/presentations/proclamations;
- (i) communications, including correspondence, community contacts;
- (j) approval of committee minutes and recommendations;

- (k) staff reports;
- (l) business arising from minutes;
- (m) unfinished business;
- (n) new business, including motions and notices of motion;
- (o) consideration of by-laws;
- (p) councillors concerns;
- (q) question period;
- (r) meetings; and
- (s) adjournment.

15(2) The agenda shall be prepared by the clerk or assistant clerk and reviewed by the mayor prior to the meeting and no matter shall be placed on the agenda for consideration at any regular council meeting unless the request for consideration on the matter is received by the clerk, in writing, before 4:00 o'clock in the afternoon of the day preceding the day in which the meeting is to be held, or may be added at the beginning of the council meeting with the unanimous consent of all members present.

15(3) The order of proceedings may be varied by motion passed by the affirmative vote of at least two-thirds of the members present at the meeting.

RECORDING OF ATTENDANCE

16 The clerk shall record the attendance and enter into the minute book the names of those members present and those members absent and should a member arrive late, the clerk shall enter the member's name at that point in the proceedings and the time he or she arrived.

CONFLICT OF INTEREST

17 Any member wishing to and not having disclosed a potential conflict of interest shall do so at the time specified for such in the agenda and shall submit the necessary documents to the clerk.

PRESENTATIONS

18 Presentations shall include presentations, petitions and submissions made by individuals, groups or organizations to the council or presentations mad by council to individuals, groups or organizations.

MINUTES

19(1) Minutes of the last preceding meeting shall not be read at the meeting unless a member so request, in which case the clerk or assistant clerk shall read the minutes.

19(2) The minutes shall record:

(a) the place, date and time of the meeting,

(b) the names of the presiding officer or officers and record the attendance of the members present as well as those members absent,

(c) the names of staff members in attendance,

(d) without note or comment all resolutions, decisions and proceedings of the meeting,

(e) the vote of each member as announced openly and individually upon a by-law, resolution or for any other purpose.

19(3) The clerk or assistant clerk shall be responsible for printing the minutes with the pages numbered and the resolutions shall be numbered and titles in such manner so as to provide easy and proper identification.

19(4) The clerk or assistant clerk shall ensure that the minutes of the last regular meeting and all special and committee meetings held more than three days prior to a regular meeting, together with the agenda, are mailed or delivered to each member not less than forty-eight hours before the hour of the holding of such regular meeting.

19(5) When the minutes have been approved they shall be signed by the mayor, or other presiding officer, and by the clerk.

Length of meeting

20 When at any regular or special meeting of council the hour of 8:30 o'clock in the evening shall be reached, the mayor, or presiding officer, shall declare the meeting adjourned unless by vote the majority of the council members present determines otherwise to either reconvene forthwith to finish the items on the agenda or reconvene at another time and date for such purpose.

DELEGATIONS

21(1) No person other than

(a) a member and a municipal officer having duties to perform at the council meeting shall come within the bar of the council chamber while the council is in

session, except upon special invitation of the mayor or presiding officer or a vote of the council, and

(b) a member may address the council without the permission of the council.

21(2) When any person, or persons, not being a member of council nor an appointed official, desire to address the council, they shall be permitted to do so, provided the clerk is notified, in writing, on or before 4:00 o'clock in the afternoon of the day preceding the day in which the meeting is to be held.

21(3) Upon receipt of notification to address council as provided in subsection (2) hereof the clerk shall, in writing, confirm to the delegation the time and place at which the delegation will address the council and also enclose the rules and procedures that relate to the delegation.

21(4) A delegation may address the council through one spokesperson for a period not exceeding 10 minutes during any council meeting and such spokesperson shall identify himself or herself before speaking and all remarks shall be addressed to council through the chair.

21(5) The mayor or presiding officer may, if requested by the delegation, permit the delegation one further period of up to 5 minutes.

21(6) All persons making an application to council shall be heard first and after any delegation in support and opposition are heard through its spokesperson, the mayor or any presiding officer may, at his or her discretion, grant the right to reply to the original petitioner.

21(7) The time for the reply referred to in subsection (4) hereof shall be limited to 5 minutes, provided however, that the mayor or the person presiding may, if requested by the delegation, permit such delegation one further period of up to 5 minutes.

21(8) Members shall not ask any questions until all delegations have been heard either in support of or in opposition to a matter on the agenda or before council and thereafter the members or council may question the delegation, but not enter into the debate.

