

Cape Breton Regional Municipality

Council Meeting

AGENDA

TUESDAY, MAY 17TH, 2016

6:00 P.M.

Council Chambers
2nd Floor, City Hall
320 Esplanade, Sydney, NS

Cape Breton Regional Municipal Council

Tuesday, May 17th, 2016

6:00 p.m.

AGENDA ITEMS

ROLL CALL

O' Canada

Moment of Silent Reflection

1. **APPROVAL OF MINUTES: (Previously Distributed)**

➤ Council – April 19th, 2016

2. **PROCLAMATIONS & RESOLUTIONS:**

- a) **Parachute Safe Kids Week**
Councillor Kevin Saccary (See page 9)
- b) **Victorian Order of Nurses (VON) Week**
Councillor Kevin Saccary (See page 10)
- c) **St. John Ambulance Month**
Councillor Eldon MacDonald (See page 11)
- d) **Active Transportation (AT) Policy**
Councillor Eldon MacDonald (See page 12)
- e) **Glace Bay Heritage Museum – Old Town Hall**
Councillor Darrell Flynn (See page 15)
- f) **Northside Horsemen's Association Taxation**
Councillor Jim MacLeod (See page 16)

3. **PRESENTATIONS:**

- 3.1 **CBRM Youth Council – First Year Report:** (See page 17)
Youth Council Presenters: Veronica Toomey, Kaitlynn Hayes, Xavier Nicholas and Nikolas Starzomski

3.2 **Presentation - 2016 Municipal and School Board Elections:**

- a) **Key Dates:** Deborah Campbell, Municipal Clerk (See page 18)
- b) **Electronic Voting Options:** Dean Smith, President & Founder Intelivote Systems Inc. (See page 21)

4. **STREET CLOSING – PUBLIC HEARING:**

- 4.1 **Request for Street Closure – Bradbury Lane (near Borden Street), Whitney Pier:**

Public Hearing regarding the request for closure of an unopened street reserve known as Bradbury Lane, located near Borden Street in Whitney Pier, following which the subject area be deemed surplus to the need of CBRM to allow for Ms. Donna Wadden to purchase same. Demetri Kachafanas, Regional Solicitor (See page 39)

5. **PLANNING ISSUES:**

5.1 **Final Approval – Public Hearings:**

- a) **Municipal Planning Strategy Amendment Application #1020 – Cavell McNeil and Karen McNeil, 322 Park Road, Florence, PID 15658271:**

Public Hearing to consider amending the CBRM Municipal Planning Strategy and Land Use Bylaw as outlined in Option 2 of the staff report dated May 10, 2016 which will allow for retail sales at 322 Park Road, Florence, PID 15658271. Karen Neville, Planner (See page 43)

Continued...

PLANNING ISSUES (Cont'd):

Final Approval – Public Hearings (Cont'd):

- b) **Application #1021: Amendments to Section 44 of the CBRM Land Use By-law and Section 39 of the CBRM North End Sydney Secondary Land Use By-Law regarding the Vendors Bylaw:**

Public Hearing to consider amending the CBRM Land Use By-law and the North End Sydney Secondary Land Use Bylaw regarding the Vendors Bylaw, as outlined in the staff Issue Paper dated May 3, 2016. Karen Neville, Planner (See page 55)

- c) **Zone Amendment Application #1022 – TerraMac Contracting Ltd., Corner of Sydport Access Road & Highway 125, Point Edward (PIDs 15867427 and 15061385 Along with Northwest Portion of PID 15530157):**

Public Hearing to consider the zoning amendment application from TerraMac Contracting Ltd., for PIDs 15867427 and 15061385 along with the northwest portion of PID 15530157, located at the intersection of Sydport Access Road and Highway 125 in Point Edward, to operate a recycling facility that would process derelict motor vehicles on these properties. Karen Neville, Planner (See page 59)

5.2 Approval to Advertise:

- a) **Zone Amendment Application #1018 – Gratten (Duke) Fraser, 762 King Street, New Waterford (PID 15466840):**

Staff report on the Public Participation Program and recommendation of approval to advertise notice of a Public Hearing to be held at the June 2016 meeting of Council to consider Land Use By-Law amendments to allow for a coffee shop at 762 King Street, New Waterford, Case #1018. Karen Neville, Planner (See page 66)

- b) **Municipal Planning Strategy and Land Use By-law Amendment Application #1023 – Winter Review 2016:**

Staff report on the Public Participation Program and recommendation of approval to advertise notice of a Public Hearing to be held at the June 2016 meeting of Council to consider the proposed Municipal Planning Strategy and Land Use By-Law amendments as outlined in the Winter Review report of May 10, 2016. Karen Neville, Planner (See page 84)

Continued...

PLANNING ISSUES (Cont'd):

- c) **Zoning Amendment Application #1025 - Bruce Marsh, 17 Point Aconi Road, Bras d'Or (PID 15299936):**

Committee recommends approval to advertise notice of a Public Hearing to be held at the June 2016 meeting of Council to consider an application to amend the Land Use Bylaw to permit storage of recreational vehicles on PID 15299936, 17 Point Aconi Road, Bras d'Or, Case #1025. Karen Neville, Planner (See page 119)

5.3 Public Participation Program Request:

- a) **Necessary Municipal Planning Strategy Amendment – New Waterford Home Hardware to Former Frank Angot School Case #1026:**

Committee recommends that Council adopt, by Resolution, a Public Participation Program to consist of a Public Meeting in the neighbourhood of New Waterford where the Home Hardware store and school are located, to put forward this development proposal to the neighbourhood, and to explain how Planning Strategy policy and the Land Use Bylaw provisions could be revised to regulate the conversion of public school buildings and buildings associated with religious institutions, into retail stores. Malcolm Gillis, Director of Planning (See page 124)

6. BUSINESS ARISING:

6.1 Council – December 10th, 2015:

- a) **Request to Purchase CBRM Land PIDs 15126667 and 15548407, Welton Street, (Sydney Southend Community Development Association):**

Staff Issue Paper regarding the request made by the Southend Community Development Association. Karen Neville, Planner (See page 126)

6.2 General Committee Meeting – May 2nd, 2016:

- a) **Synergy Louisbourg – Requests Made at the May 2, 2016 General Committee Meeting:** Michael Merritt, Chief Administrative Officer and Rick McCready, Senior Planner (See page 138)

Continued...

BUSINESS ARISING (Cont'd):

General Committee Meeting – May 2nd, 2016 (Cont'd):

b) School Closures:

Committee recommends that Council declare:

- Bridgeport School, Glace Bay
- Gowrie Memorial School, Port Morien
- MacLennan Middle School, Westmount
- Mira Road School, Mira Road
- Frank Angot School, New Waterford

as **surplus** to the needs of the Municipality with conditions can as outlined in the staff report. Karen Neville, Planner (See page 156)

c) Land Use Bylaw and Municipal Planning Strategy Fees – Policy Amendment:

Committee recommends that Council revise the Municipal Planning Strategy and Land Use Bylaw Amendment and Development Agreement Fee Policy, by imposing a fee of \$1,000 to process an application to amend a Land Use Bylaw and/or a Planning Strategy, to be paid when the application is submitted; and if the application is withdrawn before the fee funds are spent, the applicant will be reimbursed the fee, as outlined in the staff report dated April 26, 2016. Malcolm Gillis, Director of Planning (See page 164)

d) Port Morien Development Association – Request for License Indemnification Agreement for PID #15646300:

Committee recommends that Council authorize the Mayor and Clerk to sign a license and indemnification agreement for property PID # 15646300 as required until the transfer of former ECBC properties as outlined in the staff report of April 15, 2016. Allan Clarke, Manager of Parks, Grounds & Buildings (See page 170)

7. REPORT:

- 7.1 Financial Statements to March 31, 2016:** Marie Walsh, Chief Financial Officer (See page 193)

8. BY-LAWS & MOTIONS:

8.1 By-Laws:

a) Second / Final Reading - (Public Hearings):

- i) Proposed amendments regarding reference to the “General Committee” in the following CBRM Bylaws:

- Building By-Law
- Civic Addressing By-Law
- Parking Meter By-Law
- Taxi By-Law
- Vending Machines By-Law

Deborah Campbell, Municipal Clerk (See page 194)
(*Appendix “A” distributed separately*)

- ii) Amendments to the CBRM Vendors and Traders of Goods By-law: Karen Neville, Planner (See page 197)

b) First Reading:

- i) Amendments to the Alternative Voting By-law: Deborah Campbell, Municipal Clerk (See page 223)

8.2 Motions N/A

Adjournment

PROCLAMATION

Parachute Safe Kids Week - 2016

Whereas: Parachute is marking the 20th year of Safe Kids Week by focusing on the top injury issues that affect children at Home, at Play and on the Road;

And Whereas: While there has been a decreasing trend in death and hospitalizations from preventable injuries, they remain the number one killer of Canadians aged 1 to 44;

And Whereas: Parachute Safe Kids Week is a National Awareness Week developed to bring attention to predictable and preventable injuries in Canada and everyone has a role to play in creating change in their communities and keeping children active and safe from harm;

Be It Therefore Resolved: That the CBRM Mayor & Council proclaim May 30th to June 5th, 2016 as “Parachute Safe Kids Week”.

Councillor Kevin Saccary – District #8 – CBRM

May 17th, 2016

Proclamation

“Victorian Order of Nurses (VON) Week” 2016

- Whereas:** The Victorian Order of Nurses is Canada’s largest, national, not-for-profit, charitable home and community care organization who offer more than 75 different home care, personal support and community services to enhance each client’s quality of life;
- And Whereas:** Every day, volunteers from all walks of life work with VON staff to help make Canadian communities healthier;
- And Whereas:** VON’s home nursing, health promotion and support services make an invaluable contribution to the Health Care System in Nova Scotia;
- And Whereas:** The Cape Breton VON Branch has provided immeasurable support for individuals and families throughout the Island, providing compassion and care to those in need;
- Be It Therefore Resolved:** That Mayor Cecil P. Clarke and CBRM members of Council recognize the contributions made by the VON through their community work in making our Province a better place in which to live by proclaiming May 16th to 20th, 2016 as “VON Week in the Cape Breton Regional Municipality.”

Councillor Kevin Saccary - CBRM - District #8

May 17th, 2016



CBRM Proclamation

St. John Ambulance Month

- Whereas:** St. John Ambulance, a non-profit organization with a rich historical background, has provided first aid training and community services to Canadians for nearly 130 years;
- And Whereas:** St. John Ambulance has many dedicated Volunteer Medical Responders who devote their time and energy to community service including over 9000 volunteer hours of emergency first aid and training for the citizens of the Cape Breton Regional Municipality and beyond.
- And Whereas:** St. John Ambulance has developed continuing programs of first aid training at various levels and community service to meet the changing needs of Canadians of all ages from all walks of life;
- Be It Therefore Resolved:** That the CBRM Mayor and Council proclaim the month of June, 2016 as "St. John Ambulance Month".

Councillor Eldon MacDonald
District #5 - CBRM

May 17th, 2016

CBRM RESOLUTION

ACTIVE TRANSPORTATION (AT) POLICY

- Whereas:** Over the last five years, an Interdepartmental Committee of Provincial Government staff has been working with municipalities and community organizations in the development of an Active Transportation (AT) Policy Framework for Nova Scotia. A draft policy framework was the subject of public meetings across the Province in late 2014 and early 2015, including a session at the Gaelic College in St. Ann's which was attended by representatives from all areas of Cape Breton Island;
- And Whereas:** The draft policy framework that was presented at St. Ann's included a number of actions to support communities across Nova Scotia in their efforts to promote active transportation including:
- Ensuring that provincial transportation planning is coordinated with municipal active transportation plans,
 - Providing technical and financial support to municipalities implementing active transportation plans,
 - Ensuring that active transportation concerns are taken into account when decisions are made regarding the location and relocation of provincial services and facilities,
 - Improving the accuracy of data collection related to active transportation, such as information on the number of motor vehicle collisions in the Province that involve pedestrians and cyclists;
- And Whereas:** Although it is understood that the draft policy framework has received much positive feedback across the Province, municipalities have not yet heard if the framework will be formally endorsed by the provincial government. In December of 2015, CBRM Councillor Claire Detheridge, in her capacity as President of the Union of Nova Scotia Municipalities, wrote to the Province inquiring as to the status of the policy framework. A copy of that letter is attached;
- Be It Therefore Resolved:** That given that the CBRM and other municipalities still have not received word that the Province of Nova Scotia is moving forward with the Active Transportation (AT) Policy Framework, that CBRM Mayor and Council instruct staff to write to the Minister of Transportation and Infrastructure Renewal, the Honourable Geoff MacLellan, to express our support for the Active Transportation Policy Framework and inquire as to the present status of the framework, and that copies of the letter be sent to Ministers of other relative Provincial Departments.

Councillor Eldon MacDonald – District #5 - CBRM

May 17th, 2016

The Union of Nova Scotia Municipalities

PRESIDENT:

Councillor Claire Detheridge
Cape Breton Regional Municipality

VICE-PRESIDENT:

Councillor Laurie Murley
Town of Windsor

IMMEDIATE PAST-PRESIDENT:

Warden Keith Hunter
County of Cumberland

REGIONAL CAUCUS CHAIR:

Councillor Bill Karsten
Halifax Regional Municipality

RURAL CAUCUS CHAIR:

Mayor Don Downe
District of Lunenburg

TOWN CAUCUS CHAIR:

Mayor Pan Mood
Town of Yarmouth

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Halifax, NS
B3J 3K8

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E-mail: info@unsm.ca
Web Site: www.unsm.ca

December 14, 2015

The Honorable Leo Glavine
Minister, Department of Health and Wellness
and Department of Seniors
P.O. Box 488
Halifax, Nova Scotia
B3J 2R8

Dear Minister Glavine;

On behalf of the Union of Nova Scotia Municipalities (UNSM), I would like to commend you and the other departments represented on the Provincial Active Transportation Team for your work to date on the Active Transportation Policy Framework. As an organization that represents all 51 municipalities in Nova Scotia, we see the Framework as an important tool for further advancing active transportation in Nova Scotia and we would like to express our interest in being a key partner in development of its future implementation strategies.

As you are aware, many of our municipalities have made impressive strides on building active transportation options as a means to becoming more vibrant and sustainable places to live. Strong provincial leadership for active transportation will provide policy and program cohesion required to encourage and support municipalities in their work to build sustainable and active options for transportation.

Many health, environmental and economic benefits have been created through the AT work in our communities. Particularly, we believe active transportation plays a critical role in improving the health of our communities and, in effect, significantly reducing provincial health care costs. By building communities and setting policies that make active transportation safe and convenient, Nova Scotians will find it much easier to build physical activity into their daily lives and, as a result, improve their overall health. Therefore, any investment in active transportation programs and infrastructure will not only create healthier communities and people, but lower costs and create more economic opportunities.

Through the work of our individual municipalities and UNSM's Active Transportation Committee, we believe that active transportation is increasingly being recognized for its positive impacts. Over the years, municipalities have expressed the need for support from various provincial departments to develop a collaborative and comprehensive approach to active transportation. We see the creation of the Framework as the Province's commitment to developing a strategic approach for advancing active transportation in Nova Scotia.

The Honourable Leo Glavine
December 14, 2015
Page 2

We appreciate your continued championing of active transportation and understand it is one of many priorities. We do look forward to collaborating with you on the development of implementation strategies that will help move the Active Transportation Policy Framework forward in a manner that benefits all.

Sincerely,

ORIGINAL SIGNED BY

Councillor Claire Detheridge
President, UNSM

cc: Honourable Karen Lynn Casey, Minister, Department of Education and Early
Childhood Development
Honourable Zach Churchill, Minister, Department of Municipal Affairs
Honourable Randy Delorey, Minister, Department of Environment
Honourable Mark Furey, Minister, Department of Business
Honourable Lloyd Hines, Minister, Department of Natural Resources
Honourable Geoff MacLellan, Minister, Department of Transportation & Infrastructure
Renewal
Honourable Michel P. Samson, Minister, Department of Energy

RESOLUTION

GLACE BAY HERITAGE MUSEUM – “OLD TOWN HALL”

- Whereas:** The Glace Bay Heritage Museum is housed in the restored former Town Hall located on MacKeen Street in Glace Bay, N.S.;
- And Whereas:** The first floor houses a Coal Mining Exhibit, Glace Bay Fishery Exhibit & Miner’s Home Circa 1900’s, numerous historical photographs and artifacts depicting the first Trans-Atlantic Wireless Service, established between Glace Bay and Ireland in 1907 & much more;
- And Whereas:** The second floor includes the former Council Chambers and Mayor’s Office (now known as the Marconi Room) displays on the area’s labour history, as well as a sports and entertainment museum;
- And Whereas:** The museum also obtains a gift shop where visitors can purchase a variety of jewelry, toys, pottery and Maritime books and the shop functions as a Tourism Information Centre and contains information on other notable attractions in the area with their 2nd hand bookstore being very popular for residents, tourists & visitors;
- And Whereas:** The Museum is run by a dedicated group of volunteers with Elke Ibrahim serving as the Curator and they have recently celebrated the launch of their new website resulting from a partnership with the Nova Scotia Department of Communities, Culture & Heritage through their Strategic Development Initiative, and was also funded through the Heritage Museum Society and the Glace Bay Historical Society;
- Be It Therefore Resolved:** That Mayor Cecil P. Clarke and CBRM Council instruct staff to write to the members of the Glace Bay Heritage Museum Society acknowledging the celebration of the launch of the Museum’s new website and thanking and acknowledging the volunteer service of the Museum Society for supporting and promoting a piece of the former Town of Glace Bay’s proud past.

Councillor Darrell Flynn – District #10 - CBRM

May 17th, 2016

RESOLUTION

“Northside Horsemen’s Association Taxation”

- WHEREAS:** The Horsemen’s Association in North Sydney operate six months a year and are noted for preserving and promoting the Horse Racing Industry;
- AND WHEREAS:** The Association benefits our local economy and small businesses through the sale of horse feed and manure prepared locally and it is known that On-Farm Production prepared locally is much less than the cost of chemical fertilizers;
- AND WHEREAS:** The Cape Breton Horsemen’s Association and Northside Downs have honored top race harness performers over the years at their annual awards banquet bringing focus on the importance of preserving Cape Breton’s proud history of horse racing and farming;
- AND WHEREAS:** The Cape Breton Federation of Agriculture in North Sydney are having taxation issues and are finding it difficult to pay taxes and fear that they will have no other option but to shut down their seasonal operation;
- AND WHEREAS:** The Property Valuation Services Corporation (PVSC) have a Property Assessment Process which is determined by highly professional and experienced PVSC Assessors who are trained to value all types of property;
- BE IT THEREFORE RESOLVED:** That CBRM Administrative Staff be instructed to write to the Minister of Municipal Affairs, Minister of Agriculture and the Property Valuation Services Corporation requesting consideration of the Northside Horsemen’s Association request for a special taxation rate for a seasonal business which would result in enabling them to operate this year and for the long term.

Councillor Jim MacLeod – District #12 - CBRM

May 17th, 2016

**CBRM Youth Council
First Year Report
May 17, 2016**

The Cape Breton Regional Municipality Youth Council has many young, talented, and eager to learn students from school across the CBRM. Youth council gave them a chance to see how things are run right here in CBRM.

This year we had a budget of \$25,000. We decided that we would have people and different organizations come in to pitch us their organization that they are involved in. We are happy to announce we have given out the money to eight different organizations right here in the CBRM that are helping the youth.

Everyone on this Council enjoyed coming to the meetings and discussing everything, they were very fun. We would like to give a brief overview of our experiences and showcase a short video of how our money was spent.

Signed:

Veronica Toomey, Youth Council Member



CBRM Municipal & School Board Elections 2016 - Key Dates

Presentation to Council
May 17, 2016



Key Dates

Date	Requirement
March 13, 2016	Residency in the Municipality required to qualify as a candidate (s. 17)
April 5, 2016	Residency in Nova Scotia required to be eligible voter (s. 14)
July 31, 2016	Preliminary List of Electors to be completed (s. 21) – Council approved use of Provincial (permanent) List
August, 2016	Ads (2) notifying when Nominations can be filed – and notice to be posted in each District (s. 42)
August 31, 2016	Amended List to be completed (s. 38) – this version is given to the Candidates upon Nomination

Key Dates (cont'd)

Date	Requirement
Sept. 6-9 & 12	Nomination by Appointment only [s. 44(9)]
September 13	Official Nomination Day [s. 44(2)]
September 14	Candidate may withdraw by 4 p.m. but forfeits Deposit (s. 53)
After Sept. 13	- Ad (1) Notice of Poll and Advance Poll (incl. list of candidates and voting locations) [s. 50] - Voter Notification Letters to be prepared and mailed to each elector on the revised list
Sept. 14-Oct. 7	Issue Proxies (s. 76)
Late September (TBA)	Candidates' Meeting with Returning Officer & Representative from e-voting service provider

Key Dates (cont'd)

Date	Requirement
October 2	Revised List of Electors to be completed and certified (s. 50A)
Oct. 5-12	Advance Polls - Electronic (internet and telephone) voting only starting 8 a.m. Oct. 5 th through to 7 p.m. on Oct. 12 th (24 hours per day) - no paper ballots
October 15	ELECTION DAY: Polls open 8 a.m. - 7 p.m. - paper ballots only
October 18	Official Count (s. 125)
October 22	Last day to remove advertising signs and return voters lists (s. 51)
October 25	Last day to apply for a Recount (s. 131)
December 14, 2016	Last day to file Campaign Disclosure [s. 49A(8)]



* Introduction

➤ Mr. Dean Smith, President & Founder
Intelivote Systems Inc.

ELECTRONIC VOTING OPTIONS

2016 Municipal & School Board Elections

Cape Breton Regional Municipality



May 17, 2016



intelivote systems inc

Agenda

- Who we are
- Where we have done it
- Why electronic voting
- eVoting demo
- Costs



Who we are . . .

Intelivote Systems Inc.

- A world leader in “Anywhere Voting” solutions
- Dartmouth, Nova Scotia based company – 2003
- A leading provider of alternative voting solutions in Canada – Federal Government Security Clearance.
- Subject matter experts in electronic voting in a full range of areas including voting security, legislation, procedures, and event management.
- 2016 RFP – HRM & AMANS Selected supplier for any NS municipality who may be interested in using eVoting. Currently 29 municipalities interested.



What we do . . .

“Give voters a choice”



Intelivote Systems provides a seamless integration of traditional polling station voting with an electronic voting solution which includes internet and telephone voting.

Where we have done it: 960+ Elections

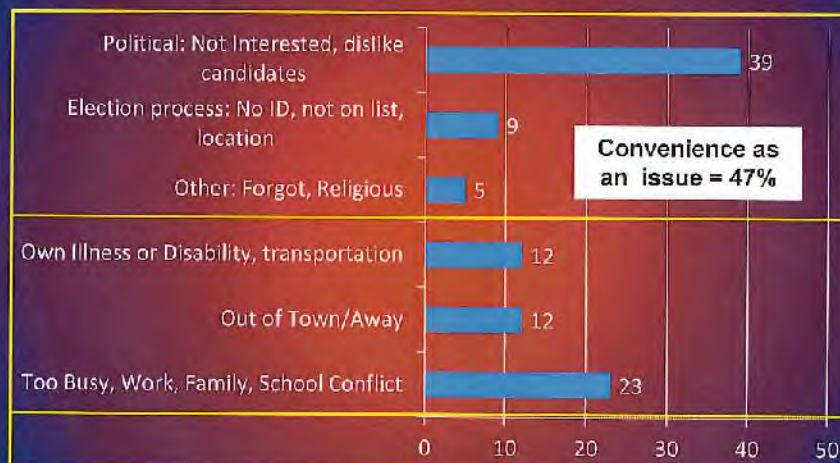
(Select events)

- NS Municipal Elections
 - October 2012 – 13 municipalities
 - Halifax Regional Municipality – 2008
2009 by-election, January 2016 scheduled by-election
 - Towns of Berwick, Windsor, & Stewiacke – October 2008
- Ontario Municipal Elections, by-elections & plebiscites
 - 2006:2015 - 95 Municipal elections (48 in 2014)
- Political Leadership Elections
 - Ontario, Saskatchewan and BC - New Democratic Parties
 - BC, NB, NL and Alberta Liberal Parties, and The Alberta Party (2)
 - 2016 NS NDP Leadership
- Unions and Associations – 2005-2015
 - Government (CIRB) and non-government unions
 - IBEW, Unifor, Teamsters, Ont. Teachers, PAFSO, etc
 - Aboriginal – First Nations
- UK elections May 2007



Reasons People Did Not Vote in Oct. 2015 Federal Election

8.22 Million Voters Did Not Vote (31.7%)

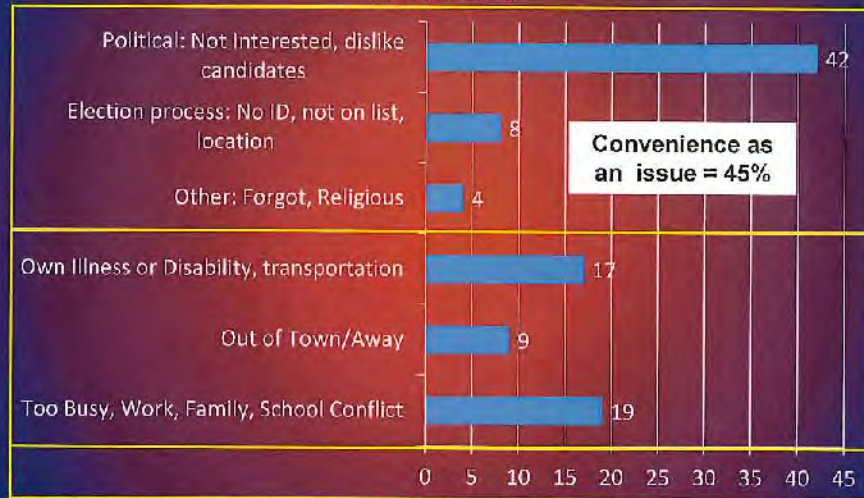


Source: The Daily - Statistics Canada, February 22, 2016 edition

Reasons People Did Not Vote in Oct. 2015 Federal Election

742,931 Eligible – 216,862 Did Not Vote (29.2%)

Nova Scotia

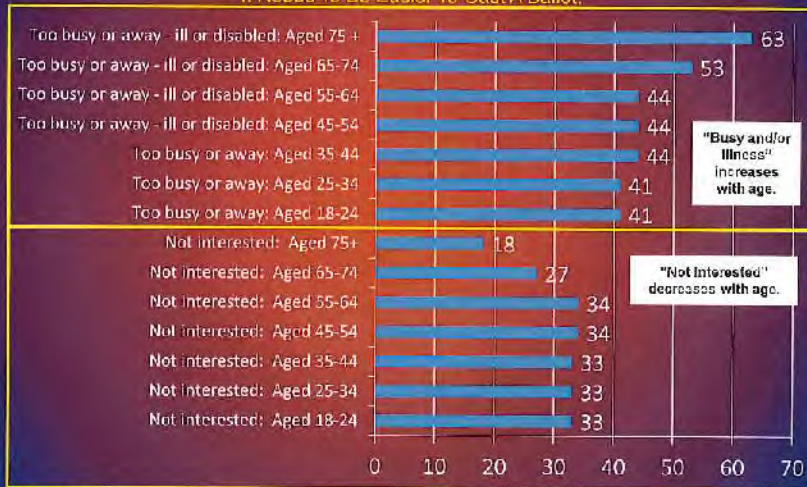


Source: The Daily - Statistics Canada, February 22, 2016 edition

Reasons People Did Not Vote in Oct. 2015 Federal Election

Main Reasons by Age

It Needs To Be Easier To Cast A Ballot.



Source: The Daily - Statistics Canada, February 22, 2016 edition

2012 CBRM Municipal Election Stats

	Information Base	Number	%
1	Number of eligible electors setup in system	82,220	
2	Number of electors who cast at least one ballot	47,325	
3	Participation rate	57.6%	
4	Voters who used the internet to vote	21,532	45.5%
5	Voters who used the phone to vote	5,417	11.4%
6	Voters who voted with paper ballots	20,376	43.1%
7	Average amount of time a voter spent voting using the internet	1 min. 31 sec.	
8	Average amount of time a voter spent voting using the telephone	2 min. 43 sec.	
9	Number of voters on the elector list with age listed	81,857	99.6%
10	Number of voters with no age listed	363	0.4%
11	Atlantic Region - Total phone and internet votes from 4 Atlantic provinces. (Atlantic reflects NS, NB, NL, PEI; some IP addresses are now crossing borders due to broader service offerings from Aliant (FibreOp))	26,533	56.0%
12	Other Canadian Provinces votes - Total phone and internet votes from 7 provinces. (AB, BC, MB, ON, QC, SK, YT)	377	0.8%
13	United States votes - Total phone and internet votes from 15 US states. (DC, DE, FL, GA, IA, MA, MD, MI, NY, OH, RI, TX, UT, WI)	53	0.1%
14	Total internet votes from outside North America. (Australia, China, France, Jordan, Netherlands, Norway, Qatar, South Africa, South Korea, United Arab Emirates, United Kingdom)	15	

CBRM 2012 - Age of Voters who cast an electronic ballot

Age Breakdown of Who Voted						
Age	ELIG.	VOTED	WEB	IVR	MAN	% Part.
18-19	479	154	143	11		32.2%
20s	10,757	2,453	2,261	192		22.8%
30s	10,756	2,839	2,621	218		26.4%
40s	13,563	4,525	3,988	537		33.4%
50s	17,448	6,987	5,846	1,142		40.0%
60s	14,408	5,805	4,237	1,568		40.3%
70s	8,715	2,730	1,634	1,096		31.3%
80s	4,534	1,204	651	553		26.6%
90s+	1,203	252	151	100		20.9%
UK*	357	0	0	0		0.0%
Total	82,220	26,949	21,532	5,417	20,376	57.6%
*UK = Unknown age - not listed on elector's list.						

Why Electronic Voting

- Voter choice and flexibility
 - Military, business travelers, students, snowbirds, disabled or infirmed
- Immediate, Auditable Results
- Voter intent clear – No spoiled ballot issues, positive ballot confirmation
- Positive impact on voter participation
- Environmentally positive, carbon emissions
- Addresses provincial accessibility requirements
- Cost effective – Reduces:
 - polling staff, rental of locations/scanners, printing costs, overtime/administrative effort, mailing costs & processing



Common Council Issues/Comments

- We have lots of older voters who we know vote, and they won't like or use it.
- People will know how I voted.
- How do you know who is voting the PIN?
 - Cultural/religious/head of household/abusive relationship pressure
- Voters will use it just to try it creating an uninformed vote.
- Someone didn't get a PIN – can't vote.
- Cost – is it the same, more expensive or cheaper?
- Where has this been done before?





eVoting

**How a voter casts their ballot
using the Internet...**

Voter Information Letter

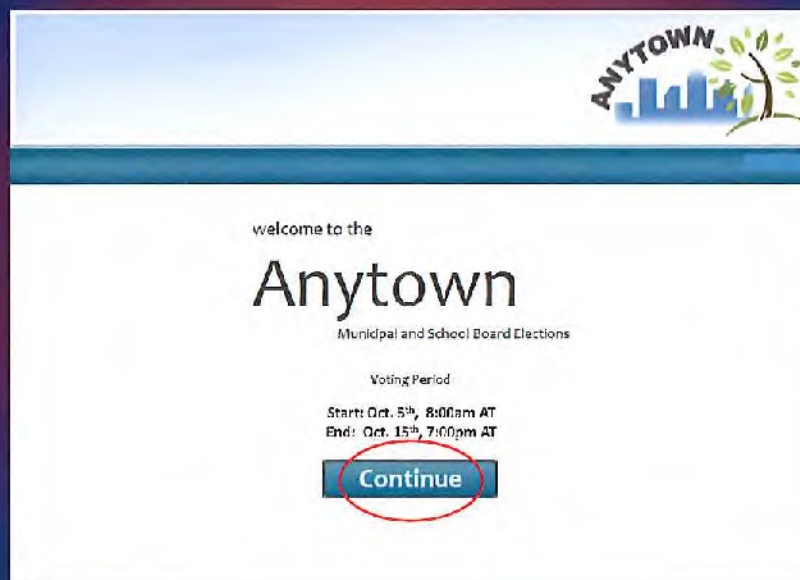
Each individual on the Final list of Electors receives a Voter Information Letter containing instructions on how to cast their ballot and their electronic voting credentials (PIN).



After receiving their Voter Instruction Letter voters connect to the voting website or call the 800 number . . . from anywhere.



Electronic Voting Demo





Anytown Municipal and School Board Elections

This step helps ensure a secure voting process.
The box below contains a set of letters and numbers. If you cannot identify them, click the box to generate a new set.

A A A A A

Please enter the characters appearing in the box
or [click here](#) to listen to the audio version.

