

## MINUTES

### THE CORPORATION OF THE TOWNSHIP OF GREATER MADAWASKA

THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF GREATER MADAWASKA  
SPECIAL MEETING HELD IN THE COUNCIL CHAMBERS  
JANUARY 29<sup>th</sup>, 2007

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1. CALL MEETING TO ORDER

A. Attendance

Reeve Peter Emon  
Cllr. Karin Lehnhardt  
Cllr. Don Mercer  
Cllr. Tom Ryan  
Cllr. John Pratt

John Baird, CAO/Clerk Treasurer

Peter S. Mirsky, Municipal Solicitor

Interested Members of the Public

Motion to Open

001 - 07 Moved by Cllr Mercer, Seconded by Cllr Pratt  
That the Special Council Meeting of January 29<sup>th</sup>, 2007 be called  
to order at 9:00 AM.

**CARRIED**

B. Approval of Agenda

002 - 07 Moved by Cllr Mercer, Seconded by Cllr Pratt  
That Council deems that the required notice for the January 29<sup>th</sup>,  
2007 Special Council Meeting has been given, and that the  
agenda be approved as shown:

Ontario Municipal Board Review Hearing

**CARRIED**

D. Meeting Business

Reeve Emon opened the meeting and invited Cllrs to discuss the issue  
on the table. Reeve Emon pointed out that the motion passed at the  
December 21<sup>st</sup> 2006 meeting was prepared by the Reeve and Deputy Clerk  
and the wording is taken directly from the CCC letter received by the  
municipality on December 6<sup>th</sup>, 2006. Reeve Emon indicated that the motion  
approved at the December 21<sup>st</sup> 2006 meeting was acted upon the next day  
following the meeting.

003 - 07 Moved by Cllr Mercer, Seconded by Cllr Ryan  
That Council reconsiders Motion #557 – 06 as per the  
petition request received on January 25<sup>th</sup>, 2007

**CARRIED**

The CAO/Clerk Treasurer indicated that the Special Meeting was called  
under provisions of Section 3(b) of By-Law 22 – 2006 the Municipal  
Procedural By-Law. Under that clause, the CAO is required to call a  
Special Meeting of Council upon receipt of a petition of a majority of Council  
Members. The CAO indicated that a petition was filed with the municipal  
office at 1:20 PM on January 25<sup>th</sup>, 2007. Under Section 3(c) of By-law  
22 – 2006, a 48 hour notice period is required for the meeting to be called.  
As such, the CAO indicated that the conditions for holding the January  
29<sup>th</sup> Special Meeting had been met, and that the Special Meeting was  
authorized to proceed as per By-Law 22 – 2006.

The CAO also advised Council that he had invited Mr. Mirsky to attend the special meeting at the suggestion of Mr. Dean. Mr. Dean was of the opinion that the solicitor of record for the municipality in the OMB hearing should be present, both to provide advice regarding the issue and to take instructions from Council. Mr. Dean indicated that in his view any action directed by Council should be communicated by the solicitor of record, not by the Head of Council or by a municipal staff person. The CAO also advised Council that he had forwarded copies of Mr. Dean's email directly to Council during the past weekend.

Reeve Emon asked the petitioning Council Members to outline the reason for holding the meeting. Cllrs indicated that it was their wish to re-affirm the decision of December 21<sup>st</sup>, 2006 in which the municipality withdrew from the OMB Review of the TrackCorp Decision and further that the reasons for the withdrawal be communicated to the OMB.

