

TOWN OF NIVERVILLE

Minutes of the regular meeting of the Niverville Town Council held on January 16, 2024, at 7:00 p.m. at the Niverville Community Resource and Recreation Centre. In attendance were Deputy Mayor Chris Wiebe, Councillors Nathan Dueck, Bill Fast and Meghan Beasant.

- Res#08-24 N. Dueck – B. Fast  
Excuse BE IT RESOLVED that Mayor Myron Dyck be excused due to a personal commitment. “Carried”
- Res#09-24 M. Beasant – B. Fast  
Agenda BE IT RESOLVED that the agenda be approved as presented. “Carried”
- Res#10-24 B. Fast – M. Beasant  
Minutes BE IT RESOLVED that the minutes of the regular Council meeting held on January 2, 2024 be approved as presented. “Carried”
- Res#11-24 N. Dueck – B. Fast  
Table BE IT RESOLVED that the Council meeting agenda be tabled and that Council  
Agenda sit in accordance with *The Planning Act* to hold the combined Public Hearing for Conditional Use application C26-23 and Variance application V22-23 for 61 Main Street. “Carried”
- Res#12-24 B. Fast – N. Dueck  
Resume BE IT RESOLVED that the combined Public Hearing for Conditional Use C26-23 and Variance V22-23 be closed and Council resume its former order of business (7:08 p.m.). “Carried”
- Res#13-24 N. Dueck – B. Fast  
C26-23 WHEREAS a combined Public Hearing was held on January 16, 2024 regarding  
V22-23 Conditional Use application C26-23 and Variance application V22-23, an application to allow on Lot 2, Plan 66099, civically known as 61 Main Street, an automobile sales and service garage in a Commercial Main Street Zone, an automobile and utility trailer sales business in a Residential Mixed-Use Zone, an advertising sign 11 inches high and 40 inches wide on the front of the building, and to vary the requirement for a vehicle entrance and exit of 20 feet each for an auto-oriented business (vehicle/equipment sales) to one combined vehicle entrance and exit, and to vary a combined vehicle entrance and exit of 25 ft. to 16 ft. for the proposed auto-oriented business;  
AND WHEREAS in accordance with *The Planning Act*, the combined Conditional Use and Variation application was duly advertised;  
AND WHEREAS there was no opposition received to the proposals;  
THEREFORE BE IT RESOLVED that Council approves Conditional Use application C26-23 and Variance application V22-23, an application to allow on Lot 2, Plan 66099, civically known as 61 Main Street, an automobile sales and service garage in a Commercial Main Street Zone, an automobile and utility trailer sales business in a Residential Mixed-Use Zone, an advertising sign 11 inches high and 40 inches wide on the front of the building, and to vary the requirement for a vehicle entrance and exit of 20 feet each for an auto-oriented business (vehicle/equipment sales) to one combined vehicle entrance and exit, and to vary a combined vehicle entrance and exit of 25 ft. to 16 ft. for the proposed auto-oriented business subject to the following condition:

- 1) That the property owner ensures that vehicles or trailers for sale do not use the required parking stalls for customers or tenants, unless the equivalent amount of parking is provided onsite and available for use by tenants and customers;
- 2) That the Conditional Use relating to the vehicle sales and service garage will be considered separate from the advertising sign for the purposes of determining if it has been acted upon within the timeframe allowed under the Planning Act; and
- 3) That the Variance is approved subject to a vehicle sales business being established in the rear lot, currently zoned Residential Mixed Use, before the expiry of the Conditional Use approval for C26-23.

“Carried”

Res#14-24  
Audio  
Signals

M. Beasant – B. Fast

BE IT RESOLVED that Council authorizes the Audio Pedestrian Signals System for the pedestrian crosswalks at Main Street and 5<sup>th</sup> Avenue, Main Street and 2<sup>nd</sup> Avenue, and Main Street and Mulberry Avenue to be activated, in order to provide additional accessibility to the community.

“Carried”

Res#15-24  
O2-15  
Repealed

N. Dueck – B. Fast

BE IT RESOLVED that Council repeals Policy O2-15 Sidewalk Standards, as all current amendments to the Construction Standards are approved by resolution of Council and this removes the amendment from being recorded in a separate document.