AAAAA

Continue



Anytown Municipal and School Board Elections

Date of Birth:

May151976

Enter your Personal Identification Number (PIN):

43218765

Continue

Exit



Anytown Municipal and School Board Elections

Welcome to the
Anytown Municipal and School Board Elections.

In this election you will be voting for:
MAYOR
COUNCILLOR(S)

Please note, the Anytown District School Board
position has been won by acclamation.

Continue

Exit



Anytown Municipal and School Board Elections

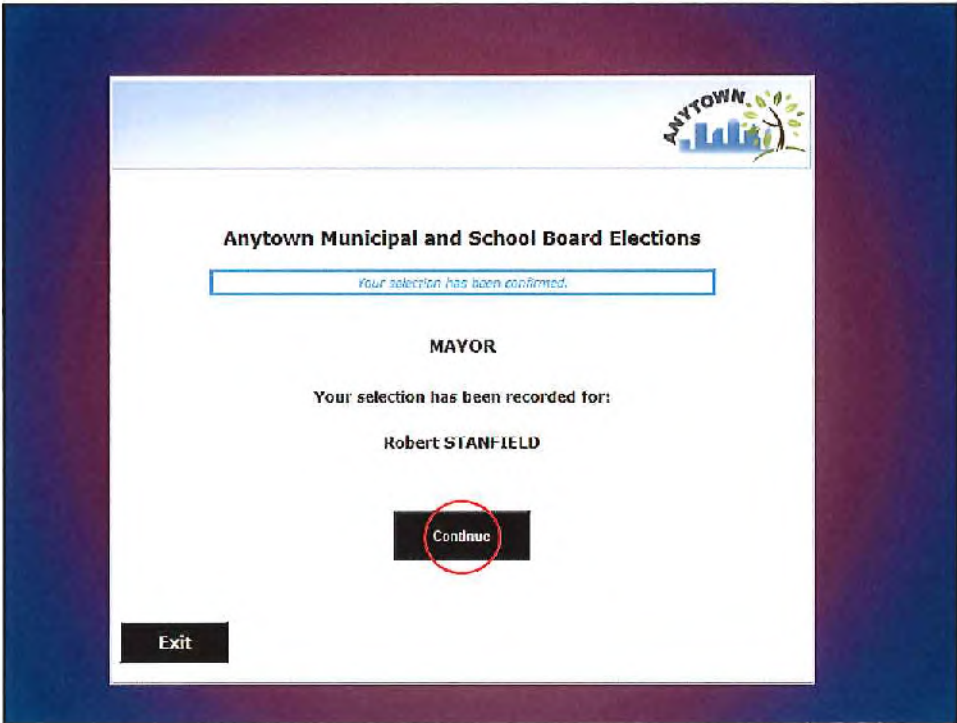
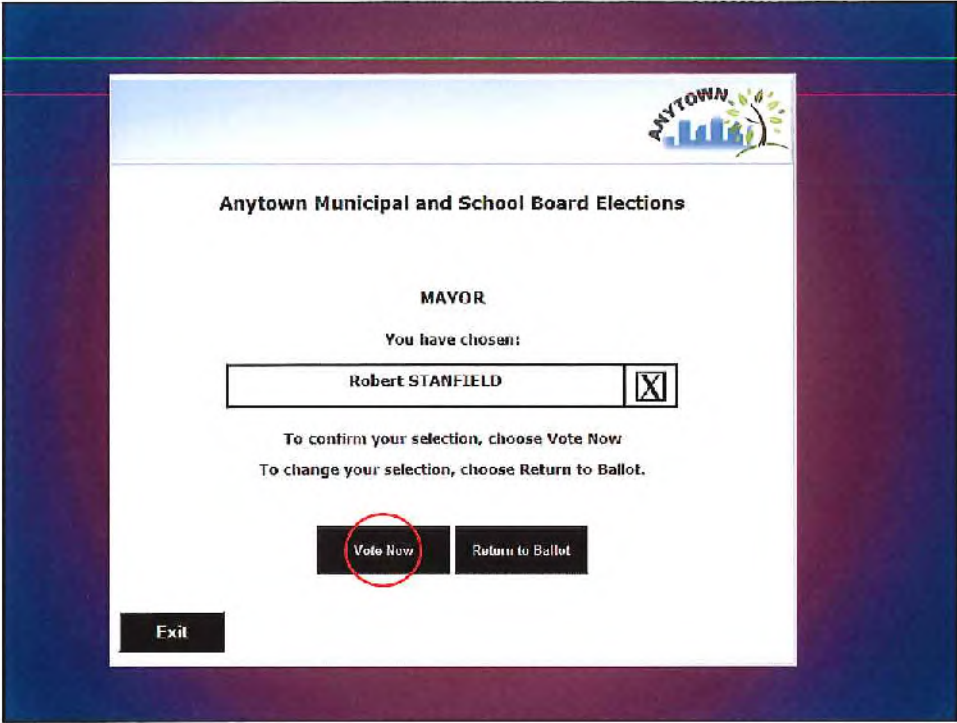
MAYOR

Please select ONE of the following:

Robert BORDEN	☐
John A. MACDONALD	☐
Robert STANFIELD	☒
Charles TUPPER	☐

Submit

Exit





Anytown Municipal and School Board Elections

COUNCILLOR - DISTRICT 1

Please select ONE of the following:

Helen CREIGHTON	☐
Joseph HOWE	☐
Alexander KEITH	☒

Submit

Exit



Anytown Municipal and School Board Elections

COUNCILLOR - DISTRICT 1

You have chosen:

Alexander KEITH	☒
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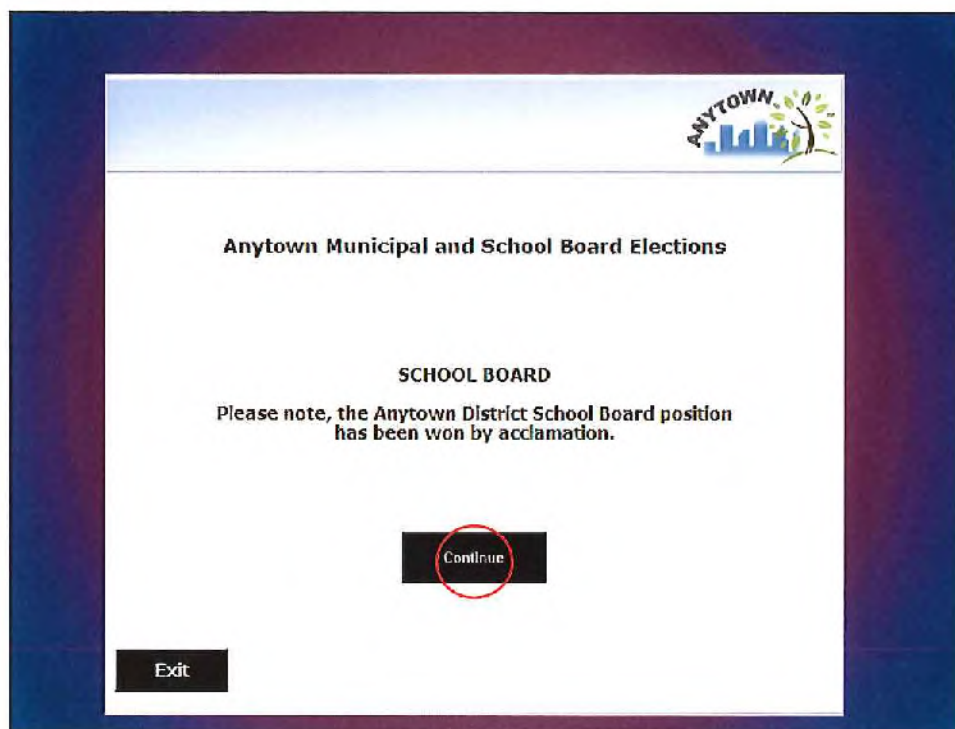
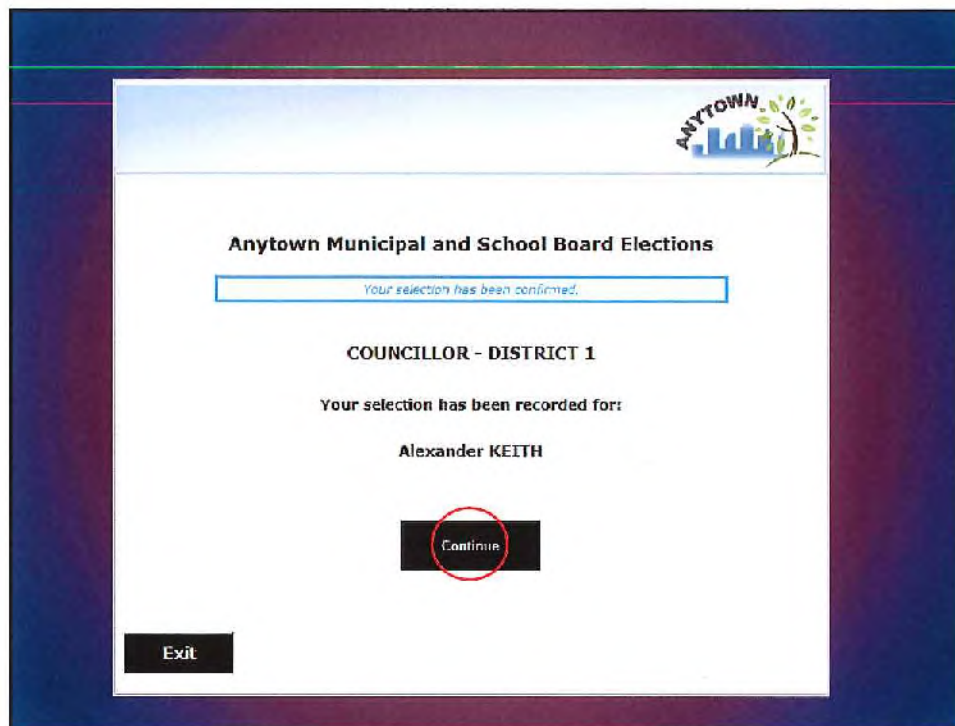
To confirm your selection, choose Vote Now

To change your selection, choose Return to Ballot.

Vote Now

Return to Ballot

Exit





Anytown Municipal & School Board Elections

You have completed voting.
A summary of your vote activity is as follows.

	Status	Method
MAYOR	Voted	Internet
COUNCILLOR - DISTRICT 1	Voted	Internet

You may now close your browser.



Event Costs

- Cost per eligible elector
 - eVoting – web and phone
 - Event setup
 - Training for Voter HelpLine staff, Auditor, CEO
 - 800 service charges for eVoting
- Voter Instruction Letter, design, setup, production, and postage.
- HRM 2016 Election RFP – AMANS tag along option.

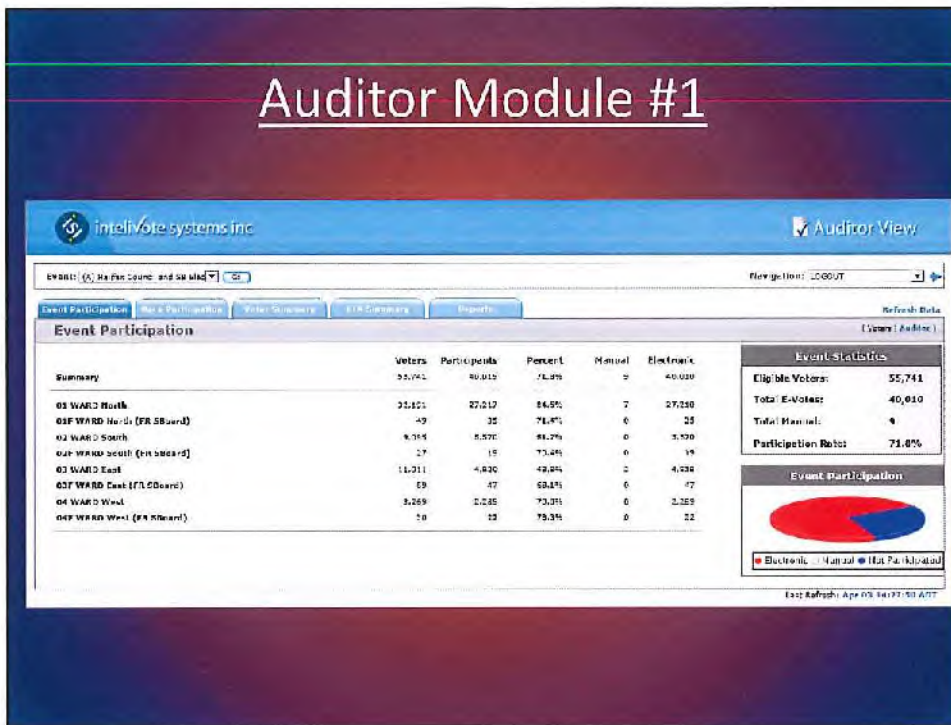


Thank you

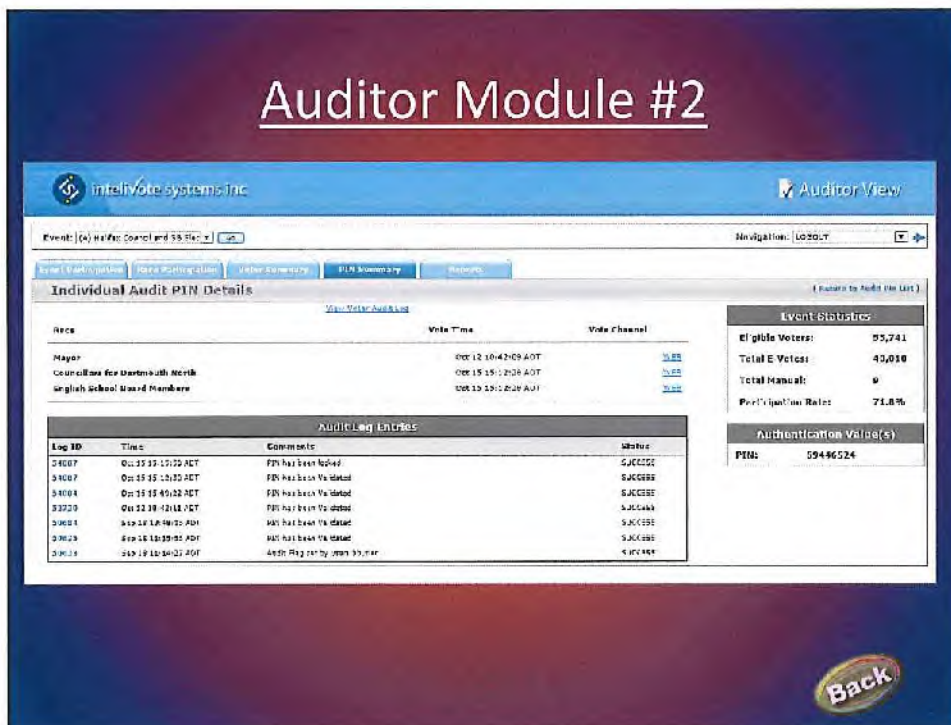


intelivote systems inc

Auditor Module #1



Auditor Module #2



Voter Help Module #1

[illegible]

Voter Help Module #2


intelliVote systems inc
Voter Help

LOGOUT

Current Office: **ARI H KRISTIA SMITH** Gender: **Cell: 604-431-1111**

Event: **(A) City of Halifax Council** PIN: **123456789** Name: **Smith** Address: **12345**

Race Information

CITY OF HALIFAX COUNCIL AND SCHOOL BOARD ELECTIONS 2011 - ARI H KRISTIA SMITH

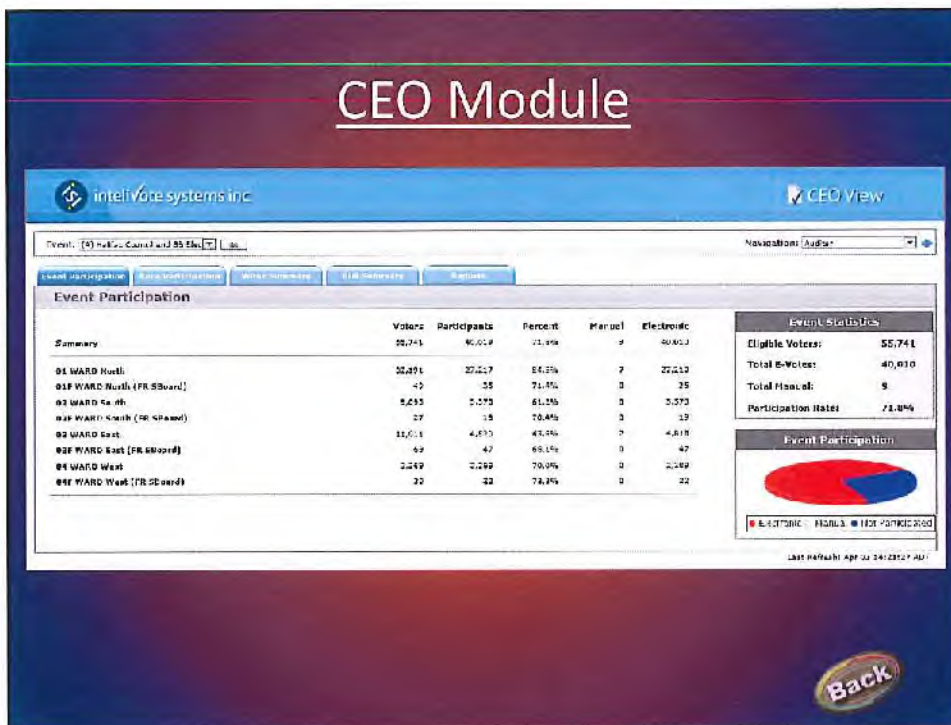
More Info

Name Address

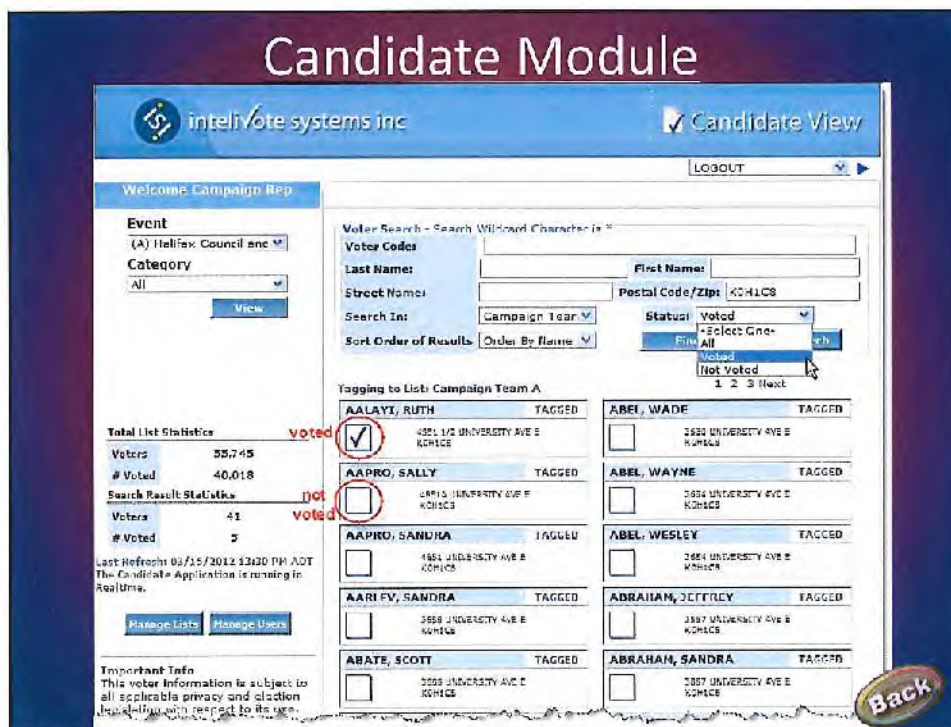
Race	Status	Time	Channel	Description
Mayor	Unset	01/27/2011 19:16 AST	WEB	Mayor
Councillors	Voted	01/27/2011 19:16 AST	WEB	Councillors

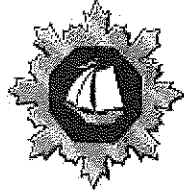


CEO Module



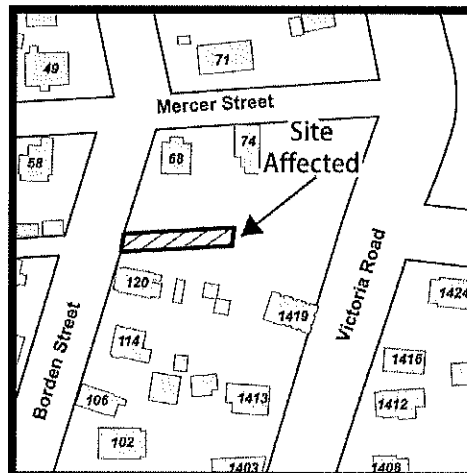
Candidate Module





**CAPE BRETON REGIONAL MUNICIPALITY
NOTICE - STREET CLOSING**

Portion of Bradbury Lane, Whitney Pier
Off Borden Street, Sydney
Measuring approximately 1613 square feet +/-



TAKE NOTICE that the Council of the Cape Breton Regional Municipality intends to close a portion of the laneway known as Bradbury Lane in Whitney Pier, off Borden Street, Sydney, in the Cape Breton Regional Municipality, Nova Scotia, being a piece of property measuring approximately 1613 square feet +/- more or less, which is more particularly delineated on a plan of survey prepared by Raymond MacKinnon, NSLS.

A public hearing in relation to the closing of a portion of the said street reserve will be held on Tuesday, the 17th day of May, 2016, at 6:00 p.m. at the Council Chambers, 2nd Floor, Civic Centre, 320 Esplanade, Sydney, Nova Scotia, at which time Council will hear those in favour and those opposed to the closing of a portion of this lane.

Signed: Deborah Campbell
Municipal Clerk

7290925

Request for Street Closure – Bradbury Lane (near Borden Street), Whitney Pier:

Motion:

Moved by Councillor MacLeod, seconded by Councillor Eldon MacDonald, that staff be directed to begin the street closure process for an unopened street reserve known as Bradbury Lane, located near Borden Street in Whitney Pier, following which the subject area be deemed **surplus** to the needs of CBRM to allow for Ms. Donna Wadden to purchase same.

Motion Carried.



CBRM

A Community of Communities

Office of the Regional Solicitor

ISSUE PAPER

TO: General Committee

FROM: Demetri Kachafanas
Regional Solicitor

SUBJECT: Request for Street Closure
Bradbury Lane (near Borden Street) Whitney Pier
My File No. 07238

DATE: 29 March 2016

I am in receipt of a request from Donna Wadden to close an unopened street reserve known as Bradbury Lane located near Borden Street in Whitney Pier, as shown on the attached plan.

Once this street reserve is closed, Ms. Wadden intends to purchase same and consolidate it with her existing adjacent property. Ms. Wadden has provided the requisite \$600.00 deposit to cover processing fees already and we hold that amount in trust. Engineering has reviewed this request and has no issue with the closing of the subject area.

I would request a Motion to proceed with the above-requested street closure.

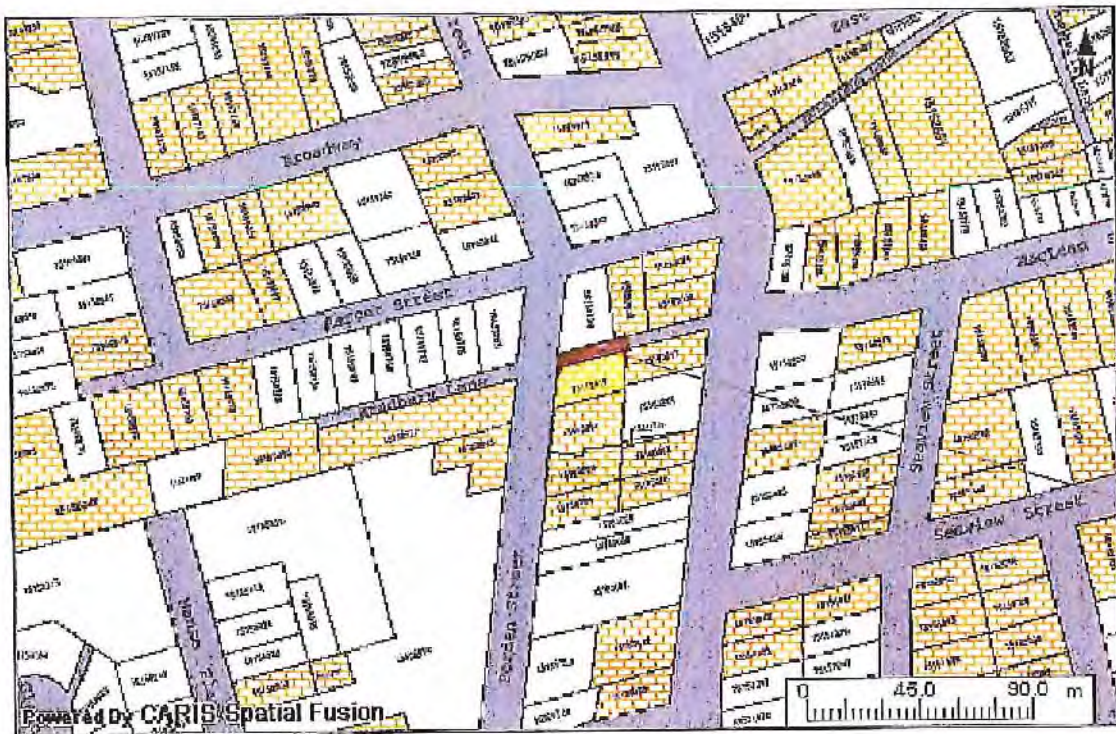
Thank you.

Sincerely,

ORIGINAL SIGNED BY

DEMETRI KACHAFANAS
Regional Solicitor

DK/er
Attachment



**Approval to Advertise – Municipal Planning Strategy Amendment Application #1020 –
Cavell McNeil and Karen McNeil, 322 Park Road, Florence, PID # 15658271:**

Motion:

Moved by Councillor Prince, seconded by Councillor Doncaster, approval to advertise notice of a Public Hearing to be held during the May meeting of Council, to consider “Option 2” as outlined in the staff report dated April 12, 2016, to amend the CBRM Municipal Planning Strategy and Land Use Bylaw to allow for retail sales at 322 Park Road, Florence, PID 15658271.

Motion Carried.



To: CBRM Council

FROM: Karen Neville

**SUBJECT: MUNICIPAL PLANNING STRATEGY AMENDMENT
APPLICATION – 1020
Cavell McNeil and Karen McNeil
322 Park Road, Florence
PID 15658271**

DATE: May 10th, 2016

Introduction

Cavell McNeil and Karen McNeil would like to establish a retail sales business on PID 15658271 in Florence (Attachment A). The applicants would like to operate a small scale buy and sell furniture and appliance store. The property in question is zoned Residential Urban D (RUD) and while the RUD zone does permit some non-residential uses, it does not permit a retail sales business.

In addition to having to amend the Land Use By-law (LUB), the Municipal Planning Strategy (MPS) would also need to be amended to permit a retail sales business on this property. Currently, the MPS does not contain policy which would support a retail sales business in an urban residential area. According to the *Municipal Government Act*, prior to considering an amendment to the MPS, Council must complete a public participation program. On March 15th, 2016, Council passed a Motion to conduct a public participation program to consider amending the MPS and LUB to allow for retail sales on Park Road, Florence. The results of the public participation program were presented to the General Committee of Council on April 5th; at that time, the General Committee of Council made a motion to recommend that Council conduct a Public Hearing.

History

In 1998 the Provincial government decided to combine all legislation relevant to municipalities, including planning legislation, into one Act called the *Municipal Government Act* (MGA). The adoption of the MGA in 1999 resulted in a few major changes in planning legislation. In particular, municipalities were required to adopt planning strategies that were consistent with Provincial Statements of Interest and replace zoning by-laws with land use by-laws. If municipal planning strategy was not adopted within a particular timeframe, any zoning by-law in effect would have been repealed by the Province.

Prior to amalgamation in 1995, the applicant's property was located in the Municipality of the County of Cape Breton and a zoning by-law was the only planning legislation in effect regulating land use. This meant when the applicant requested a zone amendment, land use policy was not a consideration. A zone amendment was approved by the County of Cape Breton Council on March 17, 1992 to permit the construction of a convenience store on the property in question. A subsequent zone amendment was

made for this property to expand the building housing the convenience store to allow for general commercial and two apartments in 1995. While the County of Cape Breton Council did approve the second zone amendment, they did so against the staff's recommendation.

According to archived land use data, in 2004 the main building on this property was classified as a vacant convenience store and three residential units. However, there is evidence that it was operated as a convenience store until 2006. Due to the predominantly residential development along Park Road and the presence of municipal water and sewer this property was included in an urban residential zone when the current LUB was adopted in 2004. Part 54 states any existing development not permitted in the zone within it is located is deemed to be a permitted use subject to:

- the assessment category is consistent with the development alleged;
- it is identified as such in the land use information data base of the CBRM's GI5; and
- it is not included in the list in Section 2 of this Part identifying developments that are not to be deemed permitted uses.

The property has not been assessed as commercial since 2007 and therefore no longer is deemed to be a permitted use under Part 54.

The CBRM permit software contains information related to permits issued from 1985 to present. As new information becomes available through the issuance of building and development permits, land use data is updated. According to today's data, the building on the applicants' property has two descriptions, three residential units and former convenient store. The CBRM permit software does have record of building/ development permits for the construction of the convenience and the subsequent addition. That being said, it would appear that the area that was once a convenience store and the general commercial space now contain dwelling units. This conversion would have taken place with obtaining a building development permit.

Municipal Planning Strategy and Land Use By-law

The applicants identify two other properties in their neighbourhood that have commercial zoning. Tim Horton's located at 366 Park Road (PID 15367212) is zoned Arterial Business Corridor (ABC), which is a sales and service zone [Attachment A]. According to the MP5, it shall be a policy of Council to permit a wide range of businesses along arterial streets/secondary regional routes with a large percent of business (Part 2, Policy 4a.). Pursuant to this policy, several corridors throughout the CBRM are zoned ABC. The Tim Horton's is located in the corridor of Villa Drive from its intersection with Park Road southeast to its end just west of Highway 125.

The other property identified by the applicants as having commercial zoning is Bonner's Denture Clinic located at 342 Park Road (PID 15253925). PID 15253925 does not have commercial zoning, it is zoned Residential Urban D which is the same zoning as the applicant's property (Attachment A). It is a policy of Council to permit certain types of service business to be operated from a residential property (Part 2, Policy 13 a. of the MP5). Bonner's Denture Clinic is a home business and would be in keeping this policy. Part 2, Section 17 Home Business identifies the following uses as home businesses:

animal (domestic) grooming
artist/artisan establishment
bed & breakfast accommodations
boarding homes
business offices

catering business
food processing cottage industry
personal service business
repair service

A denturist is considered to a personal service business. The LUB defines a personal service business as:

an establishment where persons are employed to administer to the individual and personal health, grooming and wardrobe requests of persons and shall include hair grooming establishments, private teaching/tutoring, apparel repair, tailoring, denturists, tanning salons, aromatherapy, reiki, reflexology, massage therapy and spas.

The uses listed above are permitted as home businesses accessory to a dwelling unit on a lot parcel in all zones where the type of business is not a permitted main use. A dwelling unit or a building accessory to a dwelling unit can be used for the purpose of conducting a home business. A single unit dwelling and an accessory building can be found on PID 15253925. Bonner's Denture Clinic is operated in the accessory building located at 342 Park Road. The retail use being proposed by the applicants is not considered to be a home based business.

Surrounding Land Uses

The area surrounding the property in question is predominantly residential. Along Park Road there are sixty-six single unit dwellings and ten two units. The average assessed value of a single unit and two unit dwelling on Park Road is \$98,845 and \$151,310 respectively. The assessed value along Park Road is significantly higher than the average assessed value of a single unit and two unit dwelling within the Community i.e. Florence i.e. \$79,250 and \$106,087 respectfully.

The non-residential uses along Park Road and Chandelier Drive includes T.L. Sullivan Junior High School, Tim Hortons, an auto repair business, concrete products sales, and a home based business. The concrete product sales business, Brennan Concrete Products Ltd, located at 34 Chandelier Drive was the result of a zone amendment approved by the County of Cape Breton Council back in 1992 (Attachment B). The property is assessed as both commercial and residential and would therefore be recognized under Part 54 Existing Development of the current LUB.

In 1990, the County of Cape Breton Council approved a zone amendment for a truck repair, service centre, and depot and warehouse facility for the area which is now 292 Park Road. The property is only assessed as residential taxable and therefore would not be recognized under Part 54 Existing Development of the current LUB. In addition, it would appear that property is the site of a landscaping company, Zablaskai Landscaping Limited, which does not comply with the zone amendment approved in 1990 or the provisions of the current LUB. As result of changes to the MGA and the timing of the adoption of the CBRM MP5, there was a period of time between 2002 and 2004 when there would have been no zoning in effect for this area. Further research by staff is required to determine when the Zablaskai Landscaping Limited was established on this property to determine if it considered to legal non-conforming or is in contradiction with the CBRM LUB.