Reeve Emon requested that Mr. Mirsky, Municipal Solicitor, comment on the OMB review process. Mr. Mirsky made a presentation to Council outlining the steps taken following the December 21<sup>st</sup>, 2006 Council meeting. He also gave a brief outline of the reasons for requesting the review in the first place. Mr. Mirsky indicated that the municipal position was on legal issues only as it related to the temporary zoning. When the municipality withdrew, as confirmed by the chairman at the opening of the hearing on January 23<sup>rd</sup>, 2007 the municipality "lost" status, and therefore should not be seen as taking a position, either in the negative or positive now that the review hearing is concluded. Any actions taken by the municipality to provide additional information to the board at this time may be interpreted as attempting to influence the decision of the board. Mr. Mirsky indicated that such an action could, in his view, encourage censure of the municipality by the board, and may lead to actions of liability being taken against the municipality, individual members of Council, and potentially any staff involved. Mr. Mirsky recommended that Council take no action that may be seen as an attempt to influence the board. He further recommended that, before directions were given to staff to proceed in a particular manner, that the staff member(s) and indeed individual Council Members be allowed to seek independent legal advice before acting upon Council's direction.

Cllr Lehnhardt indicated that she was not in favour of taking further action on this matter. It was clear that the municipality had withdrawn from the process, and that there was no need to take any further steps to clarify anything. Cllr Lehnhardt also indicated that she was concerned about any ramifications against the municipality that further actions at this time might generate. Cllr Lehnhardt indicated that the hearing was finished, and that the Council should let the chairman do his job.

Cllr Pratt made comments regarding the calling of the Special Meeting as a need to clarify what decision Council made in December. Cllr Pratt indicated that there was a concern that Council's wishes, and the reasons for withdrawing from the review were not communicated to the OMB. Cllrs petitioning for the special meeting felt that there was a reasonable expectation that the reasons for withdrawal would be communicated, along with the fact of the withdrawal.

Reeve Emon asked for some direction as to where the meeting was to proceed.

Cllrs discussed moving into In Camera Session. The CAO provided Council with the reasons as to how and when a meeting could go into In Camera session.

Council agreed that there was no reason to move to In Camera.

004 – 07 Moved by Cllr Pratt, Seconded by Cllr Ryan  
That the reason for this Council's motion passed December 21<sup>st</sup>, 2006 withdrawing its request for review of the Ontario Municipal Board decision order #2149 was Council's support for the decision as stated in the minutes of December 21<sup>st</sup> 2006 which support continues to this date as herewith confirmed.

Cllrs discussed the motion. Cllr called for a recorded vote.

#### **RECORDED VOTE**

Reeve Emon	Nay
Cllr Pratt	Yea
Cllr Lehnhardt	Nay
Cllr Ryan	Yea
Cllr Mercer	Yea

#### **MOTION CARRIED**

Cllrs discussed communicating with the OMB with respect to the reasons for withdrawing from the review. Mr. Mirsky reiterated his recommendation that Council take no further action in this regard that could be perceived as interfering with the decision process of the chairman. He further recommended that any staff receiving direction from Council in this regard be allowed to consult independent legal advice on the matter before the actions are taken.

005 – 07 Moved by Cllr Pratt, Seconded by Cllr Mercer  
That the CAO send the attached letter to the Ontario Municipal Board together with a copy of the minutes and motion to withdraw from the December 21<sup>st</sup>, 2006 meeting as well as a copy of confirming motion and minutes of the January 29<sup>th</sup> 2007 special council meeting.

Cllrs had further discussion on this motion. Cllr Mercer indicated that in future he will scrutinize motions carefully to ensure that everything is included. Cllr Mercer confirmed that the motion passed in December was indeed the wording that was approved. Cllr Pratt indicated that he had no desire to take any action, or provide direction that might place the municipality or municipal staff at risk of further action. Reeve Emon stressed that the December 21<sup>st</sup> motion had been written by the Deputy Clerk in consultation with the Reeve only and was taken directly from the wording proposed by the CCC.

Reeve Emon read the motion again. On the approval of the Mover and Secunder, the motion was withdrawn.

#### **MOTION WITHDRAWN**

#### **C. Motion to Adjourn**

006 - 07 Moved by Cllr Mercer, Seconded by Cllr Pratt  
That the Special Council meeting of January 29<sup>th</sup>, 2007 be adjourned at 10:02 AM  
**CARRIED**

**ADOPTED AS PRESENTED THIS FIFTEENTH DAY OF FEBRUARY, 2007.**

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Peter Emon, Reeve

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John Baird, CAO/Clerk-Treasurer