21(9) If a request is made from a delegation for an expenditure, funds may only be decided upon by council at an ensuing meeting of council.

21(10) Delegations not on the agenda may be heard at the discretion of the mayor or the presiding officer.

21(11) A delegation once heard shall be re-heard only at the discretion of council.

21(12) Council shall have the right to refuse to hear any delegation whose subject matter falls outside the usual scope of municipal government but such refusal shall require a two-thirds majority of those members present.

COMMUNICATIONS

22(1) Communications for information shall contain routine items which are not controversial in nature and which do not need further discussion.

22(2) All items to be considered as communications for information shall be determined by the mayor and chief administrative officer.

22(3) All items listed as communications for information shall be preceded by an explanatory notice as follows:

“All matters listed on communications for information are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired that item shall be removed from the communications for information list and will be considered under communications for action.”

COMMUNICATIONS FOR ACTION

23(1) All petitions, applications, tenders, resolutions, letters or other communications intended for presentation to council or its committees.

(a) shall be filed with the clerk and addressed as follows: “to the mayor and council of Blacks Harbour”, and

(b) shall be written legibly, typewritten or printed and shall be signed by at least one person giving his or her address.

23(2) All letters, petitions, communications, village official’s reports or any other document intended for the consideration of council shall be filed with the clerk no later than 4:00 o’clock in the afternoon of the day preceding the day in which the meeting is to be held.

23(3) All documents described in subsections (1) and (2) hereof shall be received by the clerk who shall deal with them as follows:

(a) where, in the opinion of the chief administrative office, the subject matter of any communication is properly within the jurisdiction of the committee of the whole, such communication shall be placed on the agenda for the next regular meeting of the council and be dealt with in committee of the whole during such meeting;

(b) where, in the opinion of the chief administrative officer, the subject matter of any communication is properly within the jurisdiction of a committee of the council, such communication shall be referred directly to the appropriate committee with out prior reference to council; and

(c) communications of a routing nature shall be referred by the clerk directly to the chief administrative officer, or to the file without prior reference to the council, or any committee after being reviewed by the mayor.

FURTHER PROCEDURE ON RECEIPT OF COMMUNICATIONS

24(1) No member shall speak nor shall a debate be allowed upon the presentation of a petition, application, tender or other written communication to council, but a member may move in referring such written communication that certain instruction be given by council or that the said written communication be referred to a special committee.

24(2) If the petition, application, tender or other written communication complains of a present personal grievance requiring immediate remedy, upon the consent of a majority of the members present, the matter contained therein shall be brought into immediate discussion and disposed of forthwith.

24(3) When a petition, application, tender or other written communication is received concerning a subject which is not with the cognizance of any standing committee it shall be presented to council.

24(4) Notwithstanding the preceding sections hereof, the mayor or other presiding officer may direct that communications and delegations be referred to the committee of the whole or such other committee of council, as in his or her opinion, has jurisdiction in the subject matter of the communication or delegation or to the chief administrative officer, should such reference be deemed appropriate by the chairperson.

COMMITTEE REPORTS

25 Committee reports to be included on the agenda must be received by the clerk no later than 4:00 o'clock in the afternoon of the day preceding the day in which the meeting is to be held and the report shall be signed by the chairperson and introduced by him or her, or in his or her absence, another committee member.

STAFF REPORTS

26(1) Reports by Department heads shall be submitted to the chief administrative officer, in writing, who will refer them to the appropriate council committee and then included on the agenda of a council meeting.

26(2) Reports by the chief administrative officer to council may be considered by committee of the whole before presentation to council.

UNFINISHED BUSINESS

27 The date of the first appearance on the agenda of unfinished council business shall be noted and repeated on each subsequent agenda until disposed of by council unless removed therefrom by leave of the council.

BY-LAWS

28(1) By-laws shall be enacted in accordance with the procedure directed by the Act.

28(2) Every by-law shall be introduced by a motion for leave specifying the title of the by-law and the motion shall be in the following words, "that leave be given to introduce a by-law entitled 'a by-law to _____', and that the same be now read a first time", and the motion shall be decided without amendment or debate.

28(3) No by-law shall be introduced in blank or in imperfect form.

28(4) No by-law shall be passed except:

(a) by a majority of the council present or by a vote as required by statute; and

(b) where the Act provides that to enact a by-law two-thirds of the whole council, or the whole council shall vote in favour of it, that provision is complied with if two-thirds of the whole council or the whole council respectively vote in favour of the by-law on the third reading by title.