While both of these zone amendments were approved by the County of Cape Breton Council, staff was unable to find evidence of the recommendation of the staff at the time these amendments were requested. However, given the fact that there is evidence that staff did not support the zone amendment application made by the applicant back in 1995, it is very likely staff was not in support of the zone amendment referenced above.

Public Participation

Based on the recommendation of Council, the Planning and Development Department conducted a Public Participation Program in the form of a notification that was sent by means of a letter delivered by Canada

Post to all assessed owners of property along Park Road and Chandelier Drive. A total of eighty-eight letters were mailed asking property owners their opinion regarding this proposal. They were given the opportunity to respond by Canada Post mail, e-mail, by phoning staff or by appointment in our office.

At the time this report was prepared 16 responses were received by staff and two were received by Councillor Prince. All of the respondents, except for three, were opposed to of having a retail use in their neighbourhood. One respondent indicated that they had no opinion one way or the other, while the two others expressed support for the application.

Although the results of the survey could be interpreted to mean that the neighbourhood is opposed to this application this may not be the case. Only 20% of those in receipt of the letter responded and of those respondents, 17% were opposed. Generally when people are against a proposal they are more likely to comment; however, an overwhelming majority of those surveyed did not respond which could mean that they really are not opposed to the idea.

Evaluation of the Request

Policies within the MPS set out the general rules of land development which enables Council and Staff to consider development proposal in an impartial manner. One of the functions of land use policy is to foster sales/service development. Although the MPS was drafted as a catalyst to facilitate business development, it must also function as a legal tool to provide stability. To achieve this, policies in the MPS use a number of factors to establish a hierarchy of site compatibility for development. These factors include public street/road level, proximity to important public street/road intersections, geographic positioning, land use conflict potential, and the unique characteristics of a neighbourhood or streetscape. As a result, commercial development is discouraged in residential areas with low density (single unit dwelling) development.

It is important to note, that while amendments to MPS and LUB could permit the applicants' proposed development, the approval of those amendments would have a wider impact than one development. Presently the applicants are requesting a small retail use in an urban residential zone; however, if this business type is able to be established in an area with urban residential zoning the precedence for this type of development in a residential area will be set.

Unlike the previous applications made by the applicant, this application must be evaluated based on land use policy. According the MPS, spot zoning a commercial development in a residential area is not in compliance with land use policy. From staff's perspective it is difficult to support this request, not only because of the implications of additional commercial developments in areas with similar zoning, but because it would result in scattered commercial development. Council should be encouraging densely developed commercial areas not irregular commercial development throughout the CBRM.

Due to fact that staff was not supporting this application, Council was presented with the following two possible MPS amendment options and were asked to provide direction to staff.

Option 1

Extend the Arterial Business Corridor (ABC) zone to include both sides of Park Road to the properties just north of its intersection with Chandelier Drive. This would result in a range of sales and service use being permitted along the portion of Park Road identified on Attachment C. In addition to amending the zone map, Part 2 Policy 3f of the MPS would need to be amended to include reference to the expanded ABC zone along Park Road. A copy of the permitted uses within the ABC zone can be found in Attachment D.

Option 2

Park Road is a Level 2 public street/road serviced by a sanitary sewer main that is linked to a Level 1 regional road, if Council feels that this situation warrants special consideration, the MPS could be amended to reflect this. The MPS would be amended by adding a policy which would permit a variety of sales and service business developments along Level 2 public streets/roads in an urban residential neighbourhood serviced by a sanitary sewer main that intersect a Level 1 regional road by zoning amendment (Attachment E). This amendment would impact not only Park Road, but other streetscapes within the CBRM. This policy change would apply to:

- Park Road, Florence
- Coxheath Road from Heathview Drive to Keltic Drive (Coxheath)
- Memorial Drive from Highway 12S to Convent Street (North Sydney)
- Lingan Road from Sydney Port Access Road to Muggah Street (Sydney)

Properties fronting on the identified streets above would be eligible to apply for a zone amendment to permit sales and service uses within these select urban residential neighbourhoods.

On April 19th, Council passed a motioned to consider the second option during the Public Hearing to be held on May 17th.

Recommendation

Based on the above evaluation, the proposed development is not in keeping with the intent of the policies of the Municipal Planning Strategy; therefore, I recommend that Council reject the applicants' request to amend the Municipal Planning Strategy and Land Use By-law.

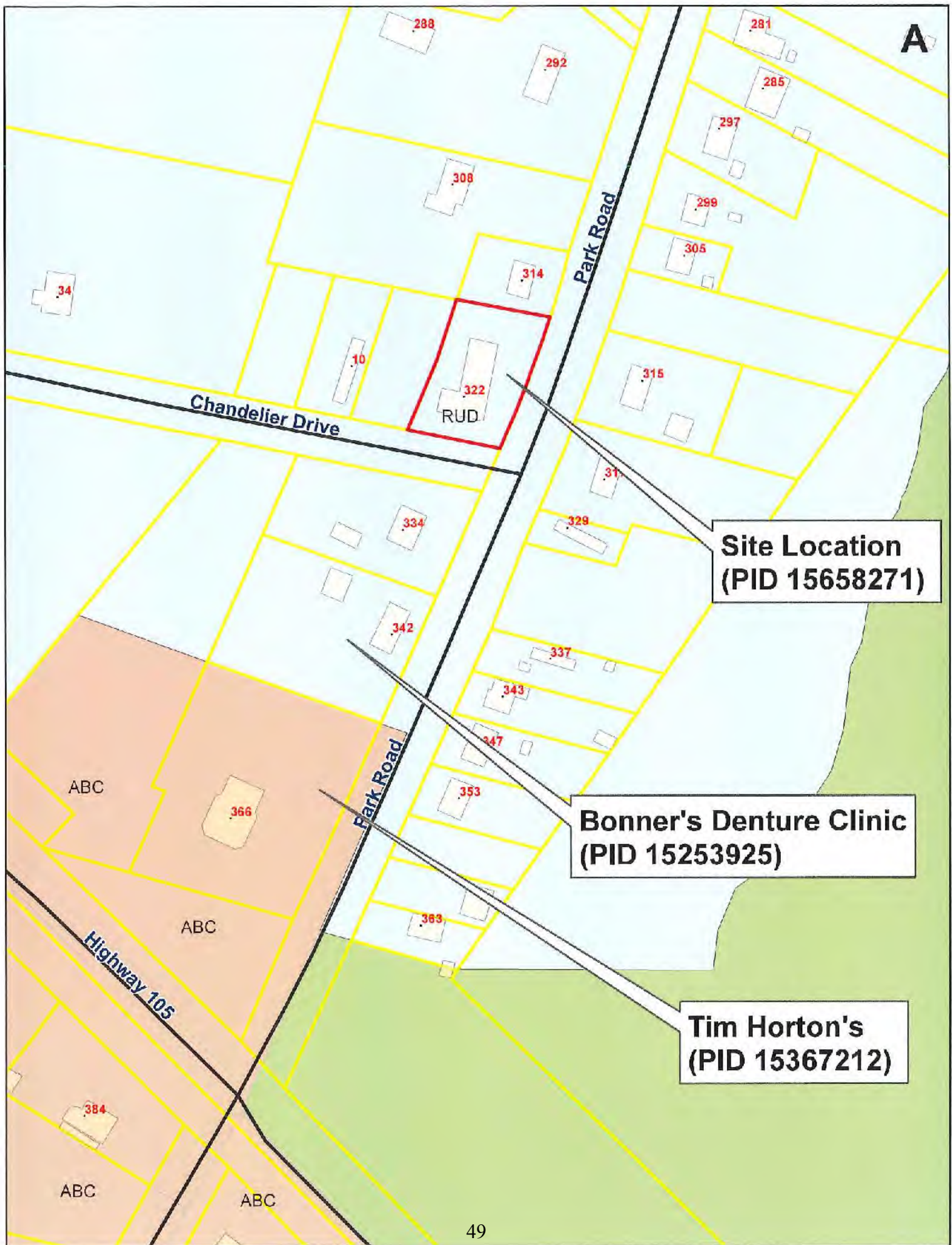
However, if Council wishes to entertain this request, Council should approved the By-laws amending the Municipal Planning Strategy and Land Use By-law that accompanying this report.

The By-laws amending the CBRM's Municipal Planning Strategy and Land Use By-laws can be found in Attachment E and F.

Submitted by:

Originally Signed by

Karen Neville
Planning and Development Department



B

Zablaskai Landscaping Limited

Brennan Concrete Products Ltd

Chandeller Drive

Highway 105

Park Road

Park Road

McNeil Property



Arterial Business Corridor (ABC) Zone Permitted Use

Development Permits shall only be issued in the ABC Zone for one or more of the following uses in compliance with any relevant section of the General Provisions Part, and any specific section of this Part devoted to the use.

- **manufacturing - only the following**
 - agricultural
 - products processing
 - alcohol
 - processing
 - assembly
 - bakeries
 - building
 - supplies manufacturing
 - garment
 - manufacturing
 - manufacturing
 - chemicals
- **recreational – (all) both public and business establishment *except racetracks for motor vehicles***
- **residential development – all *except mobile homes***
 - apartment buildings *only in areas serviced with both Municipal water and sewer*
 - apartments within a mixed used building *only in areas serviced with both Municipal water and sewer*
 - single detached dwellings *that do not have the dimensions of a mobile home as defined by this By-law*
 - townhouses *only in areas serviced with both Municipal water and sewer*
- **sales – (all)**
- **service *all except***
 - animal shelters, and animal sitting establishments are not permitted in areas serviced with both Municipal water and sewer
 - recycling facility using outdoor storage
- **transportation – (all) *except coal retail distribution facilities***

By-law
of the Cape Breton Regional Municipality
amending the

**Cape Breton Regional Municipality's
Municipal Planning Strategy**

Pursuant to Section 205 of the Municipal Government Act of Nova Scotia, the Council of the Cape Breton Regional Municipality hereby amends the Cape Breton Regional Municipality's Municipal Planning Strategy in the following manner:

THAT: Part 2 Sales/Service Business Development of the Municipal Planning Strategy is hereby amended by adding the following:

5.c It shall be a policy of Council to permit a variety of sales and service business development along Level 2 public streets/roads of an urban residential neighbourhood serviced by a sanitary sewer main that intersect a Level 1 Regional Road by zoning amendment.

A site specific, use specific, zone shall be considered for each zoning amendment application. The purpose of the zone shall be to ensure:

- the site itself;
 - the site plan; and
 - management of the business development,
- mitigate any adverse effects the development will have on low density residential development in proximity. If zone provisions cannot be established that provide reasonable protection to residential development in proximity, the application shall be denied. Council shall use the following criteria to evaluate such zoning amendment proposals:
- The development proposal must include a landscaping plan to buffer and screen low density residential uses from the starker ancillary components of the site (e.g. parking spaces, driveways, utility facilities, etc.)
 - The traffic attracted to, and leading from, the site;
 - The development proposal must respect the potential adverse effects any significant buildings will have on much smaller scale low density residential buildings;
 - Dust or fumes emanating from the site; and
 - Noise emanating from the development.

PASSED AND ADOPTED: by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on _____.

MAYOR

CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the Amending By-law of the Cape Breton Regional Municipality adopted by Regional Council during a meeting held on _____ to amend the Cape Breton Regional Municipality's Municipal Planning Strategy.

Deborah Campbell, CLERK

By-law
of the Cape Breton Regional Municipality

amending the

**Cape Breton Regional Municipality's
Land Use Bylaw**

Pursuant to Section 219 of the Municipal Government Act of Nova Scotia, the Council of the Cape Breton Regional Municipality hereby amends the text and map of the Cape Breton Regional Municipality's Land Use By-law in the following manner:

THAT: Council Renumbers Part 89 Definitions to Part 90

THAT: Council amends the text of the Land Use By-law by creating the following Zone.

PART 89 322 PARK ROAD (PRZ) ZONE

Section 1 PRZ Uses Permitted

Development Permits shall only be issued in the PRZ Zone for the following use in compliance with any relevant section of the General Provisions Part, and any specific section of this Part devoted to the use.

- retail sales of furniture and appliances
- a six unit apartment building
- RUD permitted uses

Section 2 Outdoor Display and Storage

- Outdoor display is prohibited.
- Outdoor storage is prohibited.

THAT: Council amends the Land Use Bylaw map by deleting the Residential Urban D (RUD) in effect for PID 15658271 by replacing it with the 322 Park Road Zone (PRZ) Zone.

PASSED AND ADOPTED: by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on _____.

MAYOR

CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the Land Use By-law amendment Amending By-law of the Cape Breton Regional Municipality adopted by Regional Council during a meeting held on _____ to amend the Cape Breton Regional Municipality's Land Use By-law.

Deborah Campbell, CLERK

Application #1021: Amendment to the CBRM Vendors and Traders of Goods By-law; Amendment to Section 44 of the CBRM Land Use By-law; and Amendment to Section 39 of the CBRM North End Sydney Secondary Land Use By-law:

Motion:

Moved by Councillor Eldon MacDonald, seconded by Councillor MacLeod, approval to advertise notice of a Public Hearing to be held during the May 2016 meeting of Council, to consider amending the Vendors and Traders of Goods By-law, Section 44 of the CBRM Land Use By-law, and Section 39 of the CBRM North End Sydney Secondary Land Use By-law, as outlined in the staff Issue Paper dated April 13th, 2016.

Motion Carried.



TO: CBRM Council

FROM: Karen Neville

**SUBJECT: APPLICATION 1021:
AMENDMENTS TO SECTION 44 OF THE CBRM LAND
USE BY-LAW AND SECTION 39 OF THE CBRM NORTH
END SYDNEY SECONDARY LAND USE BY-LAW**

DATE: May 3rd, 2016

Introduction

Staff has recommended several amendments to the Vendors and Traders By-law. These amendments were the result of concerns related to the connection between the Vendors and Traders of Goods By-law and Land Use By-laws. It was recommended that instead of zoning linking these documents, a map illustrating areas where a vendors licence can be issued should be added to the Vendors By-law. As the result of amendments to the Vendors and Traders of Good By-law, the Land Use By-law and North End Sydney Secondary Land Use By-law also needed to be amended.

Section 44 Vendors Subject to the Vendors By-law of the CBRM Land Use By-law and Section 39 Vendors Subject to the Vendors By-law of the CBRM North End Sydney Secondary Land Use By-law have provisions stating that a vendor's site must be within a Land Use By-law Zone that permits the type of vending proposed. It is proposed that these provisions be removed because a map will be included in the Vendors By-law identifying appropriate vendor sites (Attachments A and B).

Recommendation

I recommend that Council approved the By-laws amending Section 44 Vendors Subject to the Vendors By-law of the Land Use Bylaw and Section 39 Vendors Subject to the Vendors By-law of the North End Sydney Secondary Land Use Bylaw.

The By-laws amending the CBRM's Land Use By-laws can be found in Attachment A and B.

Submitted by:

Originally Signed By

Karen Neville
Planning and Development Department

By-law
of the Cape Breton Regional Municipality

amending the

**Cape Breton Regional Municipality's
Land Use Bylaw**

Pursuant to Section 210 of the Municipal Government Act of Nova Scotia, the Council of the Cape Breton Regional Municipality hereby amends the text of the Cape Breton Regional Municipality's Land Use By-law in the following manner:

THAT: Part 2 General Provisions For All Zones, Section 44 Vendors Subject to the Vendors By-law of the Land Use Bylaw is hereby amended by repealing Subsection 44 b.

PASSED AND ADPTED: by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on _____.

MAYOR

CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the Land Use Bylaw amendment Amending By-law of the Cape Breton Regional Municipality adopted by Regional Council during a meeting held on _____ to amend the Cape Breton Regional Municipality's Land Use By-law.

Deborah Campbell, CLERK

By-law
of the Cape Breton Regional Municipality
amending the

**Cape Breton Regional Municipality's
Secondary Land Use Bylaw**

Pursuant to Section 210 of the Municipal Government Act of Nova Scotia, the Council of the Cape Breton Regional Municipality hereby amends the text of the Cape Breton Regional Municipality's Secondary Land Use By-law in the following manner:

THAT: Part 2 General Provisions For All Zones, Section 39 Vendors Subject to the Vendors By-law of the Land Use Bylaw is hereby amended by repealing Subsection 39 b.

PASSED AND ADOPTED: by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on _____.

MAYOR

CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the Secondary Land Use Bylaw amendment Amending By-law of the Cape Breton Regional Municipality adopted by Regional Council during a meeting held on _____ to amend the Cape Breton Regional Municipality's Secondary Land Use By-law.

Deborah Campbell, CLERK

Approval to Advertise – Zone Amendment Application #1022 - TerraMac Contracting Ltd., Corner of Sydport Access Road & Highway 125, Point Edward (PID's 15867427 and 15061385 along with Northwest portion of PID 15530157):

Motion:

Moved by Councillor Doncaster, seconded by Councillor Flynn, approval to advertise notice of a Public Hearing to be held during the May 2016 meeting of Council, to consider the zoning amendment application from TerraMac Contracting Ltd., for PIDs 15867427 and 15061385 along with the northwest portion of PID 15530157, located at the intersection of Sydport Access Road and Highway 125 in Point Edward, to operate a recycling facility that would process derelict motor vehicles on these properties.

Motion Carried.



TO: CBRM Council

FROM: Karen Neville

**SUBJECT: Zone Amendment Application – 1022
TerraMac Contracting Ltd
Corner of Sydport Access Road & Highway 125,
Point Edward
(PIDs 15867427 and 15061385 along with
Northwest Portion of PID 15530157)**

DATE: May 10th, 2016

Introduction

The Planning and Development Department has received a zone amendment application from TerraMac Contracting Ltd (TerraMac) for PIDs 15867427 and 15061385 along with a portion of PID 15530157 located at the northwest intersection of Sydport Access Road and Highway 125 in Point Edward (Attachment A). TerraMac would like approval to operate a recycling facility which would process derelict motor vehicles on these properties (Attachment B).

Why a zoning amendment is necessary for this development?

The properties are zoned Keltic Drive Business (KBC), while the KBC zone does permit a range of service uses it specifically states that recycling facilities using outdoor storage are not a permitted use. According to the Land Use By-law (LUB), a recycling facility means:

a service establishment, the primary purpose of which is to accept used materials, equipment, machinery and parts thereof to be either sold on-site or shipped elsewhere to be processed into new products. There are three broad types of recycling facilities:

- recycling facility collection depot means an establishment which only collects used goods, materials, products, etc. and ships them to another facility for processing into other products (e.g. Enviro depots, bottle exchange).
- recycling facility and parts separation means an establishment where used materials, equipment, machinery, motor vehicles etc. are accepted and parts are separated on-site to be either sold on-site or shipped to another establishment for processing.
- recycling facility using outdoor storage means a recycling facility incorporating any combination of the two above types which uses an impound yard to store the used materials, equipment, machinery.

The storage and processing of derelict motor vehicles would meet the test of recycling facility as defined by the LUB.

What Does the Municipal Planning Strategy Say?

The Municipal Planning Strategy does have a policy specific to this area which states that it is a policy of Council to designate the eastern corridor of Keltic Drive as a diverse corridor where business service and sales uses, manufacturing uses, recreation, culture, and entertainment uses, transportation service terminals and depots, and rural residential uses are permitted (Part 3, Policy 17). This policy does not make a clear distinction about restricting recycling facilities, which is a service use, therefore amending the zoning to permit a recycling facility would not contravene Plan policy.

Evaluation

Prior to the opening of Highway 125, Keltic Drive along with Seaview Drive was the primary route linking Sydney with the Northside. Because of this, it was originally developed as a business corridor. Although Keltic Drive is no longer the main route connecting Sydney with the Northside, Keltic Drive and its surrounding area consists of a range of sales and service developments interspersed with low density residential development. The area within 500m (1640ft) of the subject properties is predominantly industrial in nature and includes an industrial cleaning contractor, waste oil storage tanks, fleet maintenance and repair, heavy equipment sales and service, industrial supply sales, contractors, mirror restoration and cleaning, self-storage facility, and well pump sales and service (Attachment A). In addition, there are eleven single unit dwellings in the area.

Historically, these properties have been used for the storage aggregate materials associated with construction as well as the site of a mobile asphalt plant. In fact, a permit was issued for a mobile asphalt plant back in 2005. This site has been used to process motor vehicles in the past and it is currently being used to store vehicles. The applicant was under the impression this site permitted industrial uses and was not aware they were in contravention of the LUB until they were contact by Nova Scotia Environment. TerraMac has ceased the recycling activities on this site until it receives zoning approval.

Though the KBC zone does permit a wide range of uses a recycling facility using outdoor storage is not one of them. Nova Scotia Environment requires a licence for a commercial salvage facility which exceeds 0.25 ha in area which is used to salvage automobiles, transportation vehicles, or industrial equipment. The proposed site is approximately 3.7 ha (Attachment B). The site will not be open to the general public looking for motor vehicle parts, it will be used for the storage and crushing of motor vehicles for transport.

Planning and Development Staff meet to discuss the proposed development in more detail with the Department of Environment and Department of Transportation and Infrastructure Renewal. The purpose of this meeting was to get a better understanding of the regulatory authority of these Departments in relation to this request. The property has frontage along Sydport Access Road and Cat Drive. The access for the property from Sydport Access Road was approved as a temporary access by Department of Transportation and Infrastructure Renewal and was not meant to be a permanent access. The site should be accessed via Cat Drive and not Sydport Access Road.

Nova Scotia Environment is responsible for regulating how automotive fluids are store and disposed of. According to Nova Scotia Environment's *Guidelines for Siting and Operation of Salvage Yards* a salvage yard cannot be located within:

- any area within 200 m of a domestic well or residential structure
- the written consent of the applicable landowner 300 m of institutional, commercial, industrial, or municipal wells or wells servicing more than 10 dwellings;

The removal of fluids and the crushing of motor vehicle will take place on an engineered concrete pad. This engineered concrete pad will be of sufficient thickness and provide a gradient away from the edges to help prevent fluids from leaving the pad. As a part of the licencing process, TerraMac must also submit a contingency plan covering any spills and accidents which will be reviewed by Nova Scotia Environment. The proposed amendment requires the applicant obtain a licence from Nova Scotia Environment prior to the issuance of a development permit (Attachment C).

The closest residential dwelling is approximately 315m (1033ft) from the nearest lot parcel boundary of the proposed development. The proposed operation site is further setback from this lot parcel boundary increasing the separation distance from the residential dwelling (Attachment B). Nova Scotia Environment will ensure that the proposed development is in compliance with its guidelines. That being said, the proposed amending by-law will require recycling facilities to be setback a minimum of 250m (820ft) from a residential dwelling (Attachment C).

As a part of licencing approval from Nova Scotia Environment, if visible from an adjacent public street, dwelling or institutional uses, the salvage facility must be completely enclosed on any visible side by a fence of substantial and uniform construction. This fence must be setback a minimum of 1.0 m (3.3ft) from property boundaries. The site has a vegetative buffer along Keltic Dive Collector Road, Sydport Access Road, and Highway 125. Both Nova Scotia Transportation and Infrastructural Renewal and Environment expressed that steps should be taken to reduce the visibility of the site from adjacent public streets/road. The proposed LUB amendment includes screening provisions (Attachment C). It is the applicant's intention to plant additional trees to comply with Nova Scotia Environment requirements.

Notice to Neighbours

Notice was this application was placed in the April 30th and May 7th editions of the Cape Breton Post. Notice was also mailed out to assessed property owners in the vicinity of the property in question. At the time this report was prepared no written comments were received by the Planning and Development Department.

Recommendation

I recommend that Council amend Part 10 Keltic Drive Business Corridor (KCB) Zone, Section 1 KBC Uses Permitted of the CBRM's Land Use By-law to permit recycling facility using outdoor storage licenced and in compliance with the regulations of Nova Scotia Environment.

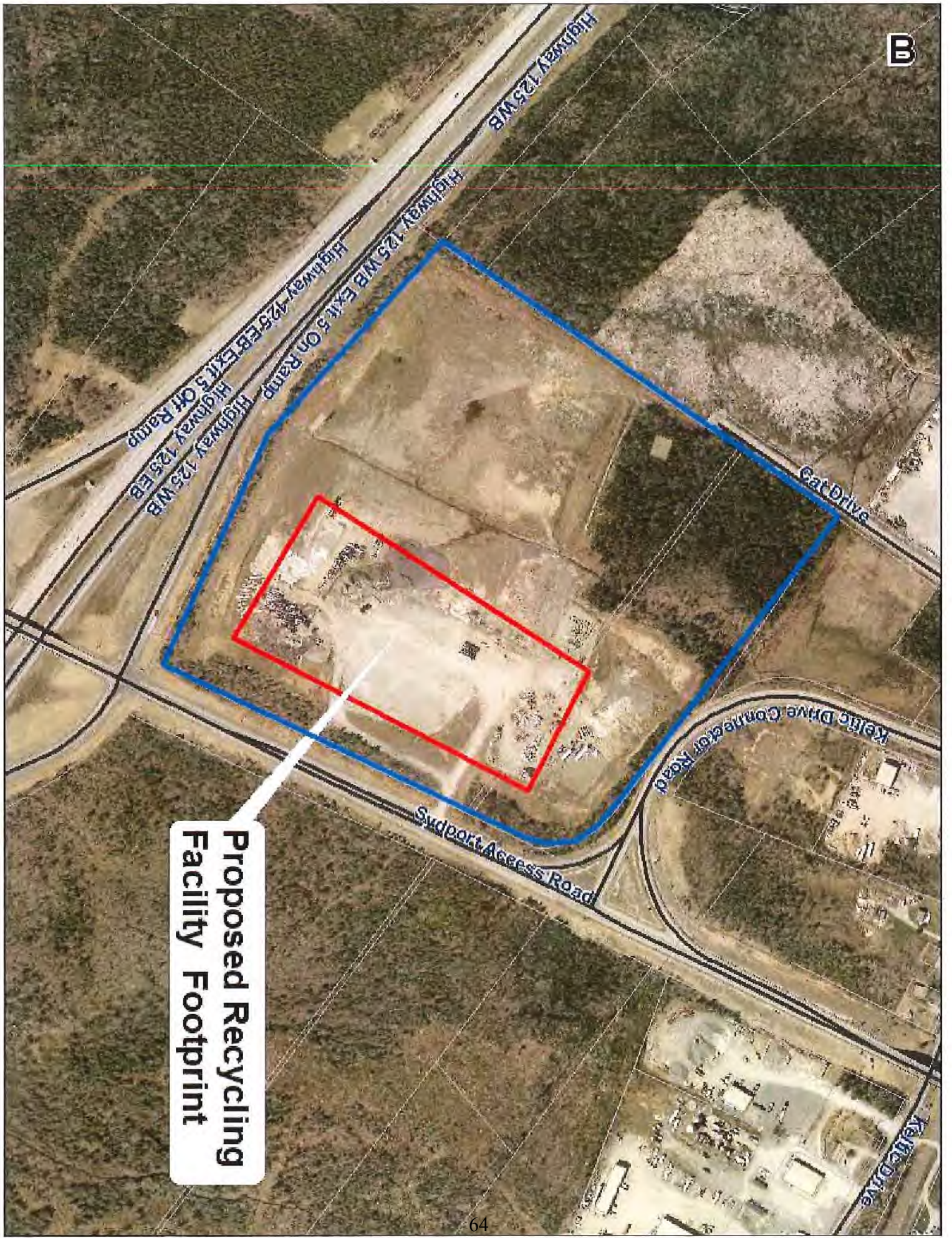
The Amending By-law can be found in Attachment C.

Submitted by:

Originally Signed By

Karen Neville
Planning and Development Department





**Proposed Recycling
Facility Footprint**

By-law
of the Cape Breton Regional Municipality
amending the

**Cape Breton Regional Municipality's
Land Use Bylaw**

Pursuant to Section 210 of the Municipal Government Act of Nova Scotia, the Council of the Cape Breton Regional Municipality hereby amends the text and map of the Cape Breton Regional Municipality's Land Use By-law in the following manner:

THAT: Part 10 Keltic Drive Business Corridor (KBC) Zone, Section 1 KBC Uses Permitted of the Land Use Bylaw is hereby amended by deleting 'service all except' and replacing it with the following:

- **service – (all)**
 - recycling facility using outdoor storage licenced and in compliance with the regulations of Nova Scotia Environment *shall only be permitted in compliance with Section 7*
 - animal shelters and animal sitting establishments are only permitted in areas not serviced with both Municipal water and sewer

THAT: Part 10 Keltic Drive Business Corridor (KBC) Zone of the Land Use Bylaw is hereby amended by adding the following:

Section 7 Recycling Facility Using Outdoor Storage

1. **All buildings, parking lots/areas, outdoor storage areas** shall be a minimum of 10 feet from any lot parcel boundary shared with a public street/road or a lot parcel occupied by a non-residential use.
2. **All buildings, parking lots/areas** shall be a minimum of 20 feet from any lot parcel boundary shared with a lot parcel occupied by a residential use.
3. **Outdoor storage areas** shall not be located within 820 feet (250 metres) of a residential dwelling.
4. **All outdoor storage areas** shall be screened from any public street/road or lot parcel occupied by a residential use by an opaque vegetative, topographic screen (berm), or fence or combination thereof. Screening must be in place prior to the issuance of a Development Permit.
5. The material associated with the recycling facility shall not exceed the height of the above referenced screening.

PASSED AND ADOPTED: by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on _____.

MAYOR

CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the Amending By-law of the Cape Breton Regional Municipality adopted by Regional Council during a meeting held on _____ to amend the Cape Breton Regional Municipality's Land Use By-law.

Deborah Campbell, CLERK

Public Participation Program – Municipal Planning Strategy and Land Use By-law Amendment Application #1018 – Duke Fraser:

Motion:

Moved by Councillor Cormier, seconded by Councillor MacLeod, to adopt, by Resolution, a Public Participation Program to consist of sending letters to residents who live in close proximity of 762 King Street, New Waterford and conduct a Public Meeting for residents of New Waterford, within two (2) weeks of the April 19th Council meeting, to discuss the possibility of amending the Municipal Planning Strategy to allow a former medical clinic located at 762 King Street, New Waterford, to be converted into a drive thru coffee shop.

Discussion:

It was noted the applicant is required to provide a site plan to show how traffic will be managed to and from the coffee shop, while not disrupting traffic on King Street.

Motion Carried.



TO: CBRM Council

FROM: Karen Neville

**SUBJECT: ZONE AMENDMENT APPLICATION – 1018
Gratten (Duke) Fraser
762 King Street, New Waterford
(PID 15466840)**

DATE: May 12th, 2016

Introduction

Gratten (Duke) Fraser has made a request to amend the CBRM Municipal Planning Strategy (MPS) and Land Use By-law (LUB) to allow a former medical clinic to be converted into a drive thru coffee shop. When Mr. Fraser purchased the property next to the New Waterford Consolidated Hospital, which is outlined in red on Attachment A, he was lead to believe that the property was zoned for commercial development. The building was once a medical office and it was Mr. Fraser's intention to construct a Robin's Donuts on the property; however, the property is zoned Residential Urban C (RUC) which does not permit this type of land use. Part 2, Policy 20 permits a variety of sales and service business development on abandoned or vacant properties in urban and suburban residential neighbourhoods by zoning amendment at a site with a history of business development and assessed commercial. The site is the location of a former medical clinic and is assessed commercial taxable therefore is in keeping with Plan policy.

Evaluation

When considering a zone amendment the MPS states that a site specific/use specific zone should be created that ensures the site itself, the site plan, and management of the business development will mitigate any adverse effects on low density residential development in the vicinity. There are four criteria from the MPS that must be considered:

1. Visual Compatibility

While the majority of the immediate area is zoned RUC, which permits one and two-unit residential development, there are a number of large complexes in the area. In addition to the New Waterford Consolidated Hospital, the larger developments in the area include a 50 unit nursing home, a 24 unit seniors complex, two 15 unit seniors complexes, and two 12 unit apartment buildings, all of which are closer to the subject site than the low density residential developments that dominate the streetscape of the greater neighbourhood. In the vicinity of Mr. Fraser's property there is also a medical office and a three unit apartment building. The proposed building will be one storey and have an area of

approximately 1020ft² which is smaller than the building currently on the site; therefore would be considered to be visually compatible with the surrounding land uses.

2. Dust or Fumes Emanating from the Site

The driveway and parking area will be hard surface therefore dust emanating from the site is not likely going to be an issue. There is no reason to believe that fumes emanating from the site would be a problem.

3. Traffic attracted to, and leading from, the site

As a part of this request, CBRM Staff has raised concerns about the driveway sightline and traffic emanating to and from the site. A Traffic Impact Analysis would need to be completed and approved prior to the issuance of a Development Permit; however, CBRM has requested that a Traffic Impact Analysis be undertaken as a part of the applicant's request to amend zoning. Planning Staff circulated the traffic study to the Traffic Authority and Engineering and Public Works for their consideration. Based on the traffic study, Engineering and Public works indicated that they did not have any concerns with a drive thru coffee shop being established at this site. At the time this report was prepared no comments were received from the Traffic Authority.

4. Noise emanating from the development

The noise associated delivery and removal of recreational vehicles on the site is not believed to a problem.

Public Participation Program

A public meeting was held on May 10th at the New Waterford Fire Hall to discuss the proposed development. Notice of the public meeting was mailed to 180 surrounding residents and also appeared in the Cape Breton Post and the Community Press. The purpose of the public meeting was to provide residents an opportunity to ask questions and provide their opinion on the proposed development. There were approximately 70 residents in attendance at the meeting.

Many of those in attendance expressed concerns about traffic travelling on King Street and how traffic will be managed on the site itself. Greg O'Brien, Traffic Engineering and Transportation Planning WSP, presented the findings of the Mr. Fraser's traffic study (Attachment B). Mr. O'Brien stated that the site has enough space to hold 1S drive thru que spaces along with 1S parking spaces. Mr. O'Brien also provide an explanation of traffic counts, peak hours of traffic, pass by traffic, and primary traffic.

The following is a summary of some of the questions from the meeting and responses from Greg O'Brien:

Restricting parking on King Street

On-street parking is not permitted on the east side of King Street.

Pedestrian traffic

Pedestrian traffic was not the focus of the traffic study, the traffic study focused on driveway sightlines and managing traffic on the site. That being said, there are sidewalks along King Street and there is a crosswalk close to the site. The design of a crosswalk is based on traffic volume. Given the traffic volumes for King Street, the current crosswalk design is appropriate; however, if traffic volumes increase a lighted crosswalk could be installed.

Were School Zones Considered

All traffic, including school buses, were included in the results of the traffic study.

Hours of Operation

The coffee shop would be opened from 6am to 10pm. The coffee shop will seat 14 in addition to the drive thru.

Left Hand Turning

Given the current and projected traffic volumes a left hand turn lane is not necessary.

Snow Removal Plan

The site plan included in the traffic study is preliminary. The traffic study focused on driveway sightlines and managing traffic on the site and did not address snow removal. That being said, there is adequate space on the site to address snow removal.

Many in attendance expressed support for the development and stated they were pleased to see this development coming to New Waterford. Having a coffee shop in this location would be beneficial to individuals working and visiting the hospital, the seniors living nearby, and those individuals in neighbouring long term care. Upon the conclusion of the meeting Councillor Cormier asked if those in attendance felt their questions had been adequately addressed and ask for a show of hands of those who were in support of this request. The majority of those in attendance indicated that they were supportive.

Recommendation:

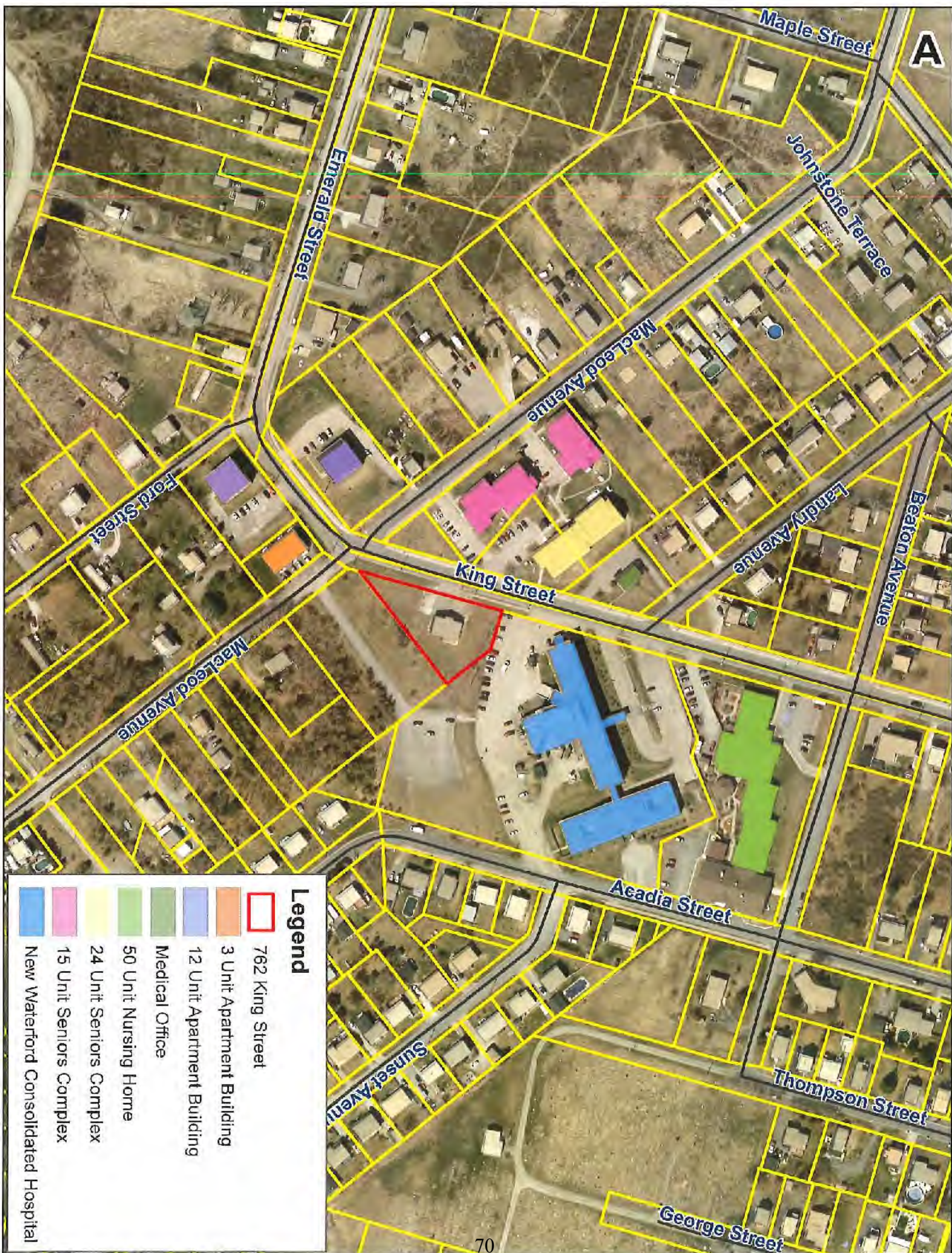
Given the collection of large residential and institutional complexes in the vicinity, the results of the public meeting, and the content of the traffic study it is reasonable for Council to consider amending the LUB to allow for a coffee shop at this location.

I recommend that Council pass a Motion to schedule a Public Hearing to consider amending the Land Use By-law during the June meeting of Council.

Submitted by:

Originally Signed by

**Karen Neville
Planner**



Ref. No. 161-04845

May 3, 2016

Duke Fraser
Millennium Contracting Services

[Via Email: mcs1@eastlink.ca]

**RE: Traffic Impact Analysis, Proposed Commercial Development
762 King Street, New Waterford, Nova Scotia**

Dear Mr. Fraser,

Plans are being prepared to construct a Robin's Donuts shop with a Drive-Through Lane at 762 King Street in New Waterford, Nova Scotia (PID # 15466840, See Figure 1). Completion of the development is anticipated by 2017. This is the Traffic Impact Analysis (TIA) required to accompany the development application.

Description of Site Access- Access to the site is proposed from King Street via a single full access driveway at the north of the site. There is a crest that peaks near Macleod Avenue and the street slopes downward from south to north at approximately 3%. Stopping sight distance (SSD), measured from a driver eye height of 1.05 m to a 150 mm object height was observed at the proposed driveway and is summarized below (See Photos 1 and 2):

- SSD measurements recorded for the southbound approach to the site driveway indicate over 200 m of available SSD, which exceeds the 60 m required for an approach speed of 50 km/h on a +3% (uphill) grade; and,
- SSD measurements recorded for the northbound approach to the site driveway indicate over 80 m of available SSD which exceeds 65 m required for an approach speed of 50 km/h on a -3% (downhill) grade.



Photo 1: Looking south on King Street
from the Proposed Site Access.
The site's existing driveway is visible on the left.



Photo 2: Looking north on King Street from the
Proposed Site Access

Description of the Site and Proposed Development- The site is located on the east side of King Street between Macleod Avenue and the New Waterford Consolidated Hospital. The site, which is currently occupied by a small vacant building that formerly operated as a medical office, has one existing driveway located approximately 50m north of Macleod Avenue.

The proposed 1,020 square foot Robin's Donuts and Coffee Shop will include approximately 15 parking spaces, and a drive-through window with approximately 15 passenger vehicle queuing positions. Completion of the development is anticipated by 2017.



Figure 1: Site Plan

Street and Intersection Descriptions- King Street (See Photos 1 and 2) is a 2-lane collector street that runs north-south approximately 1.8km between Emerald Street and Atlantic Avenue. In the vicinity of the proposed development site, it has a posted speed limit of 50km/h. There is a crest that peaks approximately 50m south of the site near Macleod Avenue and the street slopes downward from south to north at approximately 3%.

Manual Traffic Count- A manual turning movement count was completed during the AM and PM peak periods at the intersection of King Street with the primary site driveway for the New Waterford Consolidated Hospital on Thursday, April 28, 2016. Count data are summarized in Table A-1, Appendix A, with peak hours indicated by shaded areas, and are illustrated diagrammatically in Figure A-1, Boxes A and B, Appendix A.

Traffic Volume Data- King Street 24-hour traffic volume data from 2007 were obtained from Cape Breton Regional Municipality. The AM and PM peak hour traffic volume data from this 2007 count and the counted volumes from 2016 are summarized in Table 1. These data indicate that peak period traffic volumes have been largely unchanged since 2007.

Table 1 – King Street AM and PM Peak Hour Traffic Volumes for 2007 and 2016

Count Year	AM Peak Hour			PM Peak Hour		
	Northbound	Southbound	Two-Way	Northbound	Southbound	Two-Way
2007 ¹	187	175	362	193	205	398
2016 ²	160	185	345	188	186	374
Volume Increase	-27	10	-17	-5	-19	-24
1. 24 hour count data from 2007 were provided by Cape Breton Regional Municipality						
2. 2016 peak hour turning movement count was obtained by WSP Canada Inc.						

Estimation of 2022 Volumes – Counted 2016 peak hour volumes have been increased by an annual traffic volume growth rate of 0.5%, which is considered appropriate for this area, to provide projected 2022 AM and PM background peak hour King Street through volumes. Projected 2022 peak hour background traffic volumes are illustrated diagrammatically in Figure A-1, Boxes C and D, Appendix A.

Volumes at Robin's Donuts Enfield, NS- A count and queuing study for a Robin's Donuts in Enfield, Nova Scotia, provided the following AM peak hour information which is considered typical for this type of coffee shop:

- Peak Hour Drive-Through Volume 54 vehicles (7:00 AM to 8:00 AM)
- Average Queue Length 1.2 vehicles
- 50th Percentile Queue 1 vehicle
- 95th Percentile Queue 4 vehicles
- Maximum Observed Queue 5 vehicles

Trip Generation- Two types of trips are included in the external trips that will be generated by the proposed development - *Pass-by* and *Primary Trips*.

Pass-by trips are those which are made as 'intervening opportunity' stops to commercial and retail land uses by vehicle trips already passing by the site. Although these trips will be included in the driveway volumes to the site, they will not increase the overall traffic volumes on King Street. *Trip Generation Handbook, 2nd Edition* (Institute of Transportation Engineers, Washington, 2012) indicates an average pass-by rate of 50% for the similar land use of Fast-Food Restaurant with Drive-Through Window (Land Use 934, Table 5.24, Page 69). Since a

significant number of trips generated by a coffee shop are from pass-by vehicles on the adjacent street, it is assumed that 50% of the trips are already passing by the site.

Primary trips for this Study include all external site generated trips that are not considered pass-by trips.

Site Generated Trips- The proposed development is a 1,020 square foot Robin's Donut and Coffee Shop with drive-through window. Trip generation estimates (see Table 2), prepared using published rates from *Trip Generation, 9th Edition* (Institute of Transportation Engineers, Washington, 2012), include 50 two-way primary vehicle trips (26 entering and 24 exiting) during the AM peak hour and 22 two-way primary vehicle trips (11 entering and 11 exiting) during the PM peak hour. There are also an estimated 52 two-way pass-by trips (26 entering and 26 exiting) in the AM peak hour and 22 two-way pass-by trips (11 entering and 11 exiting) in the PM peak hour.

Table 2 - Trip Generation Estimates

Land Use ¹	Units ²	Trip Generation Rates ³				Trip Generation Estimates ³			
		AM Peak		PM Peak		AM Peak		PM Peak	
		In	Out	In	Out	In	Out	In	Out
Coffee / Donut Shop with Drive-Through Window (ITE Land Use 937)	1.02 KGFA	51.3	49.3	21.4	21.4	52	50	22	22
50% Pass-By Trips for the Site ⁴						26	26	11	11
Primary Trip Generation Estimates for the Site						26	24	11	11
NOTES: 1. <i>Trip Generation, 9th Edition</i> (Institute of Transportation Engineers, Washington, 2012) Land Use Code 937, Coffee / Donut Shop with Drive-Through Window have been used. 2. KGFA is '1000 sq. ft. of Gross Floor Area'. 3. Rates are 'vehicles per hour per unit'; trips generated are 'vehicles per hour for peak hours'. 4. The average pass-by rate of 50% for the similar land use "Fast-Food Restaurant with Drive-Through Window" was used.									

Trip Distribution and Assignment – The primary site generated trips were distributed based on review of existing volumes and local knowledge of the area. Site generated trips were distributed 60% from / to the north and 40% from / to the south.

Pass-by site generated trips were assigned to the roadway network based on directional distribution of counted volumes on King Street. AM pass-by trips were distributed with 55% of the trips originating from the north and 45% originating from the south, while PM pass-by trips were distributed with 50% originating from the north and 50% originating from the south.

Site generated trips (shown diagrammatically in Figure A-2, Boxes A and B, Appendix A) have been added to 2022 background volumes (Figure A-1, Boxes C and D) to provide projected 2022 traffic volumes that include site generated trips (Figure A-2, Boxes C and D, Appendix A).

Left Turn Lane Warrant Analysis - Left turn movements on a two lane street may cause both operational and safety problems. Operational problems result as a vehicle stopped waiting for an opportunity to turn across 'heavy' opposing traffic causes a queue of stopped vehicles to form. Safety problems result from rear end collisions when a stopped left turning vehicle is struck by an advancing vehicle, or from head-on or right angle collisions when a left turning vehicle is struck by an opposing vehicle.

The *Geometric Design Standards for Ontario Highways Manual* contains nomographs for left turn lane analysis for two lane streets. The analysis method, which is normally used by WSP Atlantic to evaluate the need for left turn lanes, uses a series of nomographs that consider speed, advancing volumes, left turns as a percentage of advancing volumes, and opposing volumes. A point, based on 'opposing' and 'advancing' volumes, plotted to the right of the

'warrant line' of the appropriate '% left turns' and 'approach speed' nomograph, indicates that a left turn lane is warranted for the conditions used in the analysis. Similarly, a point that is plotted to the left of the warrant line indicates that a left turn lane is not warranted.

Evaluation of left turn lane warrants for the southbound approach on King Street at the site driveway (Figure A-3) indicates that a left turn lane on King Street at the site driveway is not warranted based on estimated 2022 traffic volumes with the addition of site generated trips.

Intersection Level of Service Analysis – The level or quality of performance of an intersection in terms of traffic movement is determined by a level of service (LOS) analysis. LOS for intersections is defined in terms of delay, which is a measure of driver discomfort and frustration, fuel consumption, and increased travel time. LOS criteria (Table 3) are stated in terms of average control delay per vehicle which includes initial deceleration delay, queue move-up time, stopped delay, and final acceleration delay.

Table 3 - Level of Service (LOS) Criteria for Stop-Controlled Intersections

LOS	LOS Description	Two Way Stop Controlled (TWSC) Intersections Control Delay (Seconds per Vehicle)
A	Very low delay; most vehicles do not stop (Excellent)	Less than 10.0
B	Higher delay; most vehicles stop (Very Good)	Between 10.0 and 15.0
C	Higher level of congestion; number of vehicles stopping is significant, although many still pass through intersection without stopping (Good)	Between 15.0 and 25.0
D	Congestion becomes noticeable; vehicles must sometimes wait through more than one red light; many vehicles stop (Satisfactory)	Between 25.0 and 35.0
E	Vehicles must often wait through more than one red light; considered by many agencies to be the limit of acceptable delay	Between 35.0 and 50.0
F	This level is considered to be unacceptable to most drivers; occurs when arrival flow rates exceed the capacity of the intersection (Unacceptable)	Greater than 50.0

A **volume to capacity (v/c)** ratio is a measure of how the peak hour volume on an approach to an intersection compares to the capacity of that intersection approach. The capacity of a STOP controlled approach is determined by the volumes on the through street and approaches. Volumes at 50% of capacity (v/c ratio of 0.50) or less usually show low or no congestion.

The **95th% queue** is the estimated length in meters of a line of vehicles stopped on an intersection approach that is only exceeded 5% of the time. Since a stopped vehicle occupies about six meters of queue length, a 95th% queue of 12 meters indicates that less than 5 times out of 100 the queue may exceed two vehicles on the approach.

Synchro 9.0 software has been used for level of service (LOS) evaluation of King Street at the site driveway with projected 2022 AM and PM peak hour volumes that include site generated trips. Analysis results are included on Pages A-5 and A-6 (Appendix A) and results are summarized in Table 3.

Summary: Intersection Level of Service Analysis- Overall intersection LOS at the site driveway intersection is expected to be satisfactory with the addition of site generated trips.

Table 4 – 2022 Level of Service for King Street at the Site Driveway

LOS Criteria	Control Delay (sec/veh), LOS, v/c Ratio, and 95 th Queue (m) by Intersection Movement			Overall Intersection	
	WB-LR	NB-TR	SB-LT	Delay	LOS
Weekday AM Peak Hour with Site Development (Page A-5)					
Delay	10.7	0.0	1.3	1.9	A
LOS	B	A	A		
v/c	0.08	0.11	0.16		
Queue	1.9	0.0	0.6		
Weekday PM Peak Hour with Site Development (Page A-6)					
Delay	10.4	0.0	0.6	0.8	A
LOS	B	A	A		
v/c	0.03	0.13	0.16		
Queue	0.8	0.0	0.2		

Summary-

- Plans are being prepared for a commercial development at 762 King Street in New Waterford, Nova Scotia. The proposed development will be a Robin's Donuts and will include approximately 15 parking spaces and a drive-through lane with approximately 15 passenger vehicle queuing positions.
- A full movement site driveway is proposed on the east side of King Street at the northern limits of the site. The available Stopping Sight Distance is adequate for both King Street approaches to the driveway for the posted 50 km/h speed limit.
- It is estimated that the proposed commercial development will generate a total of 102 two-way vehicle trips (52 entering and 50 exiting) during the AM peak hour and 44 two-way vehicle trips (22 entering and 22 exiting) during the PM peak hour.
- When the high volume of pass-by trips of vehicles already passing by the site on King Street are considered, primary site trips are estimated to include 50 two-way trips (26 entering and 24 exiting) in the AM peak hour and 22 two-way trips (11 entering and 11 exiting) in the PM peak hour.
- Left turn lane warrant analysis indicates that a southbound left turn lane on King Street at the site driveway is not warranted based on analysis of estimated volumes for the 2022 horizon year with the addition of site generated trips.
- The intersection level of service at the proposed driveway intersection with King Street is expected to be satisfactory with the addition of site generated trips.

Conclusion-

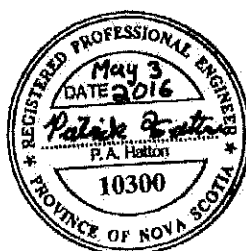
- Site generated trips are not expected to have any significant impact to levels of performance on adjacent streets and intersections or to the regional street system.
- The 15 drive-through queue spaces provided are expected to be adequate for this location.

If you have any questions or comments, please contact me by email at patrick.hatton@wspgroup.com or by telephone at 902-835-9955.

Sincerely:

ORIGINAL SIGNED BY

Patrick Hatton, P. Eng.
Traffic Engineer
WSP Canada Inc.



May 3, 2016

Appendix A

**Intersection Turning Movement
Counts**

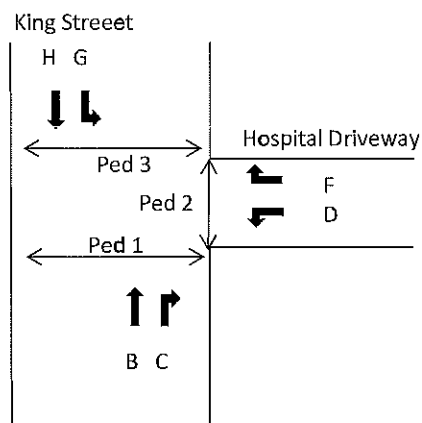
Traffic Volume Diagrams

Left Turn Lane Warrant

**Intersection Performance
Analysis**

Table A-1
King Street
@
New Waterford Hospital Driveway

New Waterford, NS
Thursday, April 28, 2016

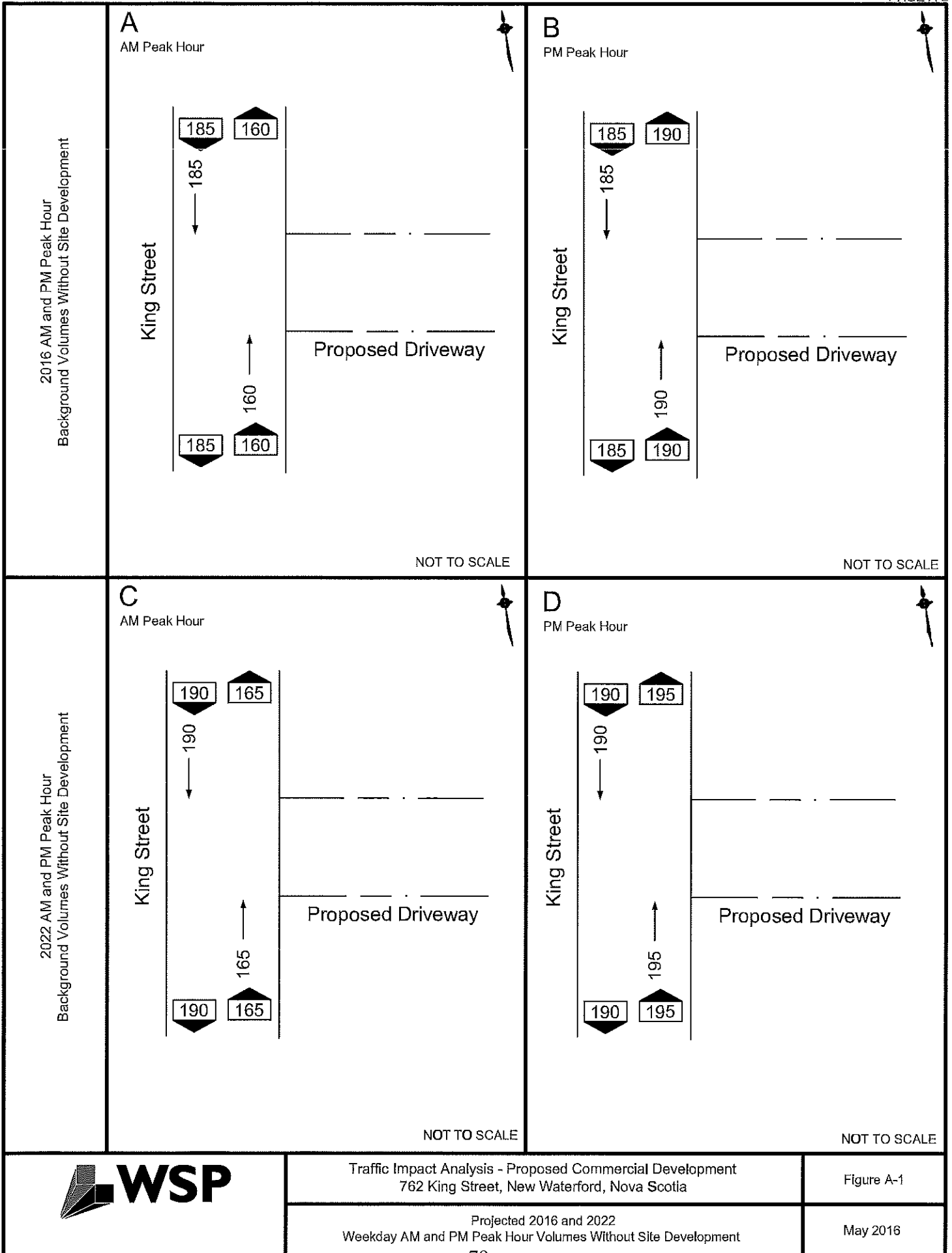


AM Peak Period Volume Data

Time		King Street Northbound Approach		New Waterford Hospital Driveway Westbound Approach		King Street Southbound Approach		Total Vehicles
		B	C	D	F	G	H	
07:00	07:15	10	4	3	3	1	22	43
07:15	07:30	8	3	0	2	2	21	36
07:30	07:45	18	3	0	1	0	27	49
07:45	08:00	19	4	1	2	1	28	55
08:00	08:15	24	3	2	3	2	32	66
08:15	08:30	39	5	5	1	4	55	109
08:30	08:45	47	4	0	5	4	43	103
08:45	09:00	35	3	2	1	4	46	91
AM Peak Hour		145	15	9	10	14	176	369
07:00	08:00	55	14	4	8	4	98	183
08:00	09:00	145	15	9	10	14	176	369
		Ped 1		Ped 2		Ped 3		Total Peds
07:00	08:00	2		1		0		3
08:00	09:00	2		0		0		2

PM Peak Period Volume Data

Time		King Street Northbound Approach		New Waterford Hospital Driveway Westbound Approach		King Street Southbound Approach		Total Vehicles
		B	C	D	F	G	H	
16:00	16:15	48	0	1	0	1	42	92
16:15	16:30	52	1	2	1	1	49	106
16:30	16:45	49	2	2	1	0	53	107
16:45	17:00	35	1	1	0	0	36	73
17:00	17:15	39	0	2	0	0	42	83
17:15	17:30	45	1	0	0	0	47	93
17:30	17:45	28	0	0	0	1	24	53
17:45	18:00	42	1	0	1	1	36	81
PM Peak Hour		184	4	6	2	2	180	378
16:00	17:00	184	4	6	2	2	180	378
17:00	18:00	154	2	2	1	2	149	310
		Ped 1		Ped 2		Ped 3		Total Peds
16:00	17:00	1		0		0		1
17:00	18:00	1		0		0		1

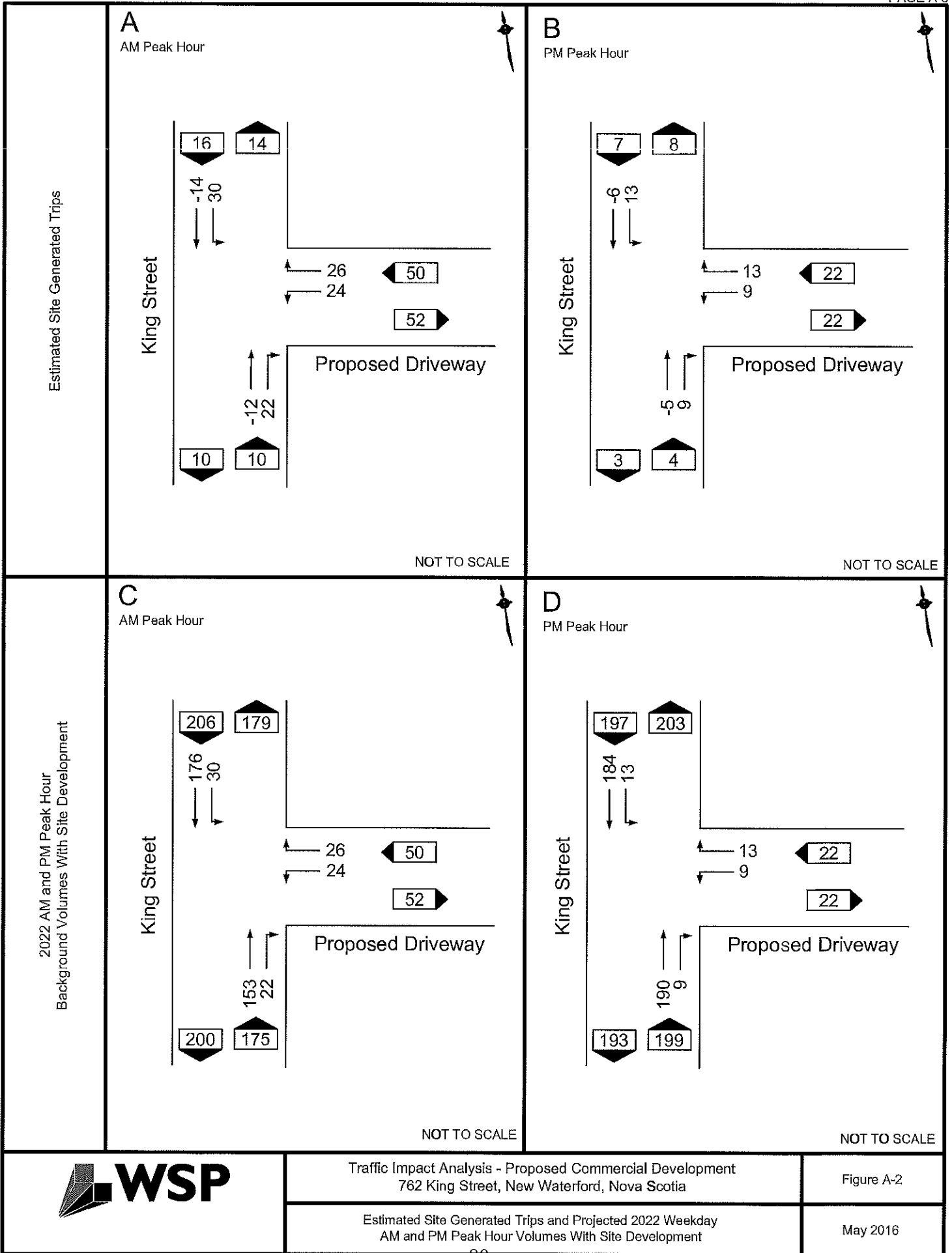


Traffic Impact Analysis - Proposed Commercial Development
762 King Street, New Waterford, Nova Scotia

Figure A-1

Projected 2016 and 2022
Weekday AM and PM Peak Hour Volumes Without Site Development