“Carried”

Res#16-24  
F1-24

M. Beasant – B. Fast

BE IT RESOLVED that Council approves policy F1-24 Damage & Personal Injury Claims, which provides staff and the public a consistent and clear process for reporting and processing claims from incidents of damage to private property or persons, copy of which is attached as Schedule “A”.

“Carried”

Res#17-24  
Accounts

N. Dueck – M. Beasant

BE IT RESOLVED that cheque nos. 43696 to 43759 totalling \$767,766.57 be hereby approved for payment.

“Carried”

Res#18-24  
BL 862-24  
1<sup>st</sup> Reading

N. Dueck – B. Fast

BE IT RESOLVED that Bylaw 862-24, being a bylaw to establish revised water rates for the Niverville public water utility be given first reading and forwarded to the Manitoba Public Utilities Board for review.

“Carried”

Res#19-24  
Tax Sale

B. Fast – M. Beasant

BE IT RESOLVED that in accordance with Section 365(2) of *The Municipal Act*, that Council designate 2022 as the designated year for tax sale and that all properties in tax default for 2021 or earlier be offered for sale by auction on December 17, 2024 to recover the tax arrears and costs.

“Carried”

Res#20-24  
Adjourn

M. Beasant – B. Fast

BE IT RESOLVED that the meeting be adjourned. (7:26 p.m.)

“Carried”

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Chief Administrative Officer

Schedule "A"



Town Of Niverville-Finance

Policy No. F1-24: Damage & Personal Injury Claims

Effective Date: January 16, 2024 Resolution# 16-24

Revision Date: \_\_\_\_\_ Resolution# \_\_\_\_\_

**Purpose:**

To provide staff and the public a consistent and clear process for reporting and processing claims from incidents of damage to private property or persons.

---

**Municipal Liability Legislation:**

1. Inspection Not a Guarantee - Municipal Act (M.A.) 387(7) An inspection or a system of inspections by a municipality is not a representation, guarantee, warranty or insurance of the quality or standard of construction of, or of any other thing respecting, the property, building, utility, structure or other thing inspected.
2. Exercise of Discretion – M.A. 392 A municipality that has the discretion to do something is not liable for deciding in good faith not to do that thing or for not doing it.
3. No liability for negligent supervision by others – M.A. 394 Where a municipality entrusts the construction of a public work or a public facility to the supervision of an engineer, architect, surveyor or other person with relevant expertise to supervise the construction, the municipality is not liable for loss or damage arising from any negligence on the part of the supervisor.
4. No Liability for Certain Nuisances – M.A. 395 A municipality is not liable for a nuisance as a result of:
  - (a) the construction, operation or maintenance of a system or facility for collection, conveyance, treatment or disposal of sewage or storm water, or both sewage and storm water, unless the municipality is negligent; or
  - (b) the construction or operation of a public work, regardless of whether the authority to construct or operate the work is mandatory or permissive, unless the nuisance could have been prevented by another practicable method of constructing or operating the public work.
5. Notice Requirement – M.A. 396(1) To claim against a Municipality for loss or damage as a result of the municipality’s failure to maintain a municipal road or a public facility, the

claimant must, in writing, notify the Chief Administrative Officer (CAO) of the municipality of the event on which the claim is based within three days after the event.

6. Limitations of Actions – (M.A.) 396(2) Failure to notify the municipality within the time required by subsection (1) bars the action unless
  - (a) the claimant has a reasonable excuse for the lack of notice and the municipality is not prejudiced by the lack of notice;
  - (b) the claim relates to the death of a person as the result of the event complained of; or
  - (c) the municipality (CAO) waives the notice requirement.

---

**Definitions:**

1. Personal Injury – An injury to the body.
2. Property – Property can mean real property or personal possessions.
3. Public Work – means any work (ie. Roads, sidewalks, etc.) that is constructed or maintained by a municipality for a municipal purpose but does not include a public facility.
4. Public Facility - means a place that is subject to the direction, control, and management of a municipality, and includes playgrounds, arenas, swimming pools, recreation centres, offices and libraries operated by a municipality.
5. Betterment – A betterment of personal property is when an item being replaced is of higher quality or design than the original item.
6. Gross Negligence - a legal term used to describe behavior that fails to meet the level of care that a reasonable person would have exercised under the same circumstances. Either a person's actions or omissions of actions can be found negligent.