28(5) The clerk shall endorse on all by-laws read in council the dates of the several readings thereof and shall be responsible for the inclusion of any amendments.

28(6) In proceedings in committee of the whole upon by-laws the preamble shall be considered first and then each clause in its proper order and then the title.

28(7)

(a) All amendments made in committee of the whole to a by-law shall be reported to council by the chairperson and forthwith received by council, and

(b) after the report has been received under subsection 7(a), the by-law is open to debate and amendment before it is ordered to a second and third reading.

28(8) When considering a by-law, any member of council may request that the purpose and effect of any particular by-law, or section thereof, be explained and the chairperson may then call upon the chief administrative officer or any other town official having special knowledge thereof to give an explanation.

MOTIONS AND NOTICES OF MOTION

Motions

29(1) All motions may be in writing or presented verbally and seconded before being presented to the chair and when a motion is presented it shall be read by the mayor before debate and read again before being put, except motions to go into committee of the whole, to refer a matter to a committee or to adjourn which may be made vica voce.

29(2) All motions duly moved shall be recorded.

Motions – questions under debate

30(1) Subject to subsection 30(1), when a motion is under debate no other motion shall be received except a motion to amend it, to lay it on the table, to postpone it, to adjourn it, to refer it to committee, to move the previous question, to move that the vote be now taken or to extend the hour to consider it.

30(2) A motion to adjourn the debate or to adjourn the meeting to resolve the council into committee of the whole shall always be in order except

- (a) when a member is speaking,
- (b) when it has been decided that the previous question shall be put forthwith,
- (c) when the yeas and nays have been called for, and
- (d) when the members are voting,

And shall be put by the mayor, or presiding officer, forthwith without debate and the members shall not make a second motion to adjourn the debate or the meeting until after some intermediate proceeding has been taken.

Motions – the previous question

31(1) A motion to move the “previous question” shall be in the following words, “that this question be now put” and shall preclude all further amendment of the original motion.

31(2) Where the motion to move the previous question is resolved in the affirmative, the original motion and any amendment properly made shall be put forthwith without amendment for debate.

31(3) Where the motion to move the previous question is resolved in the negative, the original motion and any amendment may be further debated and if proper, amended.

31(4) No amendment may be proposed to the motion for the previous question.

Motions – separate vote on distinct propositions

32 Whenever a motion under consideration consists of more than one distinct proposition, matter or question, upon the request of a member the vote upon each separate proposition, matter or question shall be taken separately.

Motions – withdrawal of motion

33 A motion, or amendment thereto, may be withdrawn by the mover and seconder prior to the final reading by the mayor before the motion is put to the meeting.

Motion to take vote and declaration of vote

34(1) When a member moves that the vote be now taken, the mayor shall put this motion to an immediate vote without further debate.

34(2) After a motion is put to the meeting by the mayor, no member shall speak to the motion or make any other motion until after the result of the vote has been declared, and the decision of the mayor as to whether or not the motion has been put is conclusive.

35 Where the mayor is of the opinion that a motion is contrary to the rules and privileges of council, he or she shall so advise council and cite without argument or comment the rule or authority applicable thereto.

36 When a question of privilege arises it shall be taken into consideration immediately.

Money matters

37 No motion for the appropriation of money or for appointment to an office shall be made at that meeting unless notice thereof, in writing, has been presented at a previous meeting of council or given in the notice calling the meeting, except with unanimous approval of all members of council present.

Amendments to motions

38(1) It shall be permissible to amend a report of a committee on motion duly passed by a majority vote of members of council present and voting.

38(2) An amendment notifying the intention of a motion shall be in order, but an amendment relating to a different subject shall not be in order and only one amendment shall be allowed to an amendment.

38(3) Amendments to a motion shall be put in the reverse order to that in which they are moved, except in filling up blanks, when the longest time and the smallest sums shall be first, and every amendment presented shall be in writing or verbally and shall be decided or withdrawn before the main motion is put to a vote and only one amendment shall be allowed to an amendment.

Motions – out of order

39 It shall be the duty of the mayor, or the presiding officer, to determine what motions or amendments are in order (subject to an appeal to council) and decline to put any motion before the council which he or she deems to be out of order or contrary to law.

Notice of motion

40(1) Notices of motion shall be given in writing prior to 4:00 o'clock in the afternoon of the day preceding the day in which the meeting is to be held.

40(2) Notices of motion shall be given

- (a) to amend, repeal, rescind or alter a by-law or resolution, and
- (b) to introduce any measure or change in the council's established policy.

VILLAGE CLERK

41 The council shall appoint a clerk and assistant clerk and in addition to any other duties prescribed by section 76(1) of the Act or by any other by-law of the village, the village clerk or assistant clerk shall:

- (a) attend all regular, special and emergency meetings of council and record in book designated for such purpose, without note or comment, all resolutions, decisions and proceedings of the council;
- (b) record the name and vote of every member voting on a question;
- (c) furnish promptly to the chair of any committee and any village officer affected thereby, copies of all orders or resolutions made by the council so that the requirements of the same may be carried into effect;
- (d) prepare, issue and keep records of all licenses granted;
- (e) prepare and attend to the execution of all bonds and other securities required to be taken by the village from any person and prepare and attend to the execution (in consultation with the village solicitor where required or advisable) of all contracts and agreements to be entered into by the village;

- (f) communicate or convey to the proper committee the petitions and other documents or correspondence referred to by the council;
- (g) act as a custodian of the books, documents and records of the council and the original of all by-laws and resolutions, all title documents, mortgages, leases, bonds, agreements or other instruments relating to the property of the village, and allow the same to be taken from his or her office only on the order of the council or the court;
- (h) act as the custodian of all bonds, securities or fidelities given for the faithful discharge of the duties of officials and servants of the village;
- (i) be the custodian of the corporate seal of the village and the person authorized to affix and authenticate it;
- (j) notify any person appointed to any office by the council of his or her appointment and prepare and issue any commissions for such officers;
- (k) perform such other duties as are imposed upon him or her by the Act, resolution of the council or any committee thereof and which should naturally devolve upon him or her in his or her official capacity.

ASSISTANT CLERK

42 The council may appoint an assistant clerk who is subject to the directions of the clerk and, in the absence or disability of the clerk or when there is no clerk, has all the powers and duties of the clerk.

CHIEF ADMINISTRATIVE OFFICER

43(1) The council may appoint a chief administrative officer for the village with the following duties and powers:

Administration:

- responsible for the overall administration of the village in accordance with policies and directives of council;
- manages the day-to-day affairs of the village;
- ensures that all community programs run efficiently;
- attends all council meetings, finance meetings, water and wastewater meetings, emergency measures operations meetings, and various other meetings as required;
- provides information and recommendations to council on various municipal issues;
- carries out multitude of assignments as directed by council and committees;
- monitors and evaluates special projects and village initiatives;

- investigates serious complaints from the general public;
- prepares correspondence on behalf of council to various government officials and also in response to requests or complaints from the general public;
- acts as liaison between legal firm and council;
- acts as liaison between engineering firm and council;
- acts as mediator in matters such as land purchases, expropriation, well exploration, etc.; and
- represents the village in court actions.

Human Resources:

- prepares advertisements for staff recruitment;
- takes part in interviews and hires full-time employees, part-time personnel and summer students;
- provides advice and guidance to department heads;
- supervises staff members;
- provides guidance for employees and arranges for training of new staff members;
- prepares "Performance Review" evaluations for all staff members on completion of their probationary term and subsequently on an annual basis;
- reviews and considers all "Applications for Leave" (vacation, sick leave, overtime compensation, etc.) and applications for training and development;
- acts as liaison between staff and council; and
- handles concerns, problems and/or other issues relating to staff.

Contract Administration

- prepares various tender documents; and
- prepares contracts and related correspondence.

Emergency Operations Centre

- coordinates disaster planning;
- directs operations from the Emergency Operations Centre; and
- acts on behalf of mayor and council.

Clerk/Treasurer

- when appointed by council, shall be clerk and/or treasurer and responsible for the duties of such offices.

43(2) The council may prescribe additional duties and powers of the chief administrative officer, or vary or delete from the list in subsection (1) by resolution of council.

COMMITTEES

Committee of the whole – chairperson

44 When a motion to resolve council into committee of the whole is decided in the affirmative,

(a) the mayor may appoint a chairperson of the committee of the whole from among the members present and in which case he or she shall immediately leave the chair, and

(b) the members of council shall not leave their places upon adjournment until after the mayor leaves the chair.

Duties of chairperson

45(1) When council is resolved into committee of the whole the appointed chairperson shall immediately take charge of the proceedings and for the purpose of maintaining order in committee of the whole shall have all powers of the mayor and shall, subject to subsection (2), report the proceedings thereof to council.

45(2) A proposition, matter or question in a report or a by-law or amendment thereto which by-law requires a two-thirds vote shall be included in the report only when carried by that vote.

45(3) Questions of order arising in committee of the whole shall be decided by the chairperson.

45(4) The chairperson of the committee of the whole may vote on any question and in the even of equality of votes, the question being voted upon shall be deemed to have been decided in the negative.

45(5) The chairperson of the committee of the whole may state his or her position on any matter before the committee without leaving the chair and it shall be permissible for him or her to debate the question without first leaving the chair.

Order of proceedings in committee of the whole

46(1) In committee of the whole rules of council shall be observed in as far as possible except that

(a) no motion for adjournment shall be allowed, and

(b) the members are not limited in the number of times they speak on a proposition, matter or question.

46(2) In committee of the whole, no proposition, matter or question shall be considered except as provided in the motion resolving council into committee of the whole.

Order of motion

47 All motions relating to the matter under consideration shall be put in the order in which they are appointed.

Reporting amendments

48(1) All amendments made in committee of the whole shall be reported by the chairperson to the council which shall receive the same forthwith.

48(2) After a report made under subsection (1) has been received by council it is open to debate and amendment before being finally decided by council.

Motion to rise and report or to rise without reporting

49(1) In committee of the whole a motion to rise and report or to rise without reporting may be made at any time and shall be put forthwith to the meeting by the chairperson and decided without debate.

49(2) When in committee of the whole a motion to rise without reporting is carried in the affirmative, the subject referred to committee of the whole is deemed to be disposed of in the negative and the committee shall forthwith rise and the council shall proceed with the next order of business and any items of business left undecided or unreported by such motion may be again considered in the committee of the whole, on motion duly passed, during any subsequent meeting of the council.

STANDING COMMITTEES

Appointment and organization of standing committees

50(1) At the inaugural meeting of council the following standing committees shall be appointed by the council;

- (a) finance;
- (b) public works;
- (c) parking, traffic and safety;
- (d) administration;
- (e) recreation, youth, culture and tourism;

(f) personnel.

50(2) At the inaugural meeting of council a chairperson and vice-chairperson for each committee shall be appointed and the vice-chairperson shall be ex officio the chairperson of any subcommittee appointed from the committee unless otherwise provided in the resolution constituting the subcommittee and in the absence of the chairperson shall act in his or her place and stead as chairperson and as a member of other committees.

50(3) The standing committees shall each be composed of at least three members including the chairperson and in addition the mayor shall be an ex officio member of each of the committees.

50(4) The quorum for the standing committees shall be a majority of the members and a quorum for any subcommittees or special committees shall be a majority of the members thereof in which majority may be included any ex officio member.

DUTIES OF COMMITTEES

51(1) The finance committee shall have jurisdiction in the following matters:

(a) the preparation of estimates of all revenues and expenditures for the fiscal year for submission to council;

(b) the sale, lease or other disposition of any land belonging to the village;

(c) all requests for supplementary appropriations in excess of those provided in the annual budget;

(d) grants to be made by the village;

(e) insurance;

(f) debenture issues;

(g) the development of plans for cooperation between the village and other civic bodies in the administration of civic services; and

(h) generally all matters affecting the revenues, expenditures and finances of the village.

51(2) The public works committee shall have jurisdiction in the following matters:

(a) roads, streets and sidewalks;

(b) transportation and sanitary and storm sewers;

- (c) water and sewerage;
- (d) street lighting;
- (e) sanitation; and
- (f) maintenance and repair of public buildings – submits yearly estimates to the Finance Committee for expenditures falling within its jurisdiction.

51(3) The parking, traffic and safety committee shall have jurisdiction in the following matters:

- (a) administration of parking facilities;
- (b) planning and recommendation of traffic and parking regulations;
- (c) planning and administration of traffic light systems;
- (d) Fire Department – submit annually to the Finance Committee estimates of the expenditures of the department;
- (e) Police Department – submit annually to the Finance Committee estimates of the expenditures of department;
- (f) inspection of building;
- (g) enforcement of by-laws and administration of justice; and
- (h) Emergency Measures Organization

51(4) The administration committee shall have jurisdiction in the following matters:

- (a) public buildings;
- (b) legislation;
- (c) prepares and introduces into council all proposed by-laws and conducts yearly review of existing by-laws and recommends amendments to same;
- (d) zoning regulations and planning and development;
- (e) liaison with business community;
- (f) promotion of industry;
- (g) the encouragement of tourism;

- (h) to promote the planning and development of housing of all categories;
- (i) to promote detailed planning and development of urban renewal scheme phases by private enterprise which they are possible in cooperation with assistance programs from Provincial or Federal agencies;
- (j) liaison with other levels of government and crown agencies;
- (k) liaison with the board of trade; and
- (l) publication, statistics and analysis.

51(5) The recreation, youth, culture and tourism committee shall have jurisdiction in the following matters:

- (a) recreation program and submit annual estimates to Finance Committee for recreational expenditures;
- (b) supervision of playgrounds, rink, swimming pools and recreation facilities;
- (c) care and maintenance of village owned recreation buildings, rinks, parks and pools;
- (d) liaison with service clubs, youth clubs and community organizations;
- (e) coordination and allocation of space and time in village recreation program and special events;
- (f) cultural and historical affairs; and
- (g) parks.

51(4) The personnel committee shall have jurisdiction in the following matters:

- (a) to prepare for approval by council, policy relating to the hiring of promotion of employees, and/or policies in general – conducts a yearly review of existing policies and recommends desirable amendments to same;
- (b) to prepare and periodically review regulations pertaining to conditions of employment of all employees;
- (c) to consider applications, tests to conduct interviews, where necessary, and to make recommendations to the council for the appointment or hiring has not otherwise been delegated;

(d) to negotiate working agreements on behalf of the council with employee's union, also non-union employees;

(e) to recommend to the Finance Committee for the consideration by council, salary or wage scales as appear to them appropriate for the maintenance or efficiency and employee morale; and

(f) to be responsible for all negotiations on behalf of the village with recognized bargaining units representing any group of village employees.

51(5) The council may be unanimous resolution in regular session assembled add or delete matters to the jurisdiction of standing committees.

GENERAL PROVISIONS RESPECTING COMMITTEES

52(1) The council by resolution may appoint such subcommittees of the standing committees and such special committees as may be deemed advisable and for the purposes that the constituting resolution states and any subcommittee or special committee exists until it has reported finally to the council or until the thirty-first day of December next following when it shall be functus officio.

52(2) The mayor shall be ex-officio a member of all committees and shall have the right to vote on all questions before a committee.

52(3) Meetings of a standing committee may be called by the chairperson thereof whenever he or she deems it advisable and the chairperson, or in the case of his or her illness or inability to act or absence from the village the vice-chairperson, shall call a special meeting of the committee whenever requested in writing to do so by a majority of the members of the committee.

52(4) A member may attend the meetings of any committee but may not vote or take part in any discussion or debate in the committee except with the permission of the majority of the members present.

52(5) A standing committee may add advisory members to its composition who need not be members of council and shall inform council of all advisory appointments.

52(6) Should a member appointed to any committee be unable to attend the meetings of such committee due to illness or absence from the village, the mayor may appoint another member to act in his or her stead and the member so appointed shall be deemed to be a member of the committee and entitled to act thereon only during such illness or absence.

52(7) Should a chairperson of any committee neglect or refuse to call a meeting of his or her committee at such time, or with such frequency as the proper dispatch of the business entrusted to the committee requires, or do the business of the committee without the knowledge or consent of its members, or contrary to their wishes or sanction, the

committee may report such neglect, refusal or action to the council who may, if they deem it advisable, remove said chairperson from the committee and appoint another member in his or her place.

52(8) Should any member of a committee neglect or refuse to attend the properly summoned meeting of the committee, the chairperson shall report such neglect or refusal to the council who may remove the said member from the committee and appoint another member in his or her place, and should any committee neglect or refuse to give due attention to all business or matters before it, the council may by resolution discharge such committee and appoint another in its stead.

52(9) No order of authority to do any matter or thing shall be recognized as emanating from any committee and all committee matters shall be referred to the village council and approved before becoming effective unless such authority has been given by council by resolution or by a written established policy.

PROCEDURE IN COMMITTEES

53 The business of the standing, special and subcommittees shall be conducted under the following regulations and subject to rules governing procedure in council as far as may be applicable except that a member is not limited in the number of times he or she may speak on the question under consideration:

- (a) the chairperson shall preside at every meeting and may vote on all questions submitted and where there is an equal division the question shall be considered decided in the negative;
- (b) the chairperson shall sign all orders and documents which the committee may legally adopt;
- (c) in the absence of the chairperson, the vice-chairperson shall discharge the duties of the chairperson during the meeting or until the arrival of the chairperson;
- (d) a written report or minutes of each committee meeting shall be submitted to the village clerk for filing;
- (e) no order or authority to do any matter or thing shall be recognized as emanating from any committee unless it is in writing referring to the minutes of the committee under which it is issued and signed by the chairperson, vice-chairperson or secretary thereof;
- (f) where a division takes place on any question, all the members of the committee present shall vote, unless excused by a conflict of interest, and the vote shall be recorded and in the event of any member refusing to vote, without first being excused, his or her vote shall be counted in the affirmative.

GENERAL RULES OF ORDER AT MEETINGS

Order

54(1) The mayor shall preserve order and decorum at the council meetings and decide all questions of order, subject to an appeal to council upon motion, which motion may be made at any time and shall be put to the meeting immediately and decided forthwith.

Rulings of order

54(2) Where the mayor is called upon to decide a point of order or practice, he or she shall state the question without unnecessary comment and decide the issue citing the rule or authority applicable thereto.

Mayor entering debate

54(3) Where the mayor wishes to participate in the debate at a council meeting, he or she shall leave the chair and call on the deputy mayor if present or, if not present, a councillor to preside until he or she resumes the chair.

Chairperson

54(4) A chairperson, whether appointed by the mayor or by council to act in the absence of the mayor, shall have the same authority while presiding at a council meeting as the mayor would have if present and occupying the chair and in this by-law where the context allows, the work "mayor" is deemed to mean a chairperson.

Manner of speaking

54(5) Every member who wishes to speak to a question, motion or matter, shall raise his or her hand to indicate his or her wish and shall address himself or herself to the chair.

Who shall have the floor

54(6) When two or more members indicate a desire to speak at the same time, the mayor shall recognize the member who first attracts his or her attention, and debate shall then proceed around the table in a clockwise manner until all councillors have had an opportunity to speak to the matter.

Voting procedure at council meetings

55(1) At all meeting every question shall, unless otherwise required by statute or by-laws of the village or by law, the mayor shall vote only in the case of equal division and every other member present at the meeting when a question or motion is put shall vote thereon unless he or she:

(a) is excused by council or by motion; or

(b) is personally interested in the question or motion in a manner which prevents the member from voting legally or otherwise by virtue of a conflict of interest, and in all cases the member shall disclose his or her interest and shall not vote and the fact of his or her not voting and the reason therefore shall be entered upon the minutes by the clerk.

55(3) Where a member refused to vote and is not excused by council for the reasons stated in subsection (2) the clerk shall record him or her as voting in the affirmative on the question or motion before the council.

Interruptions

56(1) When the mayor is putting a question or motion, no member shall leave his or her seat or make any noise or disturbance.

56(2) When the mayor or a member is speaking, no person may pass between him or her and the chair or interrupt him or her except to raise a point of order.

Appeal to council

57(1) When a point of order is raised or when a member is called to order from the chair, the member speaking shall yield until the mayor states and decides the point of order and then, on that question, shall address the chair only for the purpose of appealing to the council from a ruling of the chairperson of the committee of the whole or to the council from the ruling of the mayor or on the question or motion before council.

57(2) Where council is appealed to under subsection (1), they shall decide the matter without debate.

57(3) Where there is no appeal under subsection (1), the decision of the mayor is final.

Disrespectful statements

58(1) No member shall

(a) speak disrespectfully of the reigning sovereign or of any of the Royal Family or of the Governor-General or person administering the Government of Canada or of the Lieutenant-Governor or of a person administering the Government of the Province of New Brunswick,

(b) use offensive words against the council or any members thereof,

(c) speak beside the question or motion in debate,

(d) reflect upon any vote of the council except for the purpose of moving that the vote be rescinded,

(e) refuse to obey the rules of council,

(f) disobey the decision of the mayor on questions of order or practice,

(g) act so as to prevent another member, who has been properly recognized by the chair, from speaking, or

(h) refer to another councillor other than by his or her surname preceded by the word "councillor" or "deputy mayor", and the mayor as "your worship".

58(2) Where a member refuses to obey the rules of council or disobeys the decision of the mayor on a question of order or practice, the mayor shall order him or her to leave his or her seat for that meeting and he or she may be summarily ejected provided that where the member apologizes, he or she may on a majority vote of the council forthwith resume his or her seat.

Reading of motion

59 A member at any time during a debate but not so as to interrupt a member then speaking, may request that the question, motion or matter under discussion be read.

Limits of debate

60(1) No member shall speak more than once on the same question, motion or matter without leave of the mayor except in explanation of the material part of his or her speech which may have been misconceived and when so speaking and he or she shall not introduce any new matter.

60(2) No member without leave of council shall speak to the same question or motion or in reply for a longer period than ten minutes without leave of council.

60(3) A member who has made a substantive motion by making an original motion or moving an amendment to a motion or moving the previous question or is a seconder of any of the foregoing motions shall be allowed an additional three minutes to reply or summarize his or her viewpoint.

Recording of vote

61(1) Subject to subsection (2), the council shall determine every question submitted to it by an open vote of "yea" and "nay" of the members present.

61(2) When required by law or whenever two members call for the "yeas" and "nays" upon a division of council upon any question, motion or matter, the clerk shall enter in

the minutes the names of the members who vote for and those who vote against the question, motion or matter.

61(3) Any member shall have the right to dissent and have his or her reasons therefore entered into the minutes and the member shall make such request known to the chair who shall direct that the record shall so register.

Suspension of rules

62 No standing rule or order of council shall be suspended except by the affirmative vote of two-thirds of all members of council, excluding the mayor except in the case of a tie.

Reconsideration

63 No by-laws, questions, motion or matter that has been disposed of by a majority vote either at a council meeting or at a meeting of a committee shall be introduced for consideration at a council meeting or at a meeting of a committee prior to the expiration of three months from the disposal without the consent of a majority of all the members or that committee as the case may be.

GENERAL PROVISIONS

Vacancies in council

64 When the office of the mayor or of a councillor becomes vacant, the clerk shall notify the council of that vacancy within 24 hours.

Appointment of officials

65(1) When any office in the gift of council falls vacant or a new office is created, after review by the appropriate committee, the matter shall be referred to committee of the whole for recommendation and report before an appointment is made.

65(2) On any motion for appointment by council of any person to an office, the applicants shall be voted on separately in the order in which they are proposed.

Surety

66 No councillor or officer of the village and no auditor of the village shall be a surety for any officer appointed by council or for any work to be done for council.

Appropriations and Expenditures

67(1) No resolution, motion or report involving the expenditure of funds raised by borrowing shall be acted upon by council until it has first been referred to and approved

by the finance and administration committee. Provided however, that if the said committee refuses to sanction or approve the expenditure the council may authorize the same to be made by a two-thirds majority vote.

67(2) No work or expenditure, the cost of which will exceed the relevant appropriation, shall be undertaken without previous authorization of council.

67(3) The mayor is authorized to spend two hundred dollars (\$200.00) per year without prior approval of council.

Application of parliamentary procedure

68(1) In all matters, points of order or questions of procedure arising and not provided for hereunder respecting proceedings in council and in committee shall be governed by the practice of the House of Commons applicable thereto and any interpretation thereof shall be governed by *Bourinot's Rules of Order*.

Purchase Orders

69(1) No purchase shall be made for or on behalf of the village unless a purchase order therefore has been signed by the mayor or treasurer.

69(2) Purchases in excess of one hundred dollars (\$100.00) shall have the purchase order countersigned by the treasurer or in his absence the clerk except in the case of extreme emergency when the superintendent of public works may authorize expenditures not exceeding two hundred dollars (\$200.00).

Checking purchases

70 On receipt of goods purchased, the official receiving them shall check them with the purchase order and invoice and certify that he or she has checked them with the invoice on the invoice with the date of his or her so doing and forthwith file invoice with the village treasurer.

Accounts against the village

71(1) All accounts against the village for payment shall be itemized and filed with the village treasurer not later than noon on Friday preceding the third Wednesday of the month and shall be approved for payment by the chairperson of the standing committee having jurisdiction.

71(2) Council may approve by resolution from time to time a list of accounts for early payment in order to take advantage of discounts or avoid penalties.

Payment of accounts

72(1) All accounts shall be paid on the day following the meeting of council at which payment is authorized or as soon thereafter as practicable.

72(2) The mayor or such other person as the council appoints, shall sign jointly with the treasurer all cheques issued by the village.

72(3) The council may provide by resolution that any signature required by this section be reproduced.

REPEAL

73 By-law No. 73-2, A By-law of the Municipality of Blacks Harbour, N.B. Respecting the Procedure and Organization of the Council, passed by the village council on February 13, 1973, and amendments thereto, is hereby repealed.

IN WITNESS WHEREOF Blacks Harbour has caused its corporate seal to be hereunto affixed to this by-law the 25th day of October, 2004.

First Reading: In its Entirety this 20th day of October, 2004.

Second Reading: By Title Only this 25th day of October, 2004.

Third Reading: By Title and Enacted this 25th day of October, 2004.

T.M. James

Mayor

Deanna Hunter

Village Clerk