May 2016

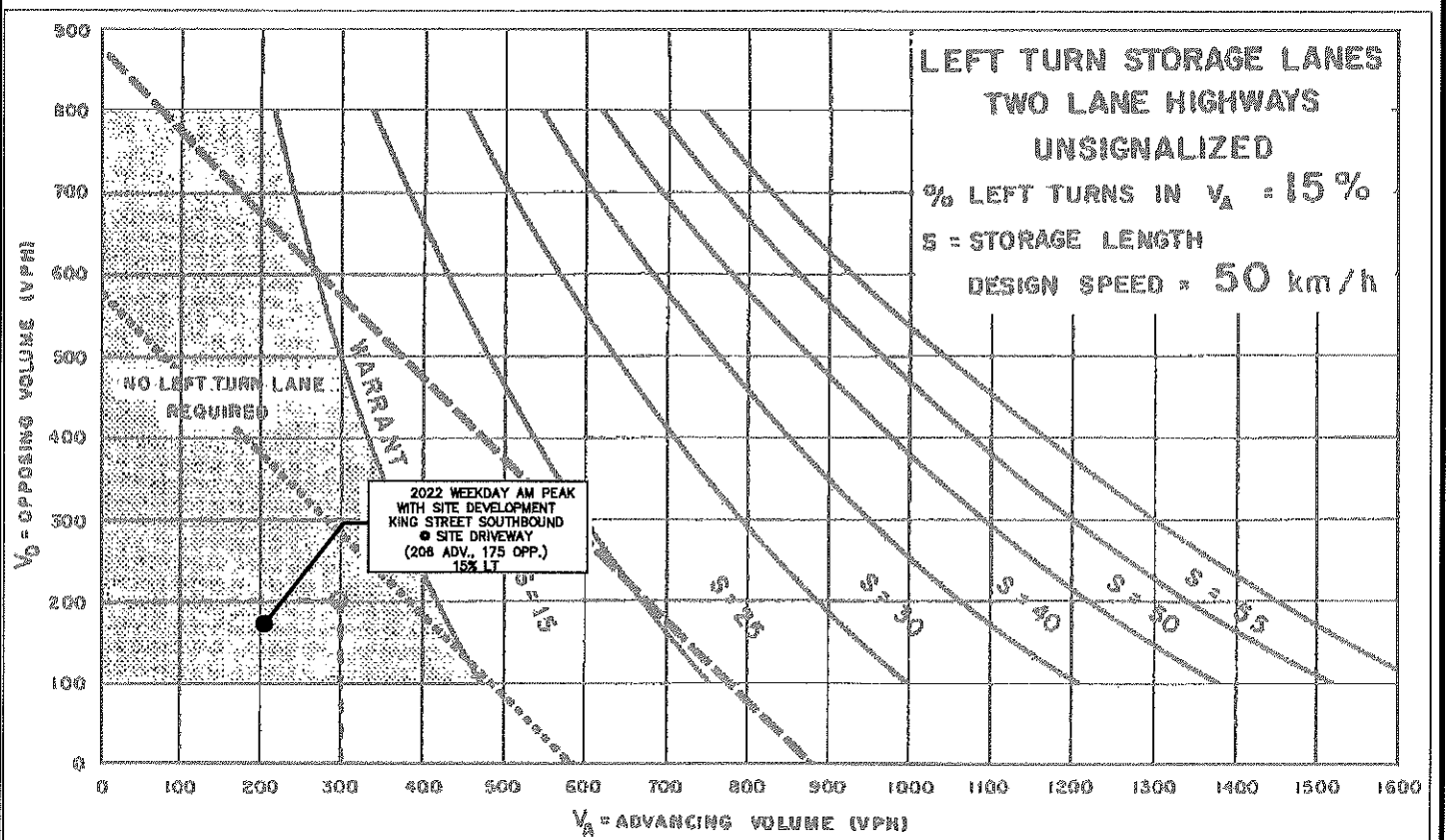
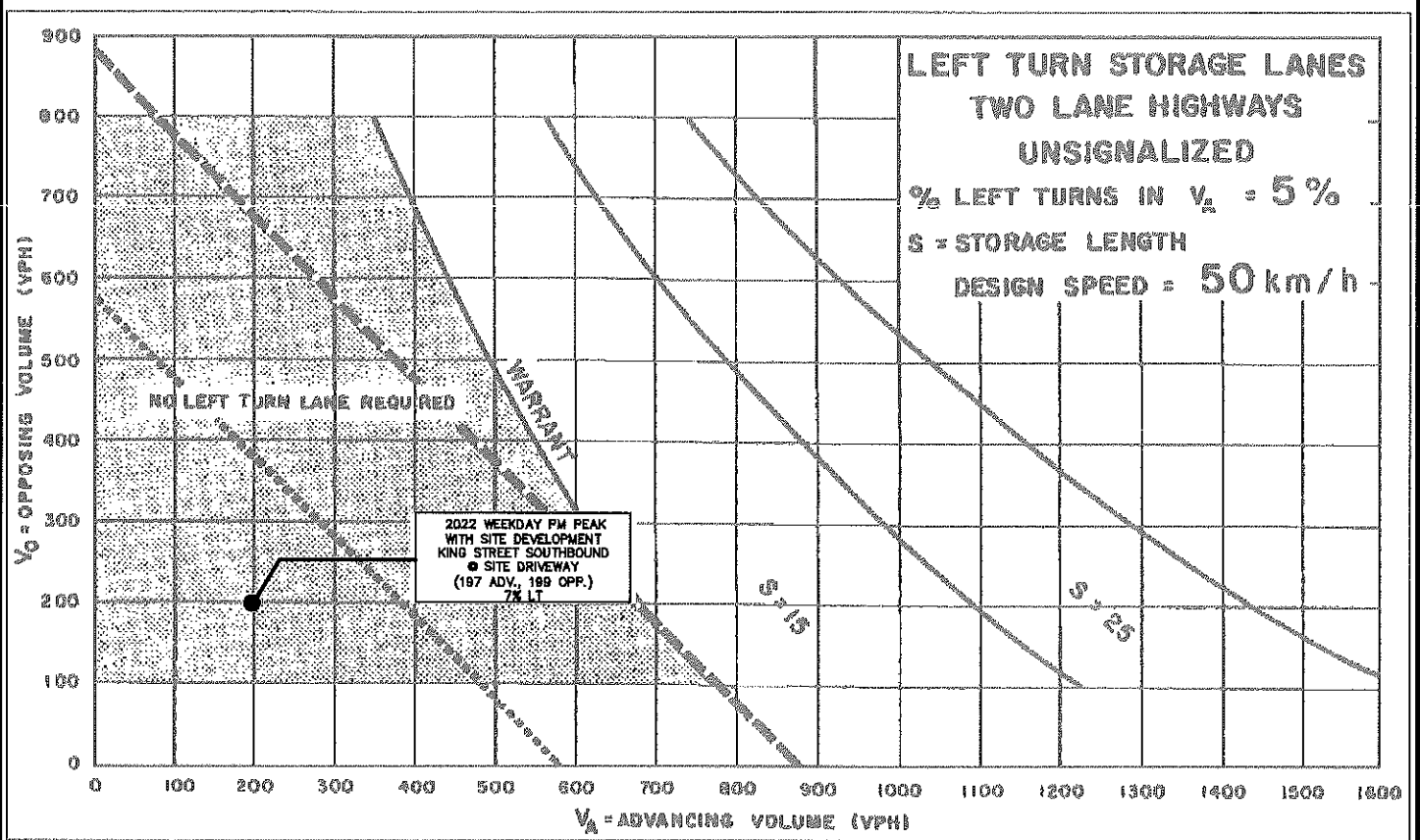


Traffic Impact Analysis - Proposed Commercial Development
762 King Street, New Waterford, Nova Scotia

Figure A-2

Estimated Site Generated Trips and Projected 2022 Weekday
AM and PM Peak Hour Volumes With Site Development

May 2016



Traffic Impact Analysis - Proposed Commercial Development
762 King Street, New Waterford, Nova Scotia

Figure A-3

Left Turn Lane Warrants: King Street at Proposed Site Driveway, New Waterford, NS

May 2016

Robin's Traffic Impact Analysis, New Waterford
1: King Street & Site Driveway

Page A-5
2022 AM Peak with Site Generated Trips

						
Movement	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (veh/h)	24	26	153	22	30	176
Future Volume (Veh/h)	24	26	153	22	30	176
Sign Control	Stop		Free			Free
Grade	0%		0%			0%
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Hourly flow rate (vph)	26	28	166	24	33	191
Pedestrians						
Lane Width (m)						
Walking Speed (m/s)						
Percent Blockage						
Right turn flare (veh)						
Median type			None			None
Median storage veh						
Upstream signal (m)						
pX, platoon unblocked						
vC, conflicting volume	435	178			190	
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	435	178			190	
tC, single (s)	6.4	6.2			4.1	
tC, 2 stage (s)						
tF (s)	3.5	3.3			2.2	
p0 queue free %	95	97			98	
cM capacity (veh/h)	564	865			1384	
Direction, Lane #	WB 1	NB 1	SB 1			
Volume Total	54	190	224			
Volume Left	26	0	33			
Volume Right	28	24	0			
cSH	689	1700	1384			
Volume to Capacity	0.08	0.11	0.02			
Queue Length 95th (m)	1.9	0.0	0.6			
Control Delay (s)	10.7	0.0	1.3			
Lane LOS	B		A			
Approach Delay (s)	10.7	0.0	1.3			
Approach LOS	B					
Intersection Summary						
Average Delay			1.9			
Intersection Capacity Utilization			33.6%	ICU Level of Service		A
Analysis Period (min)			15			

Robin's Traffic Impact Analysis, New Waterford
1: King Street & Site Driveway

Page A-6
2022 PM Peak with Site Generated Trips

						
Movement	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (veh/h)	9	13	190	9	13	184
Future Volume (Veh/h)	9	13	190	9	13	184
Sign Control	Stop		Free			Free
Grade	0%		0%			0%
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Hourly flow rate (vph)	10	14	207	10	14	200
Pedestrians						
Lane Width (m)						
Walking Speed (m/s)						
Percent Blockage						
Right turn flare (veh)						
Median type			None			None
Median storage veh						
Upstream signal (m)						
pX, platoon unblocked						
vC, conflicting volume	440	212			217	
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	440	212			217	
tC, single (s)	6.4	6.2			4.1	
tC, 2 stage (s)						
tF (s)	3.5	3.3			2.2	
p0 queue free %	98	98			99	
cM capacity (veh/h)	569	828			1353	
Direction, Lane #	WB 1	NB 1	SB 1			
Volume Total	24	217	214			
Volume Left	10	0	14			
Volume Right	14	10	0			
cSH	696	1700	1353			
Volume to Capacity	0.03	0.13	0.01			
Queue Length 95th (m)	0.8	0.0	0.2			
Control Delay (s)	10.4	0.0	0.6			
Lane LOS	B		A			
Approach Delay (s)	10.4	0.0	0.6			
Approach LOS	B					
Intersection Summary						
Average Delay			0.8			
Intersection Capacity Utilization			30.4%	ICU Level of Service		A
Analysis Period (min)			15			

Public Participation Program:

Municipal Planning Strategy and Land Use By-law Amendment Application #1023 – Winter Review 2016:

Ms. Karen Neville, Planner provided background information on this issue and advised that during the April 19, 2016 meeting of Council, a Public Participation Program was scheduled to be held during the May General Committee meeting, to consider the proposed Municipal Planning Strategy and Land Use By-Law amendments as outlined in the Winter Review report of April 13th, 2016

Public Participation Program:

At the point in the meeting, Mayor Clarke asked if there was anyone present to speak during the Public Participation Program. No one presented to speak to the Municipal Planning Strategy and Land Use By-law Amendment Application.

A report on the Public Participation Program will be brought forward at the May 17th, 2016 of Council.



TO: CBRM Council

FROM: Karen Neville and Malcolm Gillis

**SUBJECT: Municipal Planning Strategy and Land Use
By-law Amendment Application – 1023
Winter Review 2016**

DATE: May 10th, 2016

Introduction

The CBRM's first Municipal Planning Strategy (MPS) and Land Use By-law (LUB) were adopted in the summer of 2004, since that time it has been the practise of the Planning and Development Department to undertake a winter review of each document. Due to staffing issues, a winter review has not taken place for a number of years. The purpose of these winter reviews was to put forth amendments initiated by staff at the end of each building season to improve the implementation of planning documents for the next building season beginning in the spring.

Planning documents are not static documents, but rather are meant to evolve as a community grows and changes. Because of this it is important that these documents are reviewed periodically to ensure they are still achieving the goals of the community. To achieve this staff would like to put forward a series of proposed amendments to the MPS and LUB that should be considered. These amendments are not meant to change the substance or direction of the LUB, but rather make the LUB easier to read for those who administer and those who must comply with its provisions.

Proposed Amendments to the Municipal Planning Strategy and Land Use Bylaw**Part 2, Policy 5.a**

Part 2 of the Planning Strategy is focused on sales and service business developments. The objective of Policy 5 of this Part is to recognize the legitimacy of established business developments along major transportation corridors where commercial zoning would not be appropriate to be in effect throughout the corridor e.g. Alexandra Street Sydney , Halfway Road Sydney Mines. However, the Policy S.a doesn't make it clear additional business developments could co-exist at any of these sites and that a change in land use or an additional land use would be appropriate if regulated by Site Plan Approval. Staff does not believe it was intended to read that way and it should be revised to give clear direction to the Land Use Bylaw regarding the range of development options.

Policy 5 of Part 2 is implemented in Part 51 of the Land Use Bylaw. The above referenced clarification in policy direction should be reflected with appropriately re-worded provisions in the Land Use Bylaw.

It is recommended that Part 2, Policy 5.a be revised to make it clear the Land Use Bylaw should permit additional business developments and conversions of existing business developments by Site Plan Approval at sites subject to this Policy and that Part 51 of the Land Use Bylaw also be amended accordingly.

Part 2, Policy 5.b.3

This Policy is focused on the corridor of Grand Lake Road/Sydney Road where the speed limit is 80 kilometers. It was the subject of a traffic study approximately 10 years ago commissioned by CBRM and the Nova Scotia Department of Transportation and Infrastructure Renewal. The study's recommendation was that the primary function of this corridor was to be an efficient commuter route between Sydney and Glace Bay.

The objective of the study was included as policy in the CBRM Planning Strategy and its recommendations were implemented as provisions in the CBRM Land Use Bylaw including the following.

- While expansion of existing developments, or a change in business use of these existing sites within a range of similar uses will be permitted,
- No new business developments on previously undeveloped sites, or sites unoccupied with business development, are permitted, unless the site can be accessed via a signalized intersection.
- No residential developments large enough to generate more than a minimum use generation of motor vehicle traffic, unless the site can be accessed via a signalized intersection.
- All building lots must have a minimum of 150 ft. of Road frontage and flag shaped lot development is banned.

One minor change is proposed to Planning Strategy policy that will provide more flexibility allowing other business developments along with the current business provided there is no significant increase in the volume of traffic generated.

While the study advocated existing business developments should not be legally classified as non-conforming, the current range of optional permitted uses for each existing business development site in the Land Use Bylaw is too broad to comply with the traffic management objectives. In other words the Land Use Bylaw is contradicting the direction of the Planning Strategy it is supposed to be implementing.

It is recommended that Part 51 of the Land Use Bylaw be amended to bring the range of permitted optional uses for each current business development along the corridor of Grand Lake Road where the speed limit is 80 kilometer in compliance with the objectives of the study, the Planning Strategy and the Province's Traffic Authority.

Part 3 Policy 19 Novaporte

Almost 40 years ago the Agricultural Division of DEVCO assembled approximately 1,300 acres of land in the Point Edward Peninsula and started an experimental farm. Only a very small percentage of it was ever utilized for agricultural production and the buildings now have a different purpose. It is the larger undeveloped part of this land assembly which has recently been conveyed by Public Works Canada to the CBRM and First Nations to be held in reserve for future port development associated with the 5ydport and Novaporte sites (a.k.a. the Greenfield site in Edwardsville). Planning Strategy policy deliberately remained neutral as to the appropriate designation for this large landholding until "... discussions with ECBC ..." were to take place to determine its highest and best use. That's been answered with the

willingness of the Federal Government to convey it to the CBRM to be used in conjunction with Novaport. Now that this conveyance has taken place Planning Strategy policy should be updated to reflect this. Since its adoption in 2004, Planning Strategy policy designated Sydport and the Greenfield site for port related development, but policy should be updated to reflect the clear connection amongst the three above referenced sites.

It is recommended that Part 3, Policy 19 of the Planning Strategy be revised to articulate the interrelationship among Sydport, the Greenfield site, and the lands assembled by DEVCO in support of port development.

Proposed Amendments to just the Land Use By-law

Part 2 General Provisions for All Zones

Section 1 Accessory Buildings

The provisions associated with accessory buildings are some of the most implemented in the LUB, as a result, staff have several recommendations to improve their implementation. When it comes to a maximum size for accessory buildings there needs to be a clear distinction of between detached and attached accessory buildings. An attached accessory building is considered to be part of the main building and as a result should comply with the development standards of a main building and not the development standards for a detached accessory building. Because of this Section 1 should be amended to distinguish between the development standards that apply to a detached accessory building vs an attached accessory building.

It is recommended that Sections 1 be amended to identify the development standards for detached and attached accessory buildings.

Detached accessory buildings with a floor area of 100ft² or less do not require a Development Permit; however, detached accessory buildings with a floor area of 100ft² or less are still used when calculating the total lot coverage.

It is recommended that a statement be added to Subsection a. 4. and Subsection d. which references the fact that detached accessory building with a floor area of 100ft² or less will be used in the calculation of the total lot coverage for accessory buildings.

Currently Subsection c. identifies the minimum setbacks for detached or attached accessory buildings when in fact an attached accessory building must comply with the setbacks for a main building.

It is recommended that 'attached' be removed from Subsection c.

To aid in its implementation, Section 1 should be reformatted to clearly identify the provisions that apply to all accessory buildings and those that apply specifically to residential accessory buildings.

It is recommended that Section 1 be reformatted to clearly identify which provisions apply to residential accessory buildings and those provisions that apply to all accessory buildings.

Section 6 Conversion of former community or educational service building

As the result of changing economic, demographic, and social conditions many community and educational service buildings are no longer being used for the purposes for which they were originally intended. To prevent these buildings from remaining empty, the LUB allows this buildings to be converted to a range of optional uses.

The range of optional uses includes apartment buildings and dwelling units within a mixed use building, but townhouse is not listed as one of these optional uses. Apartment buildings and townhouses are both residential buildings with three or more dwelling units, so it is reasonable that a townhouse be included in the list of optional uses permitted in the conversion of former community or educational service buildings.

It is recommended that townhouse be added to list of optional uses for former community or educational service buildings.

In addition, nursing home are considered to be permitted in former community or educational service buildings; however nursing homes are permitted in all zones, except the Public Water Supply zone, in accordance with the provisions of Section 25 of the LUB. Because of this it is not necessary for nursing home to be listed in Section 6.

It is recommended that nursing home be deleted from Section 6 Conversion of former community or educational service building.

There are a number of large municipally owned buildings, in particular buildings with recreational uses, which are located within residential neighbourhoods. Similar to community or educational service buildings these building should have the opportunity to be converted to the list of optional uses in Section 6.

It is recommended that Section 6 should be amended to include municipally owned buildings.

Section 9 Existing Buildings and Non-compliance with Lot parcel development Requirements – Repair, Reconstruction and Additions

The LUB recognizes the legitimacy of buildings that were established prior to the adoption of the LUB that are unable to meet lot parcel development requirements. The third bullet of Section 9 includes the phrase ‘having less the minimum’, however it is not necessary due to the fact this phrase is also included in the introductory text. Because of this ‘having less the minimum’ should be deleted from the third bullet.

It is recommended that the phrase ‘having the minimum’ be removed from Section 9.

Section 16 Frontage on a Public street/road

According to the LUB, Development Permits shall not be issued unless the lot parcel has frontage on a public street. That being said, the LUB does identify a number of exceptions to that rule. One such exception enables a Development Permit to be issued for a lot parcel serviced by a Municipal sewer main which has frontage along a private road (S16 b.4.). The use of the term private road in this provision is incorrect, the term used should be unlisted road. There are other provisions with found in Subsection b. which apply to lot parcels fronting on a private road.

It is recommended that private road be removed from Subsection 16 b. 4. and replaced with unlisted road.

Section 17 Home Business

The LUB recognizes a range of service businesses permitted to be operated from a residential property. Home businesses are becoming more common; as a result staff have several recommendations to improve the implementation of the home business provisions.

The LUB permits a home business to be operated within the residential dwelling or within a residential accessory building. There are specific provisions that limit the floor area within a dwelling unit devoted to a home business, but there is no such provision for an accessory building.

It is recommended that a provision be added to Section 17 to regulate the floor area devoted to a home business within a residential accessory building.

Due to the increase in popularity of home businesses, we are experiencing an increase in business vehicles associated with a home business being stored on residential property. There is a provision within the LUB which restricts the storage of motor vehicles associated with a business development to one on properties where the type of business use is not permitted (Section 31). This provision does not apply to motor vehicles related with a home business, because the use is permitted on the property. Because of this, it would be beneficial to add provisions regulating business vehicles connected with a home business in both Section 17 and Section 31 of the LUB. To aid in the implementation of these provisions a definition for business vehicle should also be added to the LUB.

It is recommended that Section 17 Home Business and Section 31 Parking of Motor Vehicles Owned by a Business Development be amended by adding provisions limiting the number of business vehicles associated with a home business to be kept on a property to two. In addition, a provision should be added to Section 17 identifying signage that is acceptable on a business vehicle.

Animal (domestic) grooming is considered to be an acceptable home business, but animal sitting is not. Because of a provision should be added to Section 17 that states that animal (domestic) grooming does not include animal sitting. For further clarification a definition for animal (domestic) grooming and animal sitting should be added to the LUB.

It is recommended that a provision be added to Section 17 Home Business that states animal (domestic) grooming does not include animal sitting.

Section 18 Irregular, or Flag-Shaped Lot Parcel

The LUB allows for lot parcels with a minimum lot parcel frontage of 20 feet, however there are zones within the LUB that have specific lot parcel frontage requirements that are larger than 20 feet.

It is recommended that Section 18 Irregular, or Flag-Shaped Lot Parcel be amended to include the statement 'unless there is a specific provision for a land use in the text of a particular zone'.

Section 19 Lot Parcel Development Requirements

The LUB has a provision that waives the side yard setback requirement for a select number of building types. This provision is most often used for semi-detached dwellings. The so-called company homes, which are so prevalent in the coal colliery towns and in neighbourhoods of Sydney in proximity to the former steel plant site, are the best and most common examples of this type of residential construction. This provision also applies to any sales or service establishment, but it does not apply to recreational buildings. The exception to lot boundary setback does not except compliance with all other applicable provisions of the LUB as well as the CBRM Subdivision and Building By-laws and the Provincial Building Code.

It is recommended that recreational buildings be added to the list of uses that are eligible to waive yard setbacks found in Section 19 Lot Parcel Development Requirements.

Section 29 Parking Area Standards

When the LUB was drafted it was envisioned that the By-law would come into effect as of July 1st, 2004; however, its effective date was not until August of 2004. Part 2, Section 29, Subsection c.9 includes a provision which references buildings that existed as of July 1, 2004, which is actually prior to the By-law coming into effect.

It is recommended that the date July 1st, 2004 be removed from Subsection c. 9 of Section 29 Parking Area Standards and replaced with the phrase 'meet the definition of existing in this By-law'.

The provisions for parking area standards are separated into standards for more than three parking spaces and three or fewer parking spaces. The provisions for parking areas of three or fewer parking spaces requires that driveways be setback 3ft from a lot parcel boundary; however, this is not meant to apply to residential development.

It is recommended that Subsection 29 d.3 of Part 29 Parking Area Standards be amended by adding a sentence stating that the requirement for a driveway to be setback 3ft from a lot parcel boundary does not apply to residential development.

Section 30 Parking Requirements According to Land Use Type

The intention of the introductory text for Section 30 Parking Requirements According to Land Use Type is to identify that the off-street parking area for a building is required to be on the same lot and within a zone that permits the building or use; however the wording of this Section could be modified to clarify this intent.

It is recommended that Section 30 Parking Requirements According to Land Use Type be amended to clarify that the parking areas for every building must be located on the same lot and within a zone that permits the use.

Section 42 Utility Scale Wind Turbines

While the municipality has the authority to regulate utility scale wind turbines, the CBRM is also obligated to inform the Department of National Defense when it is in receipt of an application for a utility scale wind turbine. To aid in this notification process a mailing address was included in Section 42, Part 2 of the LUB; however, there is a possibility that this address could change overtime. Therefore, it should be removed from the LUB.

It is recommended that the address for the Department of National Defense be removed from Section 42 Utility Scale Wind Turbines.

Part 3 Downtown Central Business District (CBD) Zone

The Downtown Central Business District (CBD) Zone permits a wide range of business uses with little or no development restrictions. In the CBD a building can occupy 100% of the lot area, which results in densely development downtowns; however, this can become problematic when the CBD zone abuts a residential zone. Because of this, a provision should be added to the CBD zone that requires a business to be screened from a property in an abutting residential zone.

It is recommended that screening provisions from an adjacent residential zone be added to the Downtown Central Business District (CBD) Zone.

Part 4 Downtown Sydney Waterfront (DWZ) ZONE

Restaurants serving alcohol beverages is listed as permitted use within the Part 4 Downtown Sydney Waterfront (DWZ) ZONE. The phrase 'serving alcohol beverages' should be removed because the serving of alcohol beverage is considered to be an accessory use to a restaurant and alcohol beverage service establishment is also listed as a permitted use within this zone.

It is recommended that restaurants serving alcohol beverages be replaced with restaurants in Section 1 of Part 4 Downtown Sydney Waterfront (DWZ) ZONE.

Part 5 Arterial Business Corridor (ABC) Zone

The ABC zones permits a range of manufacturing, recreational, residential, sales, service, and transportation uses. The ABC zone identifies that animal shelter and animal sitting establishment are only permitted in areas without municipal water and sewer. It is proposed that a definition of animal sitting establishment be added to the LUB which limits animal sitting to a period less than 24 hours. This definition is in contrast to an animal shelter which permits animals to be kept on site for a period longer than 24 hours. Due to the limited timeframe for an animal sitting establishment and the range of uses within the ABC zone, it would be appropriate for animal sitting establishments to be permitted throughout the ABC zone regardless of municipal servicing.

It is recommended that animal sitting establishment be considered a permitted uses in Part 5 Arterial Business Corridor (ABC) Zone.

Lot parcel development standards within the ABC zone requires a minimum public street frontage of 150ft. While this 150ft public street frontage is not intended to apply to a single unit dwelling or a two unit dwelling within the ABC zone, this intention is not clear; because of this Subsection 2 b. 1 should be amended.

It is recommended that Subsection 2 b.1 of the Arterial Business Corridor zone be amended to state that the minimum 150ft public street frontage does not apply to a single unit dwelling or a two unit dwelling.

Part 6 Boularderie Island Business Corridor (BBC) ZONE

Currently kennels, animal shelter, and animal sitting establishments are not permitted in areas serviced with both municipal water and sewer in the Boularderie Island Business Corridor (BBC) zone. However, there are no areas within the BBC zone that are serviced by both municipal water and sewer.

It is recommended that Part 6 Boularderie Island Business Corridor (BBC) ZONE be amended by deleting 'kennels are not permitted in areas serviced with both Municipal water and sewer' and 'animal shelters, and animal sitting establishments are not permitted in areas serviced with both Municipal water and sewer' from the list of permitted uses.

Part 18 Residential Urban C (RUC) Zone and Part 42 Rural CBRM (RCB-NM) Zone

Both the Residential Urban C (RUC) and the Rural CBRM (RCB-NM) Zones have special provisions for Grand Lake Road/Sydney Road. These provisions recognize existing businesses and properties along the 80km speed limit of Grand Lake Road and Sydney Road. The inclusion of these provisions takes direction from Policy S.b.3 of Part 2 of the Municipal Planning Strategy as well as Part 51 of the LUB. The special provisions for Grand Lake Road and Sydney Road state that no Development Permit shall be issued for a list of uses on lot parcels that are not identified in Part 51 of the LUB. One of those uses is private recreational; however, there is no definition for private recreational use. That being said, the LUB does define recreational business establishment.

It is recommended that private recreational be replaced by recreational business establishment in the Special Provision for Grand Lake Road/Sydney Road Sections of the Residential Urban C (RUC) and Rural CBRM (RCB-NM) Zones of the LUB

Part 18 Residential Urban C (RUC) Zone and Part 19 Residential Urban D (RUD) Zone

The MPS recognizes agricultural livestock operations as an inappropriate type of development in business development zones and higher density residential zones, that being said some of the urban residential zones contain large lot parcels in areas of low density. Because of this, Part 18 Residential Urban C and Part 19 Residential Urban D have provisions regulating agricultural uses. These provisions include setback requirements for new agricultural buildings; however it is not clear if this setback applies to all agricultural buildings or only those buildings housing livestock.

It is recommended that Subsection 4.c. of Part 18 Residential Urban C and Part 19 Residential Urban D be amended to identify a setback for new agricultural buildings used for the purposes of rearing and caring for animals.

Part 24 Apartment Building A (ABA), Part 25 Apartment Building (ABB) Zone, and Part 26 Apartment Building X (ABX) Zone

All of the Urban Residential Zones, with the exception of the Apartment Building A (ABA), Apartment Building B (ABB), and Apartment Building X (ABX) Zone, includes day cares as a permitted use.

It is recommended that day care be added to the list of permitted uses in the ABA, ABB, and ABX zones.

Part 29 Northside Business Park (NBP) Zone

Animal care is listed as a permitted use within the Northside Business Park (NBP) Zone, yet the LUB does not define animal care.

It is recommended that animal care be removed from the permitted uses in NBP zone and replaced with animal (domestic) care facilities.

Part 34 Regional Industrial Utility (IUR) Zone

Part 34 Regional Industrial Utility (IUR) Zone identifies coal retail distribution facilities as a sales use; however, coal retail distribution facilities is a transportation use.

It is recommended that coal retail distribution facilities be deleted from Section 1 of Part 34 Regional Industrial Utility (IUR) Zone.

Part 35 Lingan Corridor Comprehensive Development District (LCD) Zone

Part 35 Lingan Corridor Comprehensive Development District (LCD) Zone identifies amusement park as a service use; however, an amusement park is a recreational use.

It is recommended that amusement park be deleted from Section 2 of Part 35 Lingan Corridor Comprehensive Development District (LCD) Zone.

Part 41 Rural CBRM (RCB) Zone, Part 42 Rural CBRM-NM (RCB-NM) Zone, and Part 43 Rural Gavel Deposit (GDR) Zone

Part 41 Rural CBRM (RCB) Zone, Part 42 Rural CBRM-NM (RCB-NM) Zone, and Part 43 Rural Gavel Deposit (GRD) Zone identify fitness centres as a service use; however, fitness centres are a recreational use.

It is recommended that fitness centre be deleted from Section 1 of Part 41 Rural CBRM (RCB) Zone, Part 42 Rural CBRM-NM (RCB-NM) Zone, and Part 43 Rural Gavel Deposit (GDR) Zone.

Part 46 Louisbourg Highway Parkway 1 (LP1) Zone and Part 47 Louisbourg Highway Parkway 2 (LP2) Zone

Beginning in the very early 1960's, the largest historical reconstruction in Canada began at the site of former French fortress Town of Louisbourg. As part of this investment, the Federal Government partnered with the Province of Nova Scotia to reconstruct the Sydney-Louisbourg Highway into an efficient conveyor of vehicular traffic linking the Fortress directly with the primary regional transportation artery in Cape Breton County.

To ensure this investment in an efficient highway infrastructure would not be squandered by ribbon development, the Province of Nova Scotia proclaimed significant sectors of this Highway as a Parkway. The purpose was to severely limit development, especially business development. The objective was to ensure the efficient and safe movement of traffic to and from the Fortress of Louisbourg National Historic Park for the future. Regulations were put into effect establishing a corridor from the Highway's intersection with the Morrison Road several kilometers north of Albert Bridge all the way to the boundary of the former Town of Louisbourg. The Louisbourg Highway Parkway 1 (LP1) and Louisbourg Highway Parkway 2 (LP2) Zones are intended to mirror these Regulations.

It is recommended that provisions be added to both the Part 46 Louisbourg Highway Parkway 1 (LP1) Zone and Part 47 Louisbourg Highway Parkway 2 (LP2) Zone to reference the fact that there is nothing in the LUB that exempts an applicant from complying with the Provincial Parkway Development Standards Regulations under the *Public Highway Act*.

The minimum building setback from the Louisbourg Highway in the LP1 and LP2 do not match those found in the Parkway Regulation.

It is recommended that Section 2 of Part 46 Louisbourg Highway Parkway 1 (LP1) Zone and Part 47 Louisbourg Highway Parkway 2 (LP2) Zone be amended to match the minimum building setback from the Louisbourg Highway found in the Parkway Regulation.

Part 54 Existing Developments

The LUB acknowledges the legitimacy of a range of sale/service businesses that were in existence prior to its adoption. Part S4 Existing Developments states that any existing development is deemed to be permitted if that development:

- is not included in the Uses Permitted Section of the Zone within which it is located; or
- if it is permitted, only as an optional use;
- or any land use not permitted throughout all Zones as a General Provision (refer to the Sections of Part 2)

This proposed amendment is intended to clarify the second bullet listed above. The intention of this proposed amendment is to ensure that if a use is deemed to be existing as defined by the LUB and it is listed in a zone as an optional use (subject to specific standards), it is still considered to be permitted even if it does not meet those specific standards.

It is recommended that the second bullet of Part 54 Existing Development, Section 1 Land Uses Deemed Permitted be amended to read 'if it is permitted, only as an optional use, and it does not meet the specific conditions referenced in that Zone'.

Part 54 applies to existing buildings; however, the LUB defines existing as from the date of the adoption of the LUB. This definition becomes increasingly problematic as the time since the LUB was adopted continues to increase. Therefore, how existing is defined and applies in Section 1 of Part 54 should be amended. The timeframe to determine existing should be five years less a day for a development. Meaning that at the time an applicant submits a Development Permit Application the development would had to have been in operation within the past 5 years. When it comes to determining existing buildings a six month timeframe is appropriate. This would mean that if a building is demolished it would still be deemed to be existing if the demolition took place less than six months ago. It is the applicant's responsibility to provide evidence or documentation to substantiate the existence of the development or building based on the timeframe listed above. For further clarification the definition for existing in the LUB should be revised.

It is recommended that Part 54 Existing Development, Section 1 Land Uses Deemed Permitted be amended to update the use of the term existing.

Part 89 Definitions

For the purposes of clarification several definitions are proposed to be added or revised to the LUB. It is proposed that definitions for Animal (Domestic) Grooming, Animal Sitting Establishment, Business Vehicle, and Reconstruction be added to the LUB. It is proposed that the following definitions found in the LUB be revised:

Boutique	Existing	Self-storage facility
Boathouse	Derelict motor vehicle	Townhouse
Crop farming	Parking lot	
Entertainment service	Parking space	

To review the definitions in their entirety please see the LUB Amending By-law found in Attachment B.

LUB Zone Map

Arterial Business Corridor (ABC) Zone – Rose Street and Rose Court, Sydney River

Arterial Business Corridor (ABC) Zone north of the railway tracks running parallel to Kings Road, Sydney River, in the vicinity of Rose Street and Rose Court should be replaced with the Residential Urban C (RUC) Zone. The ABC zone permits a range of manufacturing, recreational, residential, sales, service and transportation uses. Manufacturing, recreational, sales, service and transportation uses should not be accessed via unlisted roads. Rose Street and Rose Court are unlisted roads.

It is recommended that the Arterial Business Corridor (ABC) Zone in effect for the area north of the railway track running parallel to Kings Road, Sydney River, in the vicinity of Rose Street and Rose Court should be removed and replaced with the adjacent Residential Urban C (RUC) Zone.

Rural Zones with Municipal Water and Sewer

Overtime, Municipal sewer mains have been extended in areas that have Rural zoning. Areas with Municipal sewer should not be located in a rural zone, but rather an urban residential zone.

It is recommended that area that are Zoned Rural CBRM (RCB), Rural CBRM-NM (RCB-NM), and Rural Gavel Deposit (GRD) that have Municipal sewer mains be replaced with the adjacent Urban Residential Zone.

It is recommended that the lot parcels fronting on Rendell Drive, Little Bras D'Or be rezoned from Rural Residential Subdivision (RR5) to Residential Urban C (RUC).

Phased Residential Subdivisions

As residential subdivisions expand overtime into rural areas the zoning is not always updated.

It is recommended that PIDs 15831688, 15831696, 15831712, and 15831720 found on Patnic Avenue, Mira Road be rezoned from Rural CBRM (RCB) to Residential Urban C (RUC).

It is recommended that PIDs 15867617, 15867625, 15867682, 15867674, 15867666, 15867633, 15867641, 15867658, 15867716, and 15867708 found on Hampton Drive and Hawthorne Court, Sydney River be rezoned from Rural CBRM (RCB) to Rural Residential Subdivision (RR5).

Green Link Trail System Recreation (GLT) Zone

The Green Link Trail was a signature project of the CBRM's Active Transportation Plan which was adopted by Council in 2008. The Green Link Trail System Recreation (GLT) Zone was established to recognize this project. There is a lot parcel east of the dammed part Wentworth Creek in Rotary Pak that should have been included in the GLT zone.

It is recommended that PID 15869308 be rezoned from Residential Urban C (RUC) to Green Link Trail System Recreation (GLT).

Boularderie Island Business Corridor (BBC) Zone

The Boularderie Island Business Corridor (BBC) Zone applies to TransCanada Highway on Boularderie Island from the bridge across the Little Bras D'Or Channel west to its easternmost intersection with Russell Drive. The boundary of the BBC zone has been amendment to comply with lot parcel development requirements.

Public Participation Program

A public participation program was held during the General Committee of Council meeting on May 2nd, 2016. In addition to there being no comments during the public participation program, no written comments were received by the Planning and Development Department.

Recommendation

I recommend Council to schedule a Public Hearing for the June meeting of Council to consider the amendments to the Municipal Planning Strategy and Land Use By-law found in Attachments A and B.

Submitted by:

Originally Signed By

**Karen Neville and Malcolm Gillis
Planning and Development Department**

By-law
of the Cape Breton Regional Municipality
amending the

Cape Breton Regional Municipality's Municipal Planning Strategy

Pursuant to Section 205 of the Municipal Government Act of Nova Scotia, the Council of the Cape Breton Regional Municipality hereby amends the Cape Breton Regional Municipality's Municipal Planning Strategy in the following manner:

THAT: the Section of Part 3, titled "Sydport" is replaced with the following:
Part 3, Policy 19 and its preamble are amended to read as follows:

Novaporte/Sydport/Logistics Park

Three large sites in the communities of Point Edward and Edwardsville on the peninsula which separates the Northwest Arm of Sydney Harbour from its Southeast Arm are designated for business development associated with the Port of Sydney's objective to develop a transshipment and intermodal port facility.

- (1) **Sydport** is located in the community of Edwardsville situated along the western shore of the South Arm of Sydney Harbour directly across the Arm from the Harbourside Commercial Park at the site of the former SYSCO steel plant. It is comprised of approximately 235 acres.
- (2) **Novaporte** is the land assembled by CBRM immediately north of Sydport to be the site of a marine transportation terminal. It is comprised of approximately 325 acres plus a 130 acre water lot currently partially filled with the material from the Harbour dredging project.
- (3) The approximately 1,150 acres assembled for **Logistics Park** were originally acquired by the Agricultural Division of the Cape Breton Development Corporation (a.k.a. DEVCO) for use at their experimental farm. The aspirations of DEVCO'S Agricultural Division never materialized in the way they had hoped. The experimental farm has long since been closed. The assembled lands are currently vested with Public Works Canada about to be conveyed to the Mi'kmaq First Nations (250 acres) and the CBRM (the remainder).

All three sites are designated for Sydney Harbour port related business developments along with general manufacturing, regional services such as warehousing, wholesale distribution, and any utility facilities.

POLICIES

7. It shall be a policy of Council to designate the Sydport, Novaporte, Logistics Park sites for:
 - marine/road/rail related transportation terminus uses;
 - marine industrial uses and any industrial use providing service and fabrication support to offshore business;
 - general manufacturing businesses;
 - regional tertiary service industry facilities (*e.g. wholesale, warehousing, general transport/contracting, fuel oil bulk storage and transmission*); and
 - regional utility service facilities.

- The zone in effect in the Land Use By-law implementing this policy directive shall be titled the Sydney Harbour Port (SHP) Zone.

THAT: Part 2, Policy S.b is amended by revising and dividing the first bulleted statement under the heading that reads “The following recommendations of that study are to be implemented as provisions in the CBRM Land Use Bylaw” into two bulleted statements to read as follows:

- “Minor expansions, or an additional use, and/or a change in use, may be permitted at the sites of existing business developments provided there is no significant increase in traffic volumes generated;
- no new business developments on previously undeveloped sites, or sites unoccupied with business development, shall be permitted, unless the site can be accessed via a signalized intersection;”

PASSED AND ADOPTED: by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on _____.

MAYOR

CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the Amending By-law of the Cape Breton Regional Municipality adopted by Regional Council during a meeting held on _____ to amend the CBRM’s Municipal Planning Strategy.

Deborah Campbell, CLERK

By-law
of the Cape Breton Regional Municipality
amending the
Cape Breton Regional Municipality's
Land Use Bylaw

Pursuant to Section 219 of the Municipal Government Act of Nova Scotia, the Council of the Cape Breton Regional Municipality hereby amends the Cape Breton Regional Municipality's Land Use Bylaw in the following manner:

THAT: Part 30, titled the "Sydport/SYSCO Industrial Parks (SIP) Zone" is amended by replacing the title with a new title called the "Sydney Harbour Port (SHP) Zone" and any reference to its SIP acronym in the text of the Zone and in Part 52, Section 1.4 shall be replaced with the acronym SHP.

THAT: the Land Use Bylaw map is amended by:

- Replacing the Sydport/SYSCO Industrial Parks (SIP) Zone with the Sydney Harbour Port (SHP) Zone; and
- Replacing the Rural Cape Breton (RCB-NM) Zone with the SHP Zone in the area colored red on the map with this amending Bylaw;

THAT: Part 51 is amended by replacing the list of land uses by civic address and PID# and the range of permitted optional uses for each of these sites with the following preamble and list.

Grand Lake Road/Sydney Road 80 kilometer per hour corridor

The business development sites along this corridor are subject to specific policy direction in Policy 5.b.3 of Part 2 of the Municipal Planning Strategy. Consequently, any additions or expansion to existing business developments which either increases the size of main buildings or the area occupied by a land use by more than 25%, or any additional business developments other than seasonal (e.g. agricultural products retail, campground) shall require a Traffic Impact Analysis as well as the Site Plan Approval procedure referenced at the beginning of this Part. The purpose of the Traffic Impact Analysis shall be to ensure the proposed expansion or addition is in compliance with the objective and recommendations of the study referenced in Policy 5.b.3 of Part 2 of the Municipal Planning Strategy.

1. motor vehicle repair/sales	914 Grand Lake Road	PID# 15515885
- accommodations businesses		
- animal (domestic) care facilities		
- artist/artisan		
- arts entertainment studio		
- business office		
- clothes cleaning business		
- heavy equipment depot		
- funeral home		

- fitness center
- motor vehicle related - all other as defined by this Bylaw
- personal service
- private service club
- repair service
- restaurant
- retail other than motor vehicle under 20,000 sq. ft. in total floor area
- self-storage facility
- warehousing
- wholesale

2. Drive-in Theatre 1016 Grand Lake Road PID# 15226913

- accommodations businesses
- animal (domestic) care facilities
- artist/artisan
- arts entertainment studio
- convenience store
- heavy equipment depot
- funeral home
- fitness center
- personal service
- private service club
- repair service
- restaurant
- self-storage facility
- warehousing
- wholesale

3. motor vehicle sales 1098 Grand Lake Road PID# 15568496

- same range of permitted uses for 914 Grand Lake Road

4. heavy equipment depot 1136 Grand Lake Road PID# 15227184

- animal (domestic) care facilities
- artist/artisan
- repair service
- self-storage facility
- warehousing
- wholesale

5. medical supply dealership 1158 Grand Lake Road PID# 15227168

- accommodations businesses
- animal (domestic) care facilities
- artist/artisan
- arts entertainment studio
- business office
- clothes cleaning business
- convenience store
- funeral home

- fitness center
- personal service
- private service club
- repair service
- restaurant
- retail other than motor vehicle under 10,000 sq. ft. in total floor area
- self-storage facility
- warehousing
- wholesale

6. tire sales and motor vehicle repair 1161 Grand Lake Road PID# 15574213

- accommodations businesses
- animal (domestic) care facilities
- artist/artisan
- arts entertainment studio
- business office
- clothes cleaning business
- convenience store
- funeral home
- fitness center
- motor vehicle related as defined by this Bylaw
- personal service
- private service club
- repair service
- restaurant
- retail other than motor vehicle under 10,000 sq. ft. in total floor area
- self-storage facility
- warehousing
- wholesale

7. racetrack for motor vehicles 1162 Grand Lake Road PID# 15227192

- accommodations businesses
- animal (domestic) care facilities
- artist/artisan
- arts entertainment studio
- convenience store
- heavy equipment depot
- funeral home
- fitness center
- motor vehicle related as defined by this Bylaw
- personal service
- private service club
- repair service
- restaurant
- self-storage facility
- warehousing
- wholesale

8. warehousing/courier service (PID # 15050370 & 15228349) 1147 – 1157 Grand Lake Road

- artist/artisan
- arts entertainment studio
- business office
- clothes cleaning business
- heavy equipment depot
- manufacturing assembly
- self-storage facility
- transportation
- warehousing
- wholesale

9. motor vehicle fuel service 1172 Grand Lake Road PID# 15227218

- accommodations businesses
- animal (domestic) care facilities
- artist/artisan
- arts entertainment studio
- business office
- clothes cleaning business
- heavy equipment depot
- funeral home
- fitness center
- motor vehicle related - all other as defined by this Bylaw
- personal service
- private service club
- repair service
- restaurant
- retail other than motor vehicle under 10,000 sq. ft. in total floor area
- self-storage facility
- warehousing
- wholesale

10. motor vehicle sales 1180 Grand Lake Road PID# 15227242

- accommodations businesses
- animal (domestic) care facilities
- artist/artisan
- arts entertainment studio
- business office
- clothes cleaning business
- heavy equipment depot
- funeral home
- fitness center
- motor vehicle related - all other as defined by this Bylaw
- personal service
- private service club
- repair service
- restaurant

- retail other than motor vehicle under 10,000 sq. ft. in total floor area
- self-storage facility
- warehousing
- wholesale

11. bookstore 1200 Grand Lake Road PID# 15560501

- animal (domestic) care facilities
- artist/artisan
- arts entertainment studio
- boutiques
- business office
- convenience stores

12. farm produce sales PID # 15227259 (no civic address)

- animal (domestic) care facilities
- artist/artisan
- arts entertainment studio
- business office
- clothes cleaning business
- funeral home
- fitness center
- personal service
- private service club
- repair service
- restaurant
- retail other than motor vehicle under 10,000 sq. ft. in total floor area
- self-storage facility

13. restaurant/alcohol beverage service establishment/inn 1224 Grand Lake Road PID # 15227275

- accommodations businesses
- animal (domestic) care facilities
- artist/artisan
- arts entertainment studio
- business office
- clothes cleaning business
- funeral home
- fitness center
- personal service
- private service club
- repair service
- restaurant
- retail other than motor vehicle under 20,000 sq. ft. in total floor area
- self-storage facility
- warehousing
- wholesale

14. golf course 1229 Grand Lake Road PID# 15228232

- all recreation outdoor uses except racetracks for motor vehicles

15. cable TV station 1318 Grand Lake Road PID# 15227333

- accommodations businesses
- arts/entertainment studio
- business offices
- medical clinics
- personal service businesses
- restaurants
- scientific establishment

16. garden supply sales 1372 Grand Lake Road PID# 15227408

- accommodations businesses
- animal (domestic) care facilities
- artist/artisan
- arts entertainment studio
- business office
- clothes cleaning business
- funeral home
- fitness center
- personal service
- private service club
- repair service
- restaurant
- retail sales other than motor vehicle under 20,000 sq. ft. in total floor area
- self-storage facility
- warehousing
- wholesale

17. motel 1392 Grand Lake Road PID# 15227424

- accommodations businesses
- arts/entertainment studio
- business offices
- medical clinics
- personal service businesses
- restaurants
- scientific establishment

18. metal fabricator 1615 Grand Lake Road PID# 15227804

- accommodations businesses
- animal (domestic) care facilities
- artist/artisan
- arts entertainment studio
- business office
- clothes cleaning business
- funeral home
- fitness center
- manufacturing assembly

- personal service
- private service club
- repair service
- self-storage facility
- warehousing
- wholesale

19. Self-storage facility and site of former drive-in theatre 1S96/1624 Sydney Road PID #
15688310, 15688302, and 15688294

- accommodations businesses
- animal (domestic) care facilities
- artist/artisan
- arts entertainment studio
- heavy equipment depot
- funeral home
- fitness center
- manufacturing assembly
- personal service
- private service club
- repair service
- restaurant
- self-storage facility
- warehousing
- wholesale

19. motor vehicle sales 1691 Grand Lake Road PID# 1S579626

- accommodations businesses
- animal (domestic) care facilities
- artist/artisan
- arts entertainment studio
- business office
- clothes cleaning business
- heavy equipment depot
- funeral home
- fitness center
- motor vehicle related - all other as defined by this Bylaw
- personal service
- private service club
- repair service
- restaurant
- retail other than motor vehicle under 10,000 sq. ft. in total floor area
- self-storage facility
- warehousing
- wholesale

PASSED AND ADOPTED: by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on _____.

MAYOR

CLERK

THIS IS TO CERTIFY that the above text amendments and Land Use Bylaw map amendments on the next page referencing this amending Bylaw are a true and correct copy of the Amending By-law of the Cape Breton Regional Municipality adopted by Regional Council during a meeting held on _____ to amend the Cape Breton Regional Municipality's Land Use By-law.

Deborah Campbell, CLERK

By-law of the Cape Breton Regional Municipality

amending the

Cape Breton Regional Municipality's Land Use Bylaw

Pursuant to Section 210 of the Municipal Government Act of Nova Scotia, the Council of the Cape Breton Regional Municipality hereby amends the text of the Cape Breton Regional Municipality's Land Use By-law in the following manner:

THAT: Part 2 General Provisions For All Zones, Section 1 Accessory Building of the Land Use Bylaw is hereby deleted and replaced with the following:

All Accessory Buildings

- a. Accessory uses and buildings shall be permitted in any Zone within the jurisdiction of this Bylaw. Subject to:
 1. More than one accessory building shall be permitted per lot parcel;
 2. An accessory building shall not also meet the definition of dwelling unit; and
 3. An accessory building shall be in compliance with the minimum required main building setback from a public street/road;
- b. For the purposes of this section, a service lane shall not be considered a public street/road.
- c. The minimum setback a detached accessory building shall maintain from any lot parcel boundary, other than a boundary shared with a public street/road, is 2 feet, except if the floor area of the accessory building exceeds 1,000 sq. ft., or its height exceeds 12 feet, in which case it shall be in compliance with the setbacks for the main building. For the purposes of this Section, an accessory building attached to a main building must comply with the setbacks for a main building.
- d. Notwithstanding anything else in this Bylaw, detached accessory buildings with a floor area of 100 sq. ft. or less, drop awnings, clothes poles, flag poles, garden trellises, signs, fences and retaining walls shall be exempted from any requirements of this Section and the requirement for a Development Permit; however, accessory building less than 100 sq. ft will be used to calculate the total floor area referenced in Subsection f.2.
- e. Notwithstanding subsection c., where an accessory building is constructed on a common boundary, the applicable yard setback will be zero along the common lot line provided that:
 1. there is a main use or structure on each lot parcel;
 2. the provisions of the CBRM Building Bylaw and the Provincial and National Building Codes are met; and
 3. all other applicable provisions of this Bylaw are met.

Residential

- f. In addition to those provisions listed above, an accessory building to a residential use:
1. shall not be originally a motor vehicle, a mobile home, a construction trailer, bulk shipping containers, a trailer from a semi-trailer (a.k.a. 18-wheeler), or similar prefabricated structure converted for such purposes, unless the conversion incorporates more than one of these structures as construction materials in the design of the residential accessory building prepared by an architect;
 2. the total floor area of a detached accessory building to a residential use shall not exceed the greater of 576 sq. ft. in total area or 10% of the lot parcel area, except for a swimming pool, or a residential accessory building in a Zone with the word "Industrial" in its title. The dimensions of all detached accessory buildings, even those 100 sq. ft or less, will be used to calculate the total floor area;
 3. an accessory building attached to a dwelling shall be considered part of the dwelling for purposes of this Section and shall be used to calculate maximum lot parcel coverage; and.
 4. shall not exceed 300ft² when it is accessory to a traveler trailer.

THAT: Part 2 General Provisions For All Zones, Section 6 Conversion of former community or educational service building of the Land Use Bylaw is hereby deleted and replaced with the following:

Section 6 Conversion of former community, educational service or municipal building

a. The conversion of a former community, educational service or municipal building into any combination of the uses listed below by site plan approval (pursuant to Sections 231 and 232 of the Municipal Government Act) shall be permitted in any zone where the uses themselves are not included in the list of uses permitted.

- apartment buildings
- artist/artisan establishment
- arts/entertainment studio
- business hall
- business office
- clothes cleaning business
- day care facility
- dwelling units within a mixed use building
- funeral home
- hotel
- indoor recreational business establishment
- medical clinic
- personal service business
- repair service
- scientific establishment
- townhouse
- tourist information center

b. The Development Officer shall approve a site plan where the following matters have been addressed. The Development Officer shall measure the degree of stringency in interpreting the

criteria so that it correlates with the scale of the development and each and every feature of the development (e.g. buildings, parking area etc.), and the proximity of the development, or any specific feature of it, to any other development or streetscape intended to be protected by the criteria.

- Utility structures and the parking spaces of a new parking area to be constructed shall be screened from a public street/road and any single detached dwellings to soften their starkness by a combination of vegetation and fencing. Where there is land available, landscaping that meets the definition of landscaped open space in this Bylaw, or fencing improvements, shall be introduced between existing parking spaces and any abutting yard on an adjacent property occupied by a residential use to soften the starkness of the parking spaces from that yard.
- All existing significant vegetation shall be retained except where its removal is necessary for the construction of the development.
- Signs advertising the business shall be of a scale and style and so located that they will not conflict with the streetscape.

c. To facilitate the inclusion of additions demanded by other regulations or by-laws, and/or design improvements volunteered by the conversion proponent, for purposes of interpreting this Section, the construction work involved in the conversion may include an addition no greater than 5% of the floor area of the building.

THAT: Part 2 General Provisions For All Zones, Section 9 Existing Buildings and Non-compliance with Lot Parcel Development Requirements – *Repair, Reconstruction and Additions* is hereby amended by deleting the third bullets and replacing it with the following:

- lot parcel area;

THAT: Part 2 General Provisions For All Zones, Section 16 Frontage on a Public street/road Subsection b. 4. Is hereby deleted and replaced with the following:

a development permit may also be issued on a lot parcel to be serviced by a Municipal sewer main, which only fronts along an unlisted road maintained by the Municipality for which confirmation is received from the Engineering Department of the Municipality; or

THAT: Part 2 General Provisions For All Zones, Section 17 Home Business Subsection b.4 of the Land Use Bylaw is hereby deleted and replaced with the following:

Unless the business is a bed & breakfast accommodation or boarding home,

- i. the floor area devoted to a home business in a dwelling unit shall not exceed the lesser of 25% of the floor area of the dwelling unit or 50m² (538ft²); or
- ii. the floor area devoted to a home business in an accessory building shall not exceed the lesser of 50% of the floor area of the accessory building or 50m² (538ft²).

THAT: Part 2 General Provisions For All Zones, Section 17 Home Business Subsection b. of the Land Use Bylaw is hereby amended by adding the following:

12. No more than two business vehicles associated with the home business shall be kept on, or be dispatched from the residential lot where the home business is located.
13. The business vehicles permitted under 12 may display the name, address, telephone number and occupation, profession or trade of the proprietor of the home business, but this information shall not be illuminated;
14. An animal (domestic) grooming business operated as a home business does not include animal sitting.

THAT: Part 2 General Provisions For All Zones, Section 18 Irregular, or Flag-Shaped Lot Parcel of the Land Use Bylaw is hereby deleted and replaced with the following:

Unless there is a specific provision for a land use in the text of a particular zone, in the case of irregular, or flag, shaped lot parcels, the minimum lot parcel public street/road frontages set out in this By-law shall apply at the exterior wall of the main building closest to the public street/road boundary, provided that:

- a. all lot parcels shall have a minimum of width and a minimum length of at least 20 feet (6.1 metres);
- b. Any additional lot parcel boundaries other than the public street/road boundary and the rear lot parcel boundary shall be deemed a side lot line and the setbacks required from side lot lines shall prevail; and
- c. all other applicable provisions in this By-law are satisfied.

THAT: Part 2 General Provisions, Section 19 Lot Parcel Development Requirements of the Land Use Bylaw is hereby amended by replacing the text following the * with the following:

For a semi-detached dwelling, townhouse, apartments, recreational building, accessory building, or any service or sales establishment, the yard setback is waived where there is either:

- a common wall connecting the same type of land use; or
- a pedway connecting two buildings;

if the property boundary is either along the common wall or through the pedway, provided all other provisions of this Bylaw and the provisions of the CBRM Bylaw, Provincial and National Building Code are met.

THAT: Part 2 General Provisions For All Zones, Section 29 Parking Area Standards of the Land Use Bylaw is hereby amended by deleting the second bullet of Subsection c.9 and replacing it with the following:

- * excepting buildings which meet the definition of existing in this By-law,

THAT: Part 2 General Provisions For All Zones, Section 29 Parking Area Standards, Subsection d.3 of the Land Use Bylaw is hereby amended by adding the following:

The requirement for a driveway to be setback 3ft from a lot parcel boundary does not apply to residential development.

THAT: Part 2 General Provisions For All Zones, Section 30 Parking Requirements According to Land Use Type of the Land Use Bylaw is hereby amended by deleting the introductory text and replacing it with the following:

For every building or structure to be erected or enlarged or change of use, the off-public street/road parking area shall be located on the same lot parcel and within a zone permitting the use and having unobstructed independent access to a public street/road shall be provided and maintained in conformity with the following schedule excepting:

- where specific parking requirements are established in the text of the zone in effect;
- where parking is not required for the use in the zone in effect;
- where on public street/road curbside parking is permitted by the Traffic Authority, in which case the number of parking spaces available directly in front of the lot parcel on which the development is taking place may be included in the calculation;
- where there is incontrovertible evidence an existing development was originally established when on-site parking requirements were not in effect, and an expansion is proposed, compliance with the parking standards below shall only be imposed on the expansion; or
- where the lot parcel is on an island that is not serviced by a public street/road and access can only be attained by means of a navigable waterway.

THAT: Part 2 General Provisions For All Zones, Section 31 Parking of Motor Vehicles Owned by a Business Development of the Land Use Bylaw is hereby deleted and replaced with the following:

- a. Unless the type of business is a permitted use within the zone, no motor vehicle associated with a business development shall be kept in a zone except for one vehicle with a total of no more than two axles, one of which is the front axle (e.g. this excludes the trailer from a semi-trailer truck colloquially known as an 18-wheeler), which is used by the owner or occupant of the lot parcel and does not include a refrigeration unit or other noise producing equipment.
- b. No more than two business vehicles associated with the home business shall be kept on, or be dispatched from the residential lot where the home business is located.

THAT: Part 2 General Provisions For All Zones, Section 42 Utility Scale Wind Turbines of the Land Use Bylaw is hereby amended by deleting the following:

The address is:

Real Property Officer – S90
CFB Halifax
P.O. Box 99000, Stn. Forces
Halifax, N.S. B3K SX5

THAT: Part 3 Downtown Central Business District (CBD) ZONE of the Land Use By-law is hereby amended by adding the following:

Section 14 Screening Provision adjacent Residential Zones

Any:

- new construction of a business development or its accessory parking area; or
- expansion of an existing business development including buildings and/or parking area on a parcel of land:
 - a. abutting a parcel of land occupied by a residential development; or

- b. on the directly opposite side of a Level S public street/road from a lot parcel with a residential development ;

where scenario “a” or “b” is within a zone with the word “Residential” in it, shall be screened (as defined in the Definitions Part of this By-law) from the residential property unless all aspects of the business development are more than 100 feet from the boundary of either the abutting residential lot parcel, or the residential lot parcel directly across the public street/road.

THAT: Part 4 Downtown Sydney Waterfront (DWZ) ZONE, Section 1 DWZ Uses Permitted of the Land Use By-law is hereby amended by deleting the restaurants serving alcohol beverages and replacing it with restaurants.

THAT: Part S Arterial Business Corridor (ABC) ZONE, Section 1 ABC Uses Permitted of the Land Use By-law is hereby amended by deleting Animal sitting.

THAT: Part S Arterial Business Corridor (ABC) ZONE, Section 2 ABC Lot Parcel Development Requirements, Subsection b. Conversions and New Construction of the Land Use By-law is hereby amended by deleting Subsection b.1 and replacing it with the following:

1. The 150 foot minimum public street/road frontage provision is in effect for the following types of development if any driveway access is to be provided to the public streets/roads listed at the end of this Section:

- the conversion* of existing residential buildings into an apartment building or any other non-residential use; or
- the construction of any new main buildings, with the exception of a one single unit dwelling and one two-unit dwelling, unless it is the reconstruction of an existing building in compliance with the relevant general provision; or
- the establishment of any new business development land use (e.g. car sales lot, paid parking lot); and
- the expansion of any other non-residential use, except very minor extensions to comply with Building Code, Fire Code and building accessibility improvements.

* For purposes of this Section, when used to describe a change in the scale of a non-residential use within a multi-use building where the main use is residential, the word “conversion” shall mean when a non-residential use will exceed the floor area devoted to the residential use.

THAT: Part 6 Boularderie Island Business Corridor (BBC) ZONE, Section 1 BBC Uses Permitted of the Land Use By-law is hereby amended by deleting the following:

kennels are not permitted in areas serviced with both Municipal water and sewer

THAT: Part 6 Boularderie Island Business Corridor (BBC) ZONE, Section 1 BBC Uses Permitted of the Land Use By-law is hereby amended by deleting the following:

animal shelters, and animal sitting establishments are not permitted in areas serviced with both Municipal water and sewer

THAT: Part 18 Residential Urban C (RUC) Zone, Section 7 Special Provisions for Grand Lake Road/Sydney Road of the Land Use By-law is hereby amended by deleting private recreational and replacing it with recreational business establishment.

THAT: Part 18 Residential Urban C (RUC) Zone, Section 4 Agriculture of the Land Use By-law is hereby amended by deleting Subsection c. and replacing it with the following:

New agricultural buildings for the purposes of rearing and caring for animals as agriculture is defined in this By-law located within 200 feet from any dwelling other than a dwelling occupied by the owner of the agricultural building shall be setback a minimum of 50 feet from any lot parcel boundary.

THAT: Part 19 Residential Urban D (RUD) Zone, Section 4 Agriculture of the Land Use By-law is hereby amended by deleting Subsection c. and replacing it with the following:

New agricultural buildings for the purposes of rearing and caring for animals as agriculture is defined in this By-law located within 200 feet from any dwelling other than a dwelling occupied by the owner of the agricultural building shall be setback a minimum of 50 feet from any lot parcel boundary.

THAT: Part 24 Apartment Building A (ABA) Zone, Section 1 ABA Uses Permitted of the Land Use By-law is hereby amended by adding the following:

- **service - only the following**
 - day care

THAT: Part 25 Apartment Building B (ABB) Zone, Section 1 ABB Uses Permitted of the Land Use By-law is hereby amended by adding the following:

- **service - only the following**
 - day care

THAT: Part 26 Apartment Building X (ABX) Zone, Section 1 ABX Uses Permitted of the Land Use By-law is hereby amended by adding the following:

- **service - only the following**
 - day care

THAT: Part 29 Northside Business Park (NBP) Zone, Section 1 NBP Uses Permitted of the Land Use By-law is hereby amended by deleting animal care and replacing it with animal (domestic) care facilities.

THAT: Part 34 Regional Industrial Utility (IUR) Zone, Section 1 IUR Uses Permitted of the Land Use By-law is hereby amended by deleting coal retail distribution facilities.

THAT: Part 35 Langan Corridor Comprehensive Development District (LCD) Zone, Section 2 LCD Uses Permitted by Development Agreement of the Land Use By-law is hereby amended by deleting amusement park.

THAT: Part 41 Rural CBRM (RCB) Zone, Section 1 RCB Uses Permitted of the Land Use By-law is hereby amended by deleting fitness centers.

THAT: Part 42 Rural CBRM (RCB-NM) Zone, Section 1 RCB-NM Uses Permitted of the Land Use By-law is hereby amended by deleting fitness centers.

THAT: Part 42 Rural CBRM (RCB-NM) Zone, Section 10 Special Provisions for Grand Lake Road/Sydney Road of the Land Use By-law is hereby amended by deleting private recreational and replacing it with recreational business establishment.

THAT: Part 43 Rural Gravel Deposit (GDR) Zone, Section 1 GDR Uses Permitted of the Land Use By-law is hereby amended by deleting fitness centers.

THAT: Part 46 Louisbourg Highway Parkway 1 (LP1) Zone, Section 2 LP1 Lot Parcel Development Requirements of the Land Use By-law is hereby deleted and replaced with the following:

The lot parcel development requirements for all permitted uses in the LP1 Zone are as follows:

MINIMUM LOT PARCEL AREA	2 ACRES
MINIMUM PUBLIC STREET/ROAD FRONTAGE	275 feet
Minimum building setback from Louisbourg Highway	125 feet
Minimum building setback from all other lot parcel boundaries	Campgrounds = 50 feet All other developments = 6 feet

THAT: Part 46 Louisbourg Highway Parkway 1 (LP1) Zone of the Land Use By-law is hereby amended by adding the following:

Section 5 Provincial Parkway Development Standards Regulations

Nothing in this Part shall exempt any person from complying with the Provincial Parkway Development Standards Regulations under the *Public Highway Act*.

THAT: Part 47 Louisbourg Highway Parkway 2 (LP2) Zone, Section 2 LP2 Lot Parcel Development Requirements of the Land Use By-law is hereby deleted and replaced with the following:

The lot parcel development requirements for all permitted uses in the LP2 Zone are as follows:

MINIMUM LOT PARCEL AREA	2 ACRES
MINIMUM PUBLIC STREET/ROAD FRONTAGE	400 feet
Minimum building setback from Louisbourg Highway	125 feet
Minimum building setback from all other lot parcel boundaries	20 feet 100 feet from a waterbody

THAT: Part 47 Louisbourg Highway Parkway 2 (LP2) Zone of the Land Use By-law is hereby amended by adding the following:

Section 5 Provincial Parkway Development Standards Regulations

Nothing in this Part shall exempt any person from complying the Provincial Parkway Development Standards Regulations under the *Public Highway Act*.

THAT: Part 54 Existing Development, Section 1 Land Uses Deemed Permitted of the Land Use By-law is hereby deleted and replaced with the following:

Section 1 Land Uses Deemed Permitted

Pursuant to Policy 14 of Part 2 in the Municipal Planning Strategy, any existing development that:

- is not included in the Uses Permitted Section of the Zone within which it is located; or
- if it is permitted, only as an optional use, and it does not meet the specific conditions referenced in that Zone;
- or any land use not permitted throughout all Zones as a General Provision (refer to the Sections of Part 2)

is deemed to be a permitted use subject to:

- the provisions of any relevant section of the General Provisions Part; and
- any other relevant section of the Zone in effect;

provided it meets the test of legitimacy based on the following criteria:

- the assessment category is consistent with the development alleged;
- it is meets the test of existing as defined by this By-law and used in this Part*; and
- it is not included in the list in Section 2 of this Part identifying developments that are not to be deemed permitted uses.

* Existing as it is used in this Part means as defined in the By-law. It is the applicant's responsibility to provide evidence or documentation to substantiate the existence of the development or building based on the timeframe listed above.

Any existing development deemed to be a permitted use subject to the criteria above may also be:

- expanded;
- changed to a similar use; or
- changed to a comparatively innocuous use.

Any expansion to the existing use, or a change in use that also includes an expansion, shall be subject to the Site Plan Approval provisions below, unless the expansion proposed will equal less than a 10% increase in the floor area. Any change to a similar use, or to a comparatively innocuous use shall not be subject to the Site Plan Approval provisions below if no expansion is proposed. However, any existing development deemed not to be a permitted use according to the Table in the following Section may only be changed to a relatively innocuous use subject to the Site Plan Approval provisions below. The Development Officer shall measure the degree of stringency in interpreting the criteria so that it correlates with the scale of the development to be changed or the scale of an expansion. In other words, the larger the development proposed to be changed, and/or the greater the scale of the expansion, the more stringent the criteria should be interpreted.

As well, the Zone on the Land Use By-law Map for each of these sites subject to this Part is also in effect.

Site Plan Approval provisions

- a. Any new or expanded parking area and utility structures shall be screened from any dwellings on adjacent lot parcels or lot parcels directly across the public street/road to soften their starkness by a combination of vegetation types (e.g. groundcover, bushes, shrubs, hedges or trees) and/or vegetation and fencing. If fencing is used, it must be a type of fence that would complement the streetscape and not be a stark and imposing structure.
- b. All existing significant vegetation shall be retained except where its removal is necessary for the construction, or expansion of the development.
- c. Measures, including lot parcel grading, shall be required to adequately dispose of storm and surface water.
- d. Any new or expanded buildings shall be so located on the lot parcel to lessen the impact on dwellings on an adjacent lot parcel.
- e. Signs advertising the business shall be of a scale and style and so located that they will not conflict with the streetscape.
- f. Ingress and egress points where the parking area is to be accessed from any public/street/road shall be designed to ensure that any known significant traffic problem identified by the Traffic Authority is not further exacerbated.
- g. Landscaping measures shall be incorporated to blend the site plan into the immediately surrounding streetscape.

In determining if any change in use is similar, the Definitions Part of this By-law should be referred to.

In determining if any change in use is relatively innocuous in comparison to the use to be replaced, the following criteria should be used.

A change in use is not relatively innocuous if the following describe what is proposed:

- an increase in the scale
- an increase in traffic generated
- introducing outdoor storage or display or an increase in the area used as outdoor storage or display
- introducing noise generating equipment or an increase in the use of noise generating equipment.

Measures that could be taken to make a change in use relatively innocuous in comparison to the former business development:

- improvements to the façade of any main buildings
- improvements to the front yard of the lot parcel affected
- a reduction in the scale
- a reduction in traffic generated
- introducing landscaping into the site plan or expansion of the landscaped area of the lot parcel affected

- eliminating outdoor storage or display, or a reduction in the area used as outdoor storage or display
- introducing or improving screening provisions to mollify the effect of potentially obnoxious aspects of the development that previously existed
- eliminating noise generating equipment or a reduction in the use of noise generating equipment.

THAT: Part 89 Definitions of the Land Use Bylaw is hereby amended by adding the following:

Animal (Domestic) Grooming means an indoor establishment where domestic animals are bathed, clipped, or combed for the purpose of enhancing their appearance or health, and for which a fee is charged, but does not include overnight accommodations, animal sitting, the breeding of animals, a veterinary clinic, or a kennel.

Animal Sitting Establishment means an indoor facility designed for the care of domestic animals for less than 24 hours, and includes such services as obedience classes, training and grooming but does not include overnight accommodations.

Business Vehicle means any vehicle which is licensed as a commercial carrier as determined by the Registrar of Motor Vehicles or any vehicle designed, maintained, or used primarily for the transportation of property and persons associated with a business, and includes but is not limited to a truck, a bus, delivery van or wagon, tractor, truck tractor and/or trailer, heavy equipment, construction equipment, but does not include a private passenger vehicle.

Reconstruction means the replacement of a former building with a building with the exact floor area or less.

THAT: Part 89 Definitions of the Land Use Bylaw is hereby amended by deleting crop farming from the definition of Agriculture and replacing it with the following:

crop farming means an agricultural operation in which the primary function is the growing and harvesting of vegetables, fruits, berries, nuts, sods, or other similar products.

THAT: Part 89 Definitions of the Land Use Bylaw is hereby amended by deleting Boutique and replacing it with the following:

Boutique means a retail store specializing in the sale of a limited variety of dry goods, crafts, clothing and other small scale items, but does not include items associated with motor vehicles, with a floor area less than 200 sq. meters.

THAT: Part 89 Definitions of the Land Use Bylaw is hereby amended by deleting Boathouse and replacing it with the following:

Boathouse means a personal private recreational building erected on, or very near to, the shore of a navigable body of water used which does not contain a toilet, shower room or kitchen facilities and which is used for the shelter or storage of boats, watercraft and associated marine accessories and equipment, but not for the accommodation of persons or animals, or for commercial purposed and does not include a garage.

THAT: Part 89 Definitions of the Land Use Bylaw is hereby amended by deleting Entertainment service and replacing it with the following:

Entertainment service means a business facility providing amusements and diversions such as movie theatres and arcades.

THAT: Part 89 Definitions of the Land Use Bylaw is hereby amended by deleting Existing and replacing it with the following:

Existing means a development that was in operation five years less a day and/or a building that was present six months less a day prior to the date an application for a Development Permit was submitted, unless:

- a specific statement in the By-law defines it in another manner for purposes of interpreting that statement ; or
- the Land Use By-law map is referenced in which case the present date is applicable.

THAT: Part 89 Definitions of the Land Use Bylaw is hereby amended by deleting Derelict motor vehicle and replacing it with the following:

Derelict motor vehicle means a motor vehicle that is not on display on the business property of a licenced car dealership without:

- a valid Province of Nova Scotia Vehicle Permit; and
- a valid safety inspection sticker.

THAT: Part 89 Definitions of the Land Use Bylaw is hereby amended by deleting Parking lot and replacing it with the following:

Parking lot means a vehicular parking area or parking structure which is a principal or main service use of a lot parcel. If the use of a motor vehicle parking area meets the test of a heavy equipment depot as defined by the By-law it is not a parking lot.

THAT: Part 89 Definitions of the Land Use Bylaw is hereby amended by deleting Parking Space and replacing it with the following:

Parking space means an area of not less than 180 sq.ft. measuring 9 feet by 20 feet, exclusive of driveways, aisles, or ramps, provided for the purpose of storing or parking one vehicle for purposes other than for the display or offering for sale of such vehicle, and which has adequate access to permit ingress and egress of a motor vehicle to and from a public street/road by means of driveways, aisles or maneuvering areas.

THAT: Part 89 Definitions of the Land Use Bylaw is hereby amended by deleting Self-storage facility and replacing it with the following:

Self-storage facility means a service offering space to store personal goods and materials and shall include both commercial and personal self-storage facilities.

- Commercial self-storage facility means an establishment renting individual storage units for the storage of personal goods and materials
- Personal self-storage facility means a building to store personal items in which no business, occupation, or service may be allowed to operate

THAT: Part 89 Definitions of the Land Use Bylaw is hereby amended by deleting Townhouse and replacing it with the following:

Townhouse means a residential building which is divided vertically by a common wall into three or more side by side dwelling units, each of which has a dedicated exterior entrance.

THAT: The Land Use Bylaw map is hereby amended by deleting and replaced with the Schedule A.

PASSED AND ADOPTED: by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on _____.

MAYOR

CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the Land Use Bylaw amendment Amending By-law of the Cape Breton Regional Municipality adopted by Regional Council during a meeting held on _____ to amend the Cape Breton Regional Municipality's Land Use By-law.

Deborah Campbell, CLERK

Approval to Advertise - Zoning Amendment Application #1025 - Bruce Marsh, 17 Point Aconi Road, Bras d'Or (PID 15299936)

Motion:

Moved by Councillor Prince, seconded by Councillor Rowe, that a recommendation be made to Council for approval to advertise notice of a Public Hearing to be held at the June 2016 meeting of Council to consider an amendment to the Land Use By-law to permit the storage of recreational vehicles on PID 15299936, 17 Point Aconi Road, Bras d'Or, Case #1025.

Motion Carried.



TO: CBRM Council

FROM: Karen Neville

**SUBJECT: ZONING AMENDMENT APPLICATION – 1025
Bruce Marsh
17 Point Aconi Road, Bras d’Or
(PID 15299936)**

DATE: May 10, 2016

Introduction

The Planning and Development Department has received a zone amendment application from Bruce Marsh for 17 Point Aconi Road, Bras d’Or (PID 15299936) [Attachment A]. Mr. Marsh operates Cape Breton Trailer Sales located at 1663 Highway 105 (i.e. the Trans-Canada Highway) and he would like approval to store some of his recreational vehicle inventory associated with Cape Breton Trailer Sales on PID 15299936. The proposed development would not require the construction of a building and no sales, repair, or servicing of the recreational vehicles will take place on the property. The proposed storage area would be located approximately 100 ft southwest of the brook on the property and would run the width of the property (Attachment A).

Why a zoning amendment is necessary for this development

The property is zoned Rural CBRM (RCB). The RCB does permit outdoor storage, but outdoor storage must be associated with a main use. In this case, the main use on the property is a single unit dwelling, and the outdoor storage of recreational vehicle would not be considered accessory to a single unit dwelling; as a result, Mr. Marsh is requesting the zoning on the property be amended.

The Authority to consider this application

Part 2, Policy 17e. of the Municipal Planning Strategy (MP5) indicates Council may consider a zone amendment to permit business developments throughout rural CBRM. In this case, the property is located in a rural zone, and therefore the request is in keeping with the MPS. When considering a zone amendment the MP5 states that a site specific/use specific zone should be created that ensures the site itself, the site plan, and management of the business development will mitigate any adverse effects on low density residential development in the vicinity. There are four criteria from the MPS that must be considered:

1. Visual Compatibility

The property in question has a single unit dwelling, garage, and storage building and the rear portion of the property is cultivated to grow hay which is harvested annually. The proposed storage area will be located in an open field approximately 100 ft. southwest of the brook on the property and would run the width of the property (Attachment A).

While there is a range of sales and service uses along Highway 105, the properties only Point Aconi Road are predominantly low density rural residential development. There are eight single unit dwellings in close proximity to the proposed storage area (Attachment A). Despite the fact the property does have a tree line along some of its boundaries, the proposed storage area will be visual from some of the neighbouring residential dwellings. Given the size of the recreational vehicles and the storage area itself, it would be difficult to screen the proposed storage area. Therefore it could be argued the storage of recreational vehicles on this site is not visually compatible with the surrounding landscape.

2. Dust or Fumes Emanating from the Site

The driveway leading to the proposed storage area will be a combination of dirt and gravel. The proposed storage area will remain grass covered. Depending on how frequently the recreational vehicles are coming and going from the site dust could be an issue. If the driveway was surfaced with a hard surface, this problem would be eliminated, but that is an expensive capital investment. There is no reason to believe that fumes emanating from the site would be a problem.

3. Traffic attracted to, and leading from, the site

The proposed storage area will not be accessed by customers, the frequency of traffic to and from this site will be associated with transporting the recreational vehicles. The Department Transportation and Infrastructure Renewal has no objections to utilizing the existing access.

4. Noise emanating from the development

The noise associated delivery and removal of recreational vehicles on the site is not believed to a problem.

The lack of visual compatibility of the proposed development is a justifiable reason according MPS policy to reject this zoning amendment application. However, if there is no one from the neighbourhood expressing concerns, approving it could also be defended. A site specific, use specific zone would be created to regulate this development if Council approves this zone amendment.

Recommendation

Staff is not convinced that granting a zoning amendment to permit the outdoor storage of recreational vehicles on PID 15299936 is in the best interest of this neighbourhood primarily because of above referenced criteria 1. Staff is prepared to recommend that proponents and the neighbouring residents have the opportunity to be heard by Council at a Public Hearing. If Council decides to approve this zone amendment a site specific, use specific zone would be created to regulate this development.

Submitted by:

Originally Signed by

Karen Neville

Planning and Development Department

A

Proposed Location

PID 15299936

Single Unit Dwelling

Highway 105

Point Aconi Road

**Public Participation Program Request - Necessary Municipal Planning Strategy
Amendment – New Waterford Home Hardware to Former Frank Ongo School Case #1026:**

Motion:

Moved by Councillor Cormier, seconded by Councillor MacLeod, that a recommendation be made to Council to adopt, by Resolution, a Public Participation Program to consist of a Public Meeting in the neighbourhood of New Waterford where the Home Hardware store and former school are located, to put forward this development proposal to the neighbourhood, and to explain how Planning Strategy policy and the Land Use Bylaw provisions could be revised to regulate the conversion of public school buildings and buildings associated with religious institutions, into retail stores.

Discussion:

The Director of Planning clarified that the intent of the proposed policy is to not introduce changes that will allow for significantly large retail establishments to occupy former public school buildings and buildings associated with religion as many are located within residential neighbourhoods. He further clarified that the request is specific to the Frank Ongo building.

Motion Carried.



TO: CBRM Council

FROM: Malcolm Gillis

**SUBJECT: NECESSARY MUNICIPAL PLANNING
STRATEGY AMENDMENT NEW WATERFORD
HOME HARDWARE TO FORMER FRANK
ANGOT SCHOOL –case 1026**

DATE: April 25th, 2016

St. Agnes elementary is one of the public schools the Cape Breton District School Board has decided to close at the end of this school year that will be the responsibility of the CBRM. The reason CBRM inherits these public school buildings is explained in Karen Neville's issue paper on public school closures. It is comprised of a complex of two buildings. One of them, the Frank Angot building, is at 3657 Ellsworth Avenue in New Waterford.

Home Hardware operates the only remaining hardware store in New Waterford. It is located in an old building which is undersized to display and store their merchandise. It is located at 3610 Ellsworth Avenue (i.e. just down the Avenue from the school). The owners have had renovation and expansion plans for a couple of years. They even asked the CBRM to convey part of Colliery Lands Park to facilitate their expansion. Rather than continue on with their frustrated expansion plans they have now asked the CBRM if it would convey the Frank Angot building and the property encompassing it to allow them to re-locate their business up the Street in a larger, newer building on a larger lot parcel.

CBRM has a specific policy regarding the conversion of public school buildings and buildings associated with religious institutions for two reasons. A great many of these buildings are closing being their original use is no longer feasible and they are generally located within urban residential neighbourhoods where the development options are very limited. These abandoned buildings can be converted into a wide range of optional uses that normally would not be permitted in the neighbourhoods they are located in. Because of this policy and the way it is implemented in the Land Use Bylaw, former schools, churches, church halls have been successfully converted into apartment buildings, inns and service business complex. However, this policy does not permit their conversion into retail stores.

If this proposal is to happen CBRM must change this above referenced land use policy. Staff believes the unique circumstances in New Waterford justify at least consideration of an amendment that would allow this to happen. We have the last hardware store in the community just down the Street from a closing school which wants to occupy the former school building (a much newer and larger building than the one they presently occupy).

Recommendation:

Staff recommends that Council give Planning Department staff and local Councillor Lowell Cormier permission to conduct a Public Participation Program to consist of a public meeting in the neighbourhood of New Waterford where the Home Hardware store and former school are located. The purpose of the Public Participation Program would be to put forth this development proposal to the neighbourhood and to explain how Planning Strategy policy and the Land Use Bylaw provisions could be revised to regulate it.

Submitted by:

ORIGINAL SIGNED BY

Malcolm Gillis
Planning and Development Department

The Southend Community Development Association – Request for CBRM Land:

Motion:

Moved by Councillor Detheridge, seconded by Councillor MacLeod, directing staff to prepare an Issue Paper regarding the request made by the Southend Community Center Development Association, which included:

- CBRM to declare lands presently owned by CBRM off Welton Street, Sydney PID # 15126667, surplus to the needs of the municipality;
- To offer the sale of said lands for the sum of \$1.00 to the Southend Community Development Association to be used for a proposed seniors affordable housing community development;
- That a covenant be placed upon the sale which will result in the lands being returned to the CBRM in the event the project does not take place.

Motion Carried.



TO: Council

FROM: Karen Neville

**SUBJECT: Request to Purchase CBRM Land
PIDs 15126667 and 15548407, Welton
Street, Sydney**

DATE: May 9th, 2016

Introduction

The Southend Community Development Association is interested in acquiring CBRM property for the sum of \$1.00 (Attachment A). The property in question (PIDs 15126667 and 15548407) is the site of the Sydney Minor Baseball League baseball fields fronting on Welton Street, Sydney (Attachment B). The applicant is proposing to utilize the site for a senior housing development consisting of nine single storey four unit buildings, a community recreation buildings, and a three storey apartment building with commercial sites on the main floor (Attachment C).

Property

PIDs 15126667 and 15548407 are approximately 6.2 acres (2.5 hectares) in total and contains three baseball fields and a playground. The Sydney Minor Baseball League has a twenty year lease with the CBRM to use this site as a recreational site and ballfield, which expires on June 1, 2016. On February 4, 2016, the Sydney Minor Baseball League made a motion to turn all authority of the league and its operation as well as transfers all of the lands presently under lease from the CBRM to the Southend Community Development Association for the utilization, development and construction of seniors housing (Attachment D).

Statutory Authority

Section S1(1) of the *Municipal Government Act* (MGA) gives a municipality the authority to sell or lease property at a price less than the market value to a non-profit organization that council considers to be carrying out an activity that is beneficial to the municipality. According to the Registry of Joint Stock Companies, the Southend Community Development Association is a non-profit organization.

The MGA requires Council to hold a Public Hearing prior to selling a property valued at more than ten thousand dollars at less than market value to a non-profit organization [S51(3) MGA]. Property Valuation Services has assessed these properties at \$603,200; therefore, Council is required to hold a Public Hearing.

Staff Referrals

As part of the application to purchase CBRM property, Ken Smith, Property Management Services, circulated the Southend Community Development Association's request to Bill Murphy, Director of Recreation, Parks and Grounds/Building and Facilities, Malcolm Gillis, Director Planning and Development, and Ray Boudreau, Manager, Engineering and Public Works, Central for their review. In their opinion, the requested area is considered surplus to the Municipalities needs (Attachment E, F, and G).

At this time, due to the fact no application for a building development permit has been submitted, the proposed development has not been evaluated to determine compliance with the Land Use By-law.

Recommendation

Staff recommends that Council schedule a Public Hearing to consider the sale of PIDs 15126667 15548407 to the Southend Community Development Association for the sum of \$1.00 for the June Meeting of Council. At the June meeting of Council, Staff will be recommending that Council declare PIDs 15126667 15548407 as surplus to the needs of the Municipality.

Submitted by:

Originally Signed By

Karen Neville

Planning and Development Department



Southend Community Center

28 Hillview St. Sydney, N.S. B1P 2H4, Ph. 562-8192, Fax 562-2960

November 20, 2015

Mrs. Debora Campbell
Municipal Clerk
CBRM
320 Esplanade
Sydney, NS
B1P 7B9

Re: Request for Council Agenda December 11, 2015

Dear Mrs. Campbell;

The Southend Community Development Association, would hereby make request to be placed on the agenda for the sitting of the combined council and committee of the whole meeting scheduled for December 11, 2015.

The Southend Community Development Association, a not-for-profit organization, are requesting that council declare the lands presently owned by CBRM off Welton Street in Sydney and identified as parcel PID # 15126667, (see attached executive summary parcel map) be deemed surplus and that staff be directed to convey such property to the Southend Community Development Association to be used for a proposed seniors affordable housing community development. The Southend Community Development Association further request that these said lands be conveyed to the Southend Community Development Association for the sum of \$1.00

We have attached an executive summary outlining our request for council's consideration. Should you feel that additional information such as perspectives of the proposed buildings etc. may be beneficial for members of council, we will be able to provide such in paper or electronic format at your suggestion. I may be reached at the address below for any information you may have concerning this project.

Thank You

Rick Fraser

Rick Fraser CRBO, CFI
Executive Director
Southend Community Development Association
902-577-8548
itcassociates@eastlink.ca

B



PID: 15548407

PID: 15126667



CBRM Property

VULCAN AVENUE

WILLOW STREET

Southend Community Development Association
Seniors Housing Proposal
Sydney, NS

PROPOSED SITE PLAN
2016-04-11

A1

WELTON STREET

131



Sydney Minor Baseball League

28 Hillview Street, Sydney, N.S., B1P 2H4, Ph. 902-S62-8192

Mr. Ken Smith
Planner
CBRM Property Management Services
320 Esplanade St.
Sydney N.S.

Re: Letter of Acknowledgement

Dear Mr. Smith

As recording Secretary I certify that the following is a true motion of the Sydney Minor Baseball League called for at a duly called meeting of the Sydney Minor Baseball League Board of Directors held on February 4th, 2016,

The following motion was put forward:

Motion: That the Sydney Minor Baseball League turn over all authority of the league and its operation to the Southend Community Development Association and further Sydney Minor Baseball League will transfer all of the lands presently under lease from the Cape Breton Regional Municipality used by the league and commonly known as the Sydney Minor Baseball League ball fields on Welton Street in Sydney to the Southend Community Development Association for the utilization, development and construction of Seniors Housing.

Motion: Approved Unanimously

Sincerely:

ORIGINAL SIGNED BY

✓ Lou Chisling
Secretary
Sydney Minor Baseball League

Cape Breton Regional Municipality

E

2nd Floor, Civic Centre
320 Esplanade
Sydney, Nova Scotia
B1P 7B9

Telephone/Voice Mail : 563-5093
Facsimile : 564-0481
E-mail klsmith@region.cape-breton.ns.ca



Office of : Kenneth L. Smith M.C.I.P.
Planner

Property Management Services

SURPLUS PROPERTY CONFIRMATION

April 21, 2016

ATTENTION: Mr. Bill Murphy, Director of Recreation, Parks and Buildings

PROPERTY

LOCATION: Sydney, PID # 15126667 (see attached maps)

REGARDING: Request by the Southend Community Development Association to acquire the Sydney Minor Baseball League ball field site for the sum of \$1.00 to establish a Seniors Housing Development proposal. The tentative proposal; see attached, would include 9 single story four-plex buildings, a community recreation building, and a 3 story apartment building with commercial suites on the main ground floor.

ADDITIONAL

INFORMATION: Additional material attached: Letter of Request, Letter from the Sydney Minor Baseball League Board of Directors relinquishing interest in the ball fields, and recent profiles of the Associations' from the Registry of Joint Stocks.

The noted property:

(☒) IS considered to be surplus property by my Department. (additional comments?y/n _____)
(☐) IS NOT considered to be surplus property by my Department because:

Signed by : **ORIGINAL SIGNED BY**
Bill Murphy

Cape Breton Regional Municipality

F

2nd Floor, Civic Centre
320 Esplanade
Sydney, Nova Scotia
B1P 7B9

Telephone/Voice Mail : 563-5093
Facsimile : 564-0481
E-mail klsmith@region.cape-breton.ns.ca



Office of : Kenneth L. Smith M.C.I.P.
Planner

Property Management Services

SURPLUS PROPERTY CONFIRMATION

April 21, 2016

ATTENTION: Malcolm Gillis, Director of Planning

PROPERTY

LOCATION: Sydney, PID # 15126667 (see attached maps)

REGARDING: Request by the Southend Community Development Association to acquire the Sydney Minor Baseball League ball field site for the sum of \$1.00 to establish a Seniors Housing Development proposal. The tentative proposal; see attached, would include 9 single story four-plex buildings, a community recreation building, and a 3 story apartment building with commercial suites on the main ground floor.

ADDITIONAL

INFORMATION: Additional material attached: Letter of Request, Letter from the Sydney Minor Baseball League Board of Directors relinquishing interest in the ball fields, and recent profiles of the Associations' from the Registry of Joint Stocks.

The noted property:

- (☒) IS considered to be surplus property by my Department. (additional comments?y/n _____)
() IS NOT considered to be surplus property by my Department because:

the dept. has no vested interest in the property and zoning permits the proposed use.

signed by: ORIGINAL SIGNED BY
Malcolm Gillis

Cape Breton Regional Municipality

G

2nd Floor, Civic Centre
320 Esplanade
Sydney, Nova Scotia
B1P 7B9

Telephone/Voice Mail : 563-5093
Facsimile : 564-0481
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Office of : Kenneth L. Smith M.C.I.P.
Planner

Property Management Services

SURPLUS PROPERTY CONFIRMATION

April 21, 2016

ATTENTION: Mr. Ray Boudreau, Manager of Public Works, Central

PROPERTY

LOCATION: Sydney, PID # 15126667 (see attached maps)

REGARDING: Request by the Southend Community Development Association to acquire the Sydney Minor Baseball League ball field site for the sum of \$1.00 to establish a Seniors Housing Development proposal. The tentative proposal; see attached, would include 9 single story four-plex buildings, a community recreation building, and a 3 story apartment building with commercial suites on the main ground floor.

Also, please indicate if the site has adequate municipal sewer and water services to handle the proposed development.

ADDITIONAL

INFORMATION: Additional material attached: Letter of Request, Letter from the Sydney Minor Baseball League Board of Directors relinquishing interest in the ball fields, and recent profiles of the Associations' from the Registry of Joint Stocks.

The noted property:

(☒) IS considered to be surplus property by my Department. (additional comments?y/n Y)
(☐) IS NOT considered to be surplus property by my Department because:

See Attached.

signed by:

ORIGINAL SIGNED BY
Ray Boudreau



CBRM

A Community of Communities

Cape Breton Regional Municipality

*Office of Raymond Boudreau, P.Eng.
Manager of Public Works Central
rjboudreau@cbrm.ns.ca
www.cbrm.ns.ca*

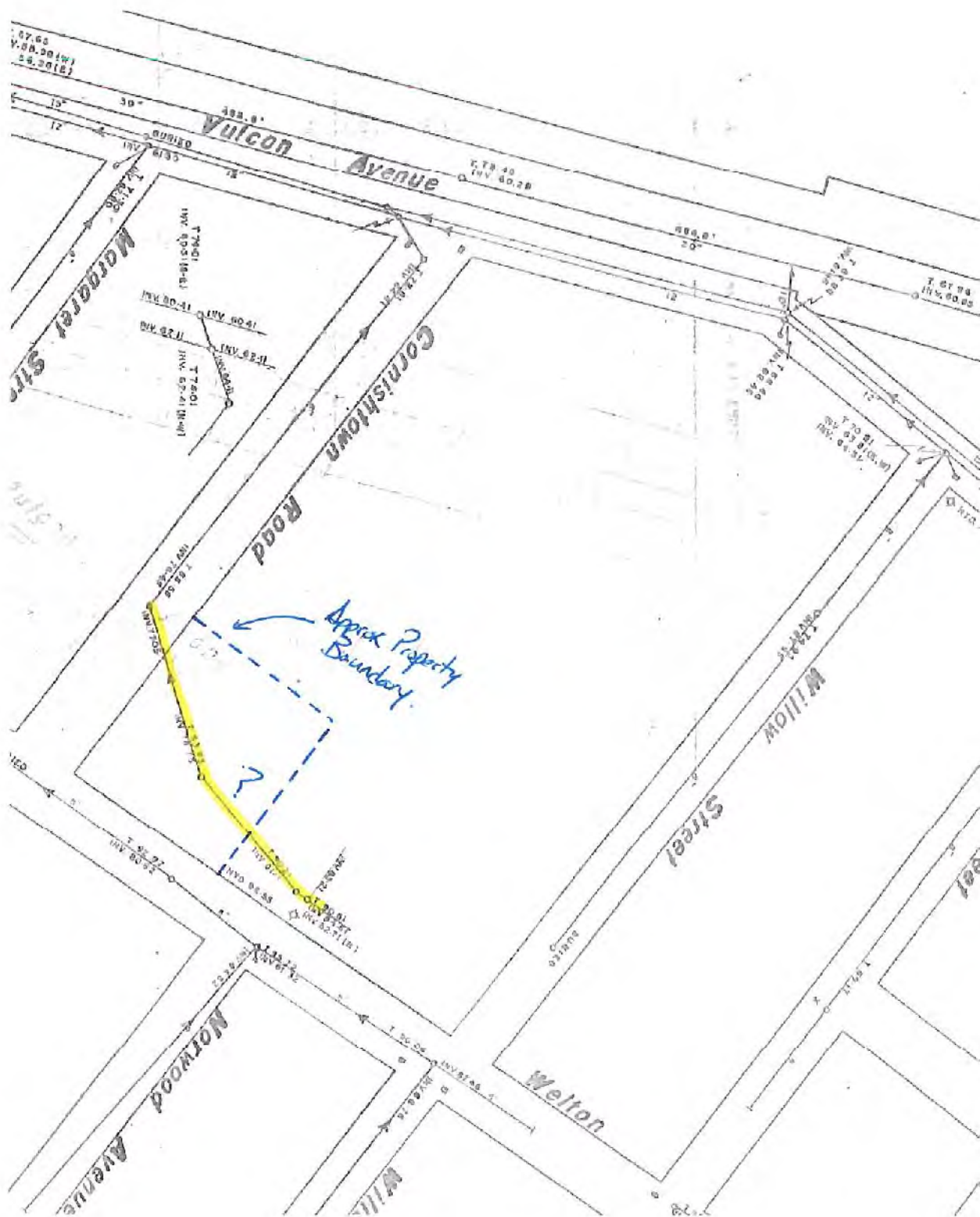
**15 Massey Drive
Sydney, Nova Scotia
B1P 1A7
(902) 563 5257**

MEMORANDUM

TO: KEN SMITH, PLANNER CBRM
FROM: RAY BOUDREAU, MANAGER - PUBLIC WORKS CENTRAL
SUBJECT: PID 15126667 – SURPLUS PROPERTY CONFIRMATION
DATE: APRIL 26, 2016

Additional comments regarding the surplus property request:

- According to 'Parcel Finder', there appears to be an additional parcel (PID 15548407) adjacent to Gorman Street that would need to be crossed over to access 6 of the 9 proposed four-unit buildings
- The parcel is serviceable by both water and sewer.
- There is no history of capacity issues with the Sanitary Sewer or supply issues with the water infrastructure in the area. As a result, both water and sewer infrastructure 'appears' to be adequate to supply the needs of the proposed development.
- It is recommended to review the most current information on the available capacity of the existing sewer and water mains with Engineering Services and the Water Utility respectively.
- According to existing drawings there appears to be a portion of a Sewer Main within the boundaries of PID 15548407. (See attached sketch) This will have to be verified by video inspection.



Synergy Louisbourg – Louisbourg Waterfront Development:

Motion:

Moved by Councillor Saccary, seconded by Deputy Mayor George MacDonald, that the requests made by Synergy Louisbourg regarding the Louisbourg Waterfront Development, be referred to the Chief Administrative Officer and the Director of Parks, Recreation, Buildings and Facilities, to prepare an Issue Paper for formal consideration at the May 17th, 2016 meeting of Council.

Motion Carried.



CBRM

A Community of Communities

Issue Paper

TO: Mayor and Council

FROM: Michael Merritt, CAO & Rick McCready, Senior Planner

DATE: May 11, 2016

RE: Synergy Louisbourg Requests made at the May 2, 2016 General Committee meeting

Section One: Background

In August 2015 CBRM staff made several recommendations to Council with respect to a “spatial plan” Synergy Louisbourg representatives had presented to Council at an earlier date. The spatial plan was prepared for Synergy Louisbourg by a consultant from New Brunswick and included a number of recommendations for enhancing tourism in the community.

The recommendations made by staff, which were accepted by Council, are reproduced here in their entirety:

- 1. Visitor Centre: That Council agree to make available the lands now occupied by the Louisbourg Motor Home Park on Harbourfront Crescent for the development of the new visitor centre. This site, 1.6 acres in size, would represent an in-kind donation of \$130,000 based on current assessed value. This assumes that the current lease with the Louisbourg Merchants’ Association, which has operated a campground on the site since 1988, is terminated, and that an agreement is reached with an owner/operator for the new visitor centre with the capacity to manage the facility in a sustainable manner. Assuming that these issues are addressed, the matter will be brought back to Council for approval of the actual land transaction. If a new visitor centre is built, staff recommends that the ownership of the property be transferred to the operator of the facility and that the CBRM NOT contribute to the cost of constructing or operating the facility.**

It should be noted that at least two other possible sites for the visitor centre exist, the former Louisbourg Town Hall (which is owned by CBRM and currently underutilized) and another waterfront area property that is privately owned (the former Louisbourg Craft Centre which went bankrupt in 1994 and has been empty ever since). All of the sites are shown on the attached map. If Council wishes, staff could explore the possibility of locating the visitor centre in one of these locations.

There are challenges with these two sites. The former Town Hall has limited parking, and is not large enough to accommodate the restaurant and craft shop recommended by the Synergy Louisbourg plan.

The privately owned building (the former Louisbourg Craft Centre which went bankrupt in 1994 and has been empty ever since) will require extensive repairs if it is to be used for the new visitor centre. According to a recent report by a structural engineer commissioned by CBRM, demolition of the existing building may make more sense than renovation. The building is assessed at \$62,000 but its actual value is estimated to be \$45,000, according to a report by an appraiser retained by CBRM. It is not known if the current owners would be willing to sell the property for \$45,000. *One advantage of placing the visitor centre on the Craft Centre property (either in the renovated Craft Centre or a new building) would be the fact that the campground site would still be available for the hotel complex proposed to be built by the private sector in the Synergy Louisbourg plan.*

As referenced above, any recommendation to locate the visitor centre on CBRM-owned land (the campground or the former Town Hall) would of course be subject to Council's approval.

2. **Crabwalk (current CBRM boardwalk) and associated infrastructure:** That Council authorize staff to prepare terms of reference for a design report on the proposed "Crabwalk" project, including the proposed upgrading and expanding of the parking area that will be used by visitors accessing the Crabwalk and the proposed new visitor centre. The existing boardwalk, wharf and parking lot are CBRM property and both are in need of upgrades. In addition, enhancements to this area are critical if the visitor centre is to proceed in this location. If 2/3 of the funding required to prepare the design report can be secured from other levels of government, it is recommended that a Request for Proposals for the design proceed this year, in accordance with CBRM's procurement policy. Once the report is completed, probably in late 2015, and we have proper drawings and specifications for the project, the project can be tendered for construction and completed in the summer of 2016. To facilitate this, Council should consider including one third of the estimated cost (\$400,000) in the 2016-2017 capital budget.
3. **Other Initiatives:** That Council defer consideration of the other initiatives in the Synergy Louisbourg plan until after the work outlined in 1 and 2, above, are completed.

In summary, the financial implications of this project for Council, as recommended by staff last summer, are as follows:

- Donation of Motor Home Park Site for Visitor Centre: \$130,000 (In kind, 2015-2016)- *assuming that this site is chosen*
- One third of estimated cost of design of Crabwalk and associated infrastructure: \$40,000 (2015-2016)
- One third of construction cost of Crabwalk and associated infrastructure: \$400,000 (2016-2017)

Section Two: Current Request from Synergy Louisbourg

Since the above recommendations were endorsed by Council last summer, the following events have occurred:

1. The Merchants' Association wrote CBRM to indicate they were closing the Motor Home Park
2. Synergy Louisbourg indicated they had no interest in developing the visitor centre in the former Craft Centre or in the former Town Hall, leaving the motor home park as the only site under consideration
3. Funding from ACOA and CBRM allowed the design study to proceed. The study is partially complete at this time.
4. Synergy, at the May 2 General Committee meeting, made a presentation to Council outlining additional specific requests

The specific additional requests are as follows, *in bolded italics*, with the recommendations from staff for each shown *in red*. The staff recommendations are consistent with the original recommendations approved by Council in 2015 but do attempt to address the issues raised by the Synergy group:

- *Use of land between the boardwalk and the motor home park site for visitor centre so that design work can proceed.* Their request indicates that 4,436 sq. m. is required which is most of the area between the boardwalk and the campground. *Staff recommends that Council endorse the idea of the main visitor centre structure being located between the motor home park and the boardwalk, so that the design study can be completed. This does not include the additional six buildings or the theatre. The additional six buildings and the theatre were not examined as part of the feasibility study carried out by the WTN Group in 2015, and staff has concerns about the sustainability of so many separate facilities. The design study should proceed on the assumption that the visitor centre will be the only new facility to be erected. Once the design study is completed and funding has been secured to construct the new facility, AND Council is satisfied that a plan is in place to ensure the long term sustainability of the facility, the Motor Home Park property and the additional land required to accommodate the one new building could be decided over to the operator of the facility. The area required in addition to the motor home park lot would be identified by the design study but should be much less than 4436 sq. m. It should be noted that the public meeting required to authorize Council selling this property at less than market value still needs to be held.*
- *Approval of waterfront design in order to carry on with Visitor Centre concept design.* The waterfront design, which was presented to Council on May 2, shows seven buildings along the waterfront, as well as an open air theatre and a relocated playground. *See above.*
- *Implement all wayfinding signage immediately for 2016 operation season.* Synergy Louisbourg has had constructed a number of wayfinding and street signs which incorporate their new logo and colours. Synergy has been given permission to operate a temporary visitor centre in the former motor home park buildings for the summer of 2016. They are asking permission to erect signage directing visitors to that location. *Street signage is covered under the CBRM Civic Addressing Policy and the erection of other signs on CBRM property requires CBRM approval, but normally such decisions are made by Public Works in cooperation with the Traffic Authority, not by Council. The existing Welcome sign at the entrance to the community, which is on CBRM property, will not be replaced. With respect to the other signs, staff recommends that Council direct staff to form a committee of staff from relevant departments to review all signage proposals from Synergy and grant this staff committee the authority to approve or reject the location of any or all signs that are on CBRM property, and to ensure signs meet all*

requirements of the Land Use Bylaw and the Civic Addressing Policy. CBRM would not install any signs EXCEPT street signs and street signs which will only be installed by CBRM if on existing posts.

- ***Use all areas identified, including relocation of playground function for parking development.*** In the May 2 presentation, Synergy unveiled a plan showing new parking lots covering most municipally owned land in the vicinity of the boardwalk. Staff recommends that Council endorse the parking plan, with the exception of the area below the Playhouse where the playground is located. The design study should not prepare plans for a new parking lot in this location, but should identify this area as a location for future parking if a need for additional parking is identified in the future. As for the parking area proposed for the Crabfest site, it is recommended that the paving and signing of this area not proceed until the Louisbourg Crab Festival Committee, a registered non-profit society, has provided written approval of the proposed work.
- ***Approval to start preparing existing buildings (on the motor home park site) for the 2016 visitor season.*** It is staff's understanding that permission has already been given for this, on the understanding that no new structures will be relocated to the site and that no alterations to the existing buildings or grounds will be undertaken.

Section Three: Recommendation

It is recommended that Council endorse the recommendations outlined above in red.

Yours very truly,

ORIGINAL SIGNED BY

Michael Merritt, CAO

ORIGINAL SIGNED BY

Rick McCready, Senior Planner



April 26, 2016

General Committee
Cape Breton Regional Municipality
320 Esplanade
Sydney, NS B1P 7B9

Dear Chairperson, CBRM General Committee:

The purpose of this letter is to express the importance of a Synergy Louisbourg Development Society presentation to the General Committee of the Cape Breton Regional Municipality at this time. Approval by the Cape Breton Regional Municipality for the Final Design Concept of the Louisbourg Waterfront Development is essential to realizing the opportunity offered by the current project which is producing detailed design and tender documents for the Louisbourg Waterfront Development.

Synergy Louisbourg is currently working in partnership with the Cape Breton Regional Municipality on the design of the Louisbourg Waterfront Development, including parking and parade areas, as well as repairs/redesign for the Boardwalk and Guy Hiltz Pier. Dillon Consulting Group has been selected to do this work following a CBRM procurement process.

Approval of the Final Design Concept of the Louisbourg Waterfront is paramount in order to capitalize on the investment made in this project. All areas identified in the concept are essential to the fulfillment of the design work. There are also important implications for the funded building concept design which Synergy Louisbourg is poised to move forward.

On July 7, 2015, Council passed a motion to provide both design and construction funding for the waterfront development as well as to transfer the Motorhome Park land for the construction of a Visitor Welcome and Orientation Centre. While the only deed approved to be transferred was that of the land occupied by the Motorhome Park, the design and construction funding was allocated for the boardwalk, pier, parking and parade. Parking and parade elements were identified on land which would remain in CBRM ownership. The budgets approved in that meeting, and the 1/3 contribution from the CBRM (\$40K for design and \$400K for construction) were calculated based on all the parking and parade elements identified in the spatial plan, including those on lands that would remain in CBRM ownership.

The above requests, along with others as presented to the budget consultations on February 19, 2016, were referred to a second issue paper. It is our understanding that this issue paper will be



presented at the May 2th Council Committee meeting. Approval of the Final Design Concept and making available the lands it identifies for use in the waterfront development is required. Synergy Louisbourg is asking for your assistance to move this matter forward as quickly as possible.

We would be happy to provide further information and answer any questions as needed.

Thank you for your consideration.

Sincerely,

ORIGINAL SIGNED BY

Mitchell Allan McNutt, Executive Director
Destination Louisbourg Partnership



Synergy Louisbourg Development Society

The Synergy Louisbourg Development Society is a registered, non-profit organization. We are a network of community members, business and non-profit leaders, and government representatives working together to develop and implement a strong and unified plan for tourism growth in Louisbourg from the Lighthouse to the Fortress.

During the past four years Synergy has worked closely with the community to develop a strategic plan. Eleven community consultations have been held with the first ones focused on the potential for projects that would be affordable, achievable, and have economic, social or environmental benefit to the entire destination area. The strategic plan was presented to Cape Breton Regional Municipality (CBRM) Council. A new brand was developed for the community with the tag line "The Past is Present". Through the community consultation process, a spatial plan has been completed, and that plan is supported with a business plan to ensure economic viability. Both the business plan and the spatial plan were finalized and presented to our major funding partners.

The "Louisbourg Waterfront" project is focused on developing a Visitor Welcome and Orientation Centre on the waterfront of Louisbourg. This location would serve to combine the operations of the existing Fortress of Louisbourg Visitor Reception Centre and the Louisbourg Visitor Information Centre. As a "100% point" it will become the first stop for all the visitors to the Fortress of Louisbourg. This development will actively redirect the 80,000+ people who visit the Fortress, having them to stop in the core of the community. With this goal reached, Louisbourg will be best positioned to showcase additional highlights of our community such as seeing a show at the Playhouse, visiting the S & L museum, walking along the boardwalk or on the walking trails, stopping for a meal at a local restaurant and/or staying overnight in one of the local accommodations. This will generate more business opportunities and provide a greater economic return for those already in the community. A stronger economy means more jobs in Louisbourg. After consultation in public meetings and requests for suggestions from the community, the proposed name for the new waterfront centre is the Louisbourg Wharf.

Waterfront Development

Through Atlantic Canada Opportunities Agency (ACOA) funding, along with a contribution from CBRM, a consulting firm has been engaged to complete tender-ready designs for the waterfront development of the boardwalk, pier, parking and parade elements of the spatial plan. Synergy Louisbourg is currently seeking CBRM approval for the use of the publicly owned land



for the parking and parade elements. Municipal agreement on the boardwalk and pier as well as the Crabwalk elements is currently in place and this work is proceeding as planned.

Signage Plan

Through ACOA and Tourism Nova Scotia (TNS) funding Synergy Louisbourg and partners are able to implement a community sign plan. This includes new street signs for the community with decorative posts to align with the existing light posts for Main Street. The sign plan offers support to participating local non-profits and the business community.

Website Development

www.louisbourg.ca is the official website Synergy Louisbourg has developed for the community. Many businesses have provided information to the site. The collective goal is to capture all that Louisbourg has to offer for both residents and visitors and have the information remain available and current in one central location.

Louisbourg Visitor Information Centre (VIC)

In 2014 and 2015, with the support of Destination Cape Breton Association (DCBA) and Parks Canada (PCA), Synergy Louisbourg has operated the VIC. The VIC has been operated from the former Louisbourg Town Hall building. The lack of appropriately placed signage and visible parking at this location has seen a continued decrease in usage paralleled by an Island-wide decrease in VIC visitation. Synergy Louisbourg has obtained CBRM support to address this challenge by moving the visitor services operation to the waterfront's former Motorhome Park. Once an agreement is in place for the 2016 Visitor Season any work necessary to make this an excellent first impression of Louisbourg will need to be completed prior to June 1, 2016. Given this opportunity, Louisbourg will be well positioned to ensure effective way-finding signage to direct visitors to an area with the capacity to provide additional products and services (i.e. high quality local crafts through a partnership with the Cape Breton Centre for Craft and Design). The goals are to continue the development of the community's waterfront (100% point), enhance opportunities for visitor experiences from the first moment of entry into the community.



This presentation is an opportunity to clarify CBRM's decisions regarding the Louisbourg waterfront development plan.

The Destination Louisbourg partnership has worked diligently with many partners, including the CBRM, on the implementation of the spatial plan for Louisbourg. This project will bring millions of dollars in project funding and long term revenues to both Louisbourg and to the citizens of the CBRM.

We require ACTIVE SUPPORT from Council for the Louisbourg development.

To recap, this development is intended to create:

- A visitor experience centre to welcome an expected 100,000 (visitors) per year;
- An upgraded boardwalk, rebranded as the Crabwalk;
- An upgraded pier for recreational boats and the Ferry to the Fortress;
- Spaces for local partners and entrepreneurs to set up businesses; and
- Spaces for both visitors and local citizens to enjoy.

Demonstration of active support would look like the following:

1. An immediate decision to approve the concept plan for the Louisbourg waterfront development. This approval would include use of **all** areas



identified in the spatial plan, including use of the strip of land between the Motorhome Park and the boardwalk (PID#15659378) as well as the relocation of the playground function (PID# 15659360). **This represents no change or addition to our request made to Council on August 19, 2014 of the draft spatial plan.**

2. An immediate decision to conduct the public process required to transfer the Motorhome Park land as soon as the necessary official notice of the process can be provided.
3. An immediate decision to transfer the Motorhome Park land as soon as the public process is complete.
4. Official and immediate permission to act on the approvals already granted in writing to install/replace signs as outlined in the signage plan decided on with the community. (Exception: delay replacement of welcome sign in the plaza by the S & L Railway Museum pending further community consultation).
5. Direction to staff to help move these initiatives forward.

Moving these initiatives forward will mean millions in project funding and revenues for the area. Active support of these requests will demonstrate Council's commitment to Louisbourg's economic prosperity. If Council does not provide active support for these initiatives, it is choosing to lose



millions of dollars in project funding and in long-term revenues for the citizens of the CBRM. **This is Council's choice to make.**

Destination Louisbourg will continue to work with local citizens to create this opportunity.

LOUISBOURG Waterfront Development

COUNCIL PRESENTATION

May 2, 2016



SPATIAL PLAN - 2015



Presentations to Council to date

- 1. 19/08/14 - Frenchvale Firehall - Presentation of the Draft Spatial Plan
- 2. 13/03/15 – Council Presentation – Budget Committee
- 3. 07/07/15 - North Sydney? former townhall - Rick McCready - Presentation of the issue paper on the Louisbourg Spatial Plan
- 4. 19/02/16 - Council Chambers - Dorothy and JoAnna - Presentation to address gaps in the issue paper and the related motion.

SPATIAL PLAN 2015 CONCEPT PLAN 2016

- | | |
|---|---|
| <p>1. Components</p> <ul style="list-style-type: none"> ◦ Visitor Centre ◦ Commercial Opportunities ◦ Parade ◦ Crabwalk ◦ Parking (229 stalls) ◦ Ferry Service <p>2. Budget ~ \$2,100,000</p> | <p>1. Components</p> <ul style="list-style-type: none"> ◦ Parade ◦ Crabwalk ◦ Parking ◦ Boardwalk & Pier <p>2. Budget ~ \$1,200,000 July 2015</p> |
|---|---|



CONCEPT PLAN EXTENTS - 2016

Need understanding of where future visitor centre buildings might go. Shape, size, location to design services and circulation.

Preliminary scheme for building cluster between boardwalk and parking lot – Trailer Park Parcel was developed to inform Visitor Centre Building design and possible site layout.





NEXT STEPS

Visitor Centre Building Concept design work is ready to proceed

2016 Operation Season Urgency

- Ready to implement full way finding signage package in order to accurately inform visitors and direct them to this waterfront location. We have been working with staff to move this forward.
- Ready to transform Motorhome park buildings to temporary visitor centre and high quality craft outlet.
- Finalize agreement to authorize use of Motorhome site.

COUNCIL CONSIDERATION

Following the 2015 Spatial Plan intent, Synergy Louisbourg asks Council to allow:

1. Use of land between boardwalk and PID #15659378 for Visitor Centre (need 4436 m²) so design work can proceed
2. Approval of Waterfront design in order to carry on with Visitor Centre Concept Design
3. Implement **all** wayfinding signage immediately for 2016 operation season
4. Use **all** areas identified, including relocation of playground function (PID# 15659360 ~2607 m²) for parking development
5. Approval to immediately start preparing existing buildings for 2016 visitor season

School Closures:

Motion:

Moved by Deputy Mayor MacDonald, seconded by Councillor Saccary, that a recommendation be made to Council to declare:

- Bridgeport School, Glace Bay
- Gowrie Memorial School, Port Morien
- MacLennan Middle School, Westmount
- Mira Road School, Mira Road
- Frank Ongo School, New Waterford

as **surplus** to the needs of the Municipality if the following conditions can be met:

- CBRM has clear marketable title to the properties
- No Department of CBRM has a vested interest (e.g. infrastructure) regarding any of these properties
- The sale of the property does not contravene CBRM policy
- A report on the building infrastructure is received from the Cape Breton Victoria Regional School Board.

Discussion:

During discussion, it was noted that the Port Morien Volunteer Fire Department may have interest in acquiring Gowrie Memorial School, and that there is a group of residents who may be looking to save Bridgeport School.

In answer to a question, the Director of Planning advised that CBRM may retain the East Bay School as per policy in the Municipal Planning Strategy regarding property with water-front access.

Motion Carried.



TO: Council

FROM: Karen Neville

SUBJECT: School Closures

DATE: May 5th, 2016

Introduction

In 1982 the Municipality of the County of Cape Breton, City of Sydney, Town of Glace Bay, Town of New Waterford, Town of Dominion, Town of Louisbourg and the Minister of Education for the Province of Nova Scotia entered into an Interim District School Agreement. As a result of this Agreement, the Cape Breton Regional Municipality (CBRM) retains those schools closed by Cape Breton-Victoria Regional School Board (the Board) in the former City of Sydney, Town of Glace Bay, Town of New Waterford, Town of Dominion, and Town of Louisbourg.

On April 12, 2016, the Board announced their decisions regarding which schools will permanently close as per the School Review process in accordance with the *Education Act*. There is still a great deal of work that needs to be done in regards to evaluating the properties in question, but given the Council Meetings available between now and the October election along with the anticipation of possible sale of properties prior to the winter, CBRM staff is requesting that the following schools be declared as surplus:

Name	PID	Land Area in Square Metres (Square Feet)*	Assessment Value**
Bridgeport School, Glace Bay	15450349	9442.46055 (101637.8)	\$1,692,200.00
	15450356	2239.5752 (24106.6)	\$2,200.00
	15064900	44135.0733 (475066)	\$ 13,500.00
Gowrie Memorial School, Port Morien	15372089	15653.28705 (168490.6)	\$382,700.00
MacLennan Middle School, Westmount	15204944	16447.13205 (177035.5)	\$2,973,000.00
	15205305	1011.9274 (10892.3)	\$ 25,100.00
	15507601	498.29105 (5363.7)	\$25,000.00
	15625502	549.84465 (5918.5)	\$25,000.00
	15006331	101.3671 (1091.1)	\$200.00
Mira Road School, Mira Road	15287337	11622.45735 (125103.1)	\$1,280,500.00
Frank Ango School, New Waterford	15491434	6095.7367 (65613.9)	\$597,900.00

*Land Areas based on GIS Data

** Assessment Value from Property Valuation Services

Recommendation

Staff recommends that Council declare Bridgeport School, Glace Bay (Attachment A), Gowrie Memorial School, Port Morien (Attachment B), MacLennan Middle School, Westmount (Attachment C), Mira Road School, Mira Road (Attachment D), and Frank Ango School, New Waterford (Attachment E) as surplus to the needs of the Municipality if the following conditions can be met:

- CBRM has clear marketable title to the properties
- No Department of the CBRM has a vested interest (e.g. infrastructure) regarding any of these properties
- The sale of property does not contravene CBRM policy
- A report on the building infrastructure is received from the Cape Breton Victoria Regional School Board.

Based on further discussions, it is no longer necessary to make receiving a report on building infrastructure from the Cape Breton Victoria Regional School Board as a condition of declaring the above noted schools as surplus.

Submitted by:

ORIGINAL SIGNED BY

Karen Neville
Planning and Development Department

A

Bridgeport School, Glace Bay



School Property



Sewer Main



Water Main

B

Gowrie Memorial School, Port Mörrien



School Property

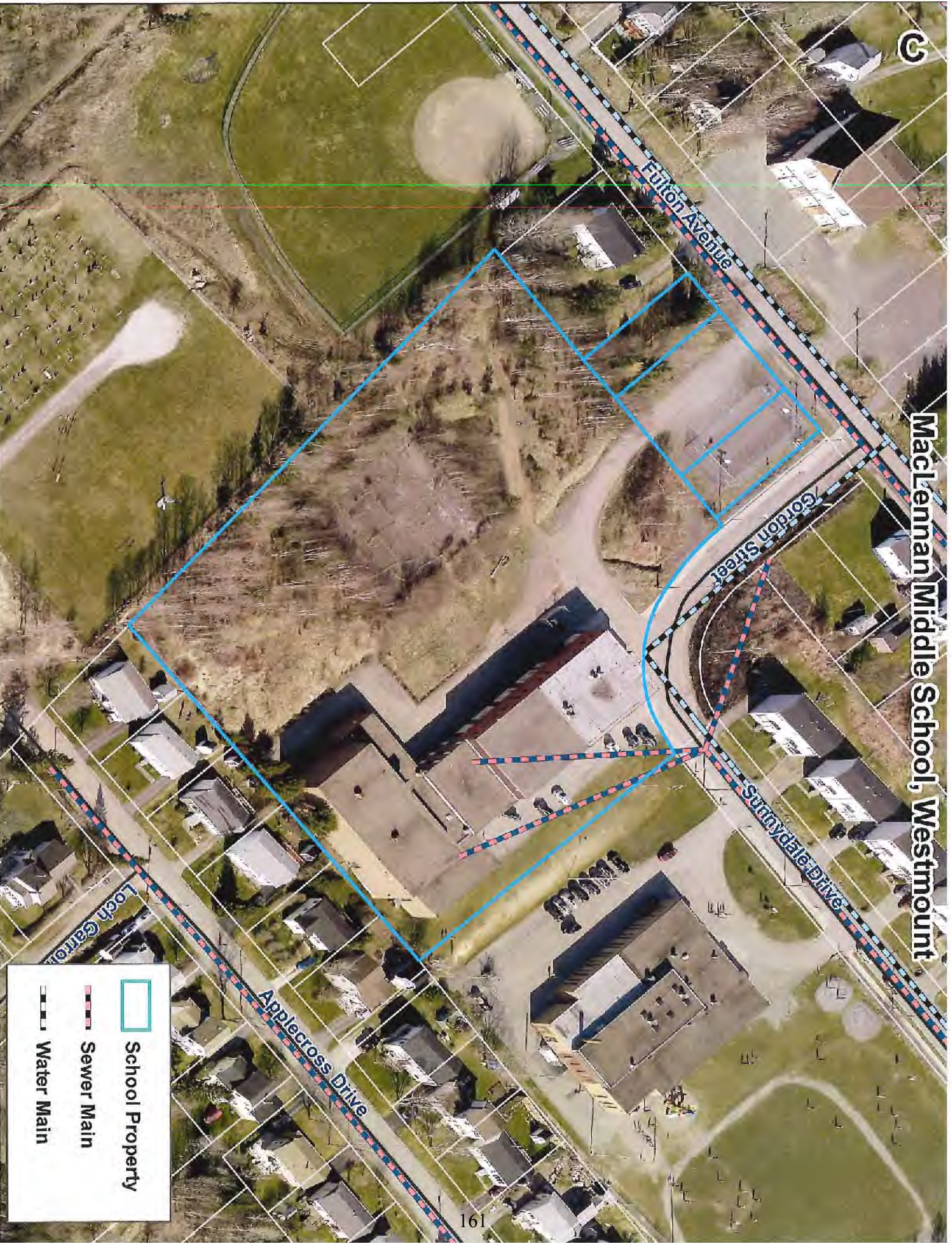


Sewer Main



Water Main

MacLennan Middle School, Westmount



D

Mullers Lane

Gerards Lane

Mira Road School, Mira Road

George Street

Martha Boulevard



School Property

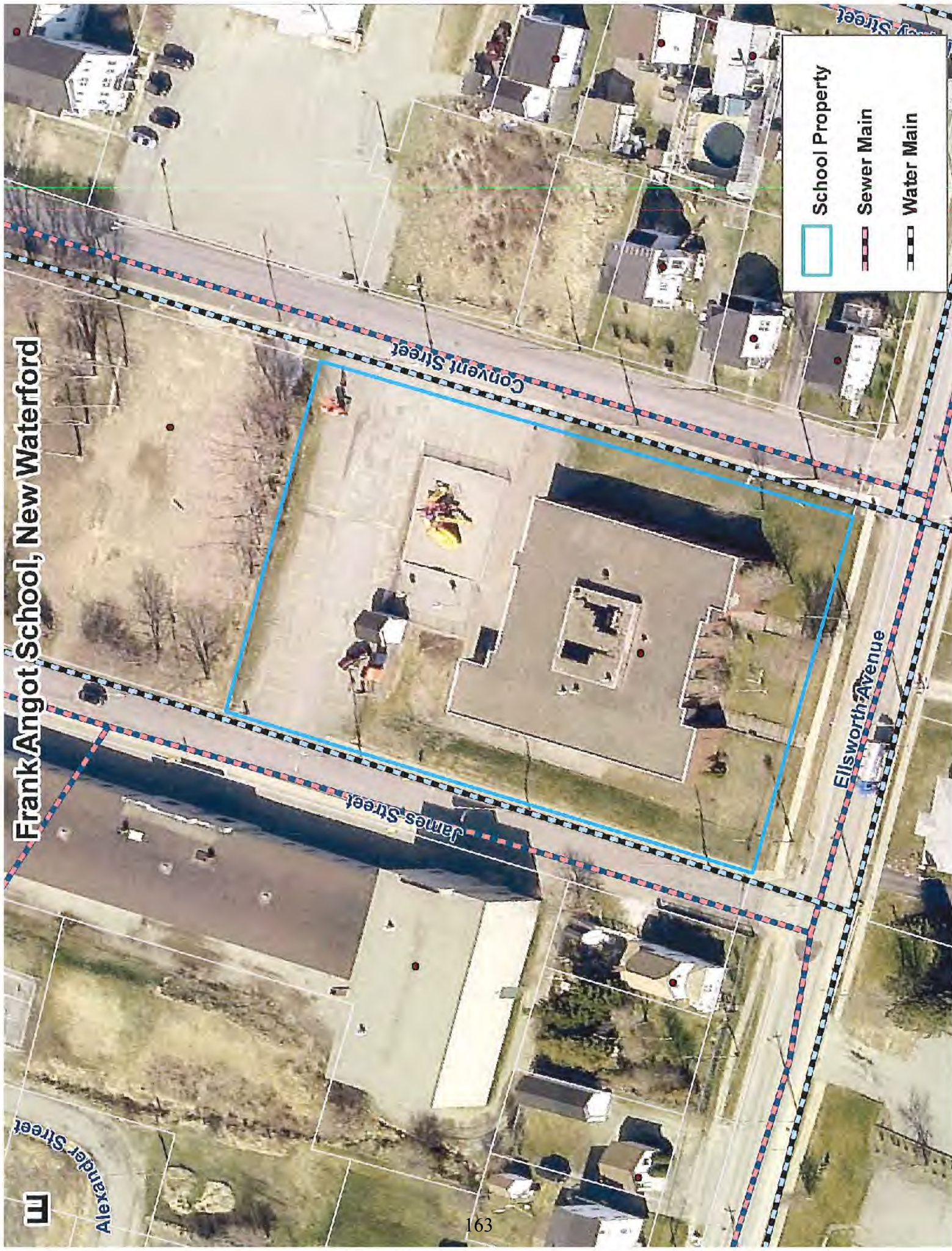


Sewer Main



Water Main

FrankAngot School, New Waterford



 School Property

 Sewer Main

 Water Main

Land Use Bylaw and Municipal Planning Strategy Fees - Policy Amendment:

Motion:

Moved by Councillor Paruch, seconded by Councillor Saccary that a recommendation be made to Council to revise the Municipal Planning Strategy and Land Use Bylaw Amendment and Development Agreement Fee Policy, by imposing a fee of \$1,000 to process an application to amend a Land Use Bylaw and/or a Planning Strategy, to be paid when the application is submitted; and if the application is withdrawn before the fee funds are spent, the applicant will be reimbursed the fee, as outlined in the staff report dated April 26, 2016.

Motion Carried.



ISSUE PAPER

FROM: Malcolm Gillis

SUBJECT: LAND USE BYLAW AND MUNICIPAL
PLANNING STRATEGY AMENDMENT FEES

DATE: April 26th, 2016

Introduction

A Planning Strategy is a land use policy document of a Municipality and the policy directives of the Planning Strategy are implemented in its Land Use Bylaw to be administered by a Development Officer. The Municipal Government Act sets out the legal procedure a Municipality must follow when considering amending either of these documents. A Land Use Bylaw amendment requires three public notices in a newspaper circulated in the Municipality:

- the first two give notice of the scheduled Council Public Hearing; and
- a 3rd gives notice of Council's decision if the Bylaw is amended.

Those same legal commitments are required for an amendment to a Municipality's Planning Strategy PLUS the Municipality must conduct a Public Participation Program prior to the Public Hearing which has its own associated costs.

Section 220 (4) (I) of the Municipal Government Act gives municipalities the authority to adopt a Policy charging a fee for processing amendments to planning documents. The current fee schedule charged to applicants requesting amendments to these planning documents is inadequate to compensate the Regional Municipality for the costs it incurs. The fee for a Land Use Bylaw amendment is \$600 and no fee is charged for a Municipal Planning Strategy amendment.

The average cost to comply with the above referenced legal requirements for a Land Use Bylaw amendment is approximately \$1,000 to \$1,100 and the cost to process a Municipal Planning Strategy amendment in compliance with the Municipal Government Act is approximately \$1,500. Usually the only beneficiary of a Land Use Bylaw amendment is the applicant. Because a Planning Strategy is a policy document, an amendment to it usually has ramifications greater than the aspirations of the proponent. Consequently there is a justifiable argument the

proponent shouldn't necessarily be expected to pay for the entire cost of an amendment to a Municipal Planning Strategy.

Recommendation:

For the reasons explained in this report, I recommend that Council revise the Municipal Planning Strategy/Land Use Bylaw amendment, and Development Agreement fee Policy to attempt to recoup approximately the total cost of a Land Use Bylaw amendment and a substantial part of the cost of a Planning Strategy amendment. I am therefore asking that Council impose a fee of \$1,000 to process an application to amend a Land Use Bylaw and/or a Planning Strategy. Rather than attempt to recoup the cost of advertising from the applicant after the bills are received, the recommended revised policy requires that these fees be paid when the application to amend is submitted. If the application is withdrawn before the fee funds are spent the applicant will be reimbursed the fee. The draft revised Policy is included with this issue paper.

Submitted by:

ORIGINAL SIGNED BY

Malcolm Gillis
Planning and Development Department



**CBRM Planning Fees
(Zoning Amendment/Development
Agreement/Municipal Planning Strategy)
and Planning Advertisements**

FEES

Municipal Planning Strategy Amendments

No fee

Land Use Bylaw Amendments/Development Agreements

No set fee is imposed. The applicant is responsible for:

- all costs of the public notification of the Council Public Hearing; and
- public notice of Council's decision to adopt the amendment or approve the Development Agreement.

NOTE: The General Committee, at its discretion, may waive any or all fees in the following cases:

- (1) when the request is made by registered non profit organization and where the amendment will benefit the community in general rather than a specific property
- (2) when the amendment being requested is necessary to correct an inconsistency between a land use bylaw and