---

**Policy/Procedure:**

- Claims for monetary compensation are to be filed by way of a completed claim form by the complainant and must be accompanied by proof of loss documentation. Appendix A.
- Claim and documentation will be reviewed by Town staff to determine if the form is complete, if a Town incident report is also warranted, and if the claim should be referred to the insurance company or processed in-house.
- Claims where liability is clear (staff hitting a vehicle while snow clearing), and compensation/repair estimate is under \$5,000 will be processed in-house.
  - Settlement agreement is prepared and signed by both parties.
  - Claim will be paid at next available council meeting after the repairs have been completed.
- Claims where the liability of the Town is questionable and claims for more than \$5,000 will be referred to the insurance company along with the Town's incident report. The Western Financial Advisor will then refer the claim to an insurance adjuster. The adjuster will process claim and advise of the settlement agreement, if any.

- If compensation is awarded:
  - settlements under the insurance liability deductible of \$5,000.00 will be referred to the Town office for payment. A cheque will be issued for the next available council meeting.
  - Settlements above \$5,000 will be paid by the insurance company and the Town will be invoiced for the deductible.
- Appendix forms A and B may be edited by staff for clarity as needed without revising this policy.

**(Appendix forms A & B have not been included in Schedule “A”, but are available upon request to the Town Office.)**

Minutes of the combined Public Hearing held on January 16, 2024 at 7:02 p.m. regarding Conditional Use application C26-23 and Variance application V22-23, an application to allow on Lot 2, Plan 66099, civically known as 61 Main Street, an automobile sales and service garage in a Commercial Main Street Zone, an automobile and utility trailer sales business in a Residential Mixed-Use Zone, an advertising sign 11 inches high and 40 inches wide on the front of the building, and to vary the requirement for a vehicle entrance and exit of 20 feet each for an auto-oriented business (vehicle/equipment sales) to one combined vehicle entrance and exit, and to vary a combined vehicle entrance and exit of 25 ft. to 16 ft. for the proposed auto-oriented business. The proposals were duly advertised as per Section 169 of *The Planning Act*. Deputy Mayor Chris Wiebe served as chairperson, with Councillors Nathan Dueck, Bill Fast and Meghan Beasant in attendance.

Mrs. Audrey Neufeld, Director of Planning and Development, noted that this was a combined public hearing for a Conditional Use and Variance for 61 Main Street, and that while the applicant 5487031 Manitoba Ltd. had withdrawn his application, permission was granted to have the Conditional Use continue through the process. She advised that the Conditional Use was requested for the following:

1. To allow for an automobile sales and service garage in a Commercial Main Street Zone;
2. To allow for an automobile and utility trailer sales business in a Residential Mixed-Use Zone; and
3. To allow for an advertising sign 11 inches high and 40 inches wide on the front of the building (Commercial Main Street Zone).

and that the Variance was requested for the following:

1. To vary the requirement for a vehicle entrance and exit of 20 feet each for an auto-oriented business to one combined vehicle entrance and exit; and
2. To vary a combined vehicle entrance and exit of 25 ft. to 16 ft. for the proposed auto-oriented business.

Mrs. Neufeld also commented that both the Conditional Use and Variance processes are governed under The Planning Act, so the uses and the variance need to be acted upon within 12 months of the date of the decision, or there are extensions available.

The property owner, Mr. Troy Waldner, was present and gave a brief description of what space the tenant would be using. Mr. Waldner explained that the property met the parking requirements, and he listed the required improvements that were made to the building. He noted that he was informed that the applicant had withdrawn his application and expressed that he hopes to find a suitable tenant to rent the space soon.

Mrs. Neufeld provided the following recommendation from Admin, which was to approve both the Conditional Use and Variance subject to the following conditions:

- 1) That the property owner ensures that vehicles or trailers for sale do not use the required parking stalls for customers or tenants, unless the equivalent amount of parking is provided onsite and available for use by tenants and customers;
- 2) That the Conditional Use relating to the vehicle sales and service garage in either the Commercial Main Street Zone or the Residential Mixed-Use Zone will be considered separately from the advertising sign for the purposes of determining if it has been acted upon within the timeframe allowed under The Planning Act;
- 3) That the Variance is approved subject to a vehicle/sales business being established in the rear of the lot, currently zoned Residential Mixed Use, before the expiry of the Conditional Use approval for C26-23.

There was no opposition to the proposal.

The public hearing was closed at 7:08 p.m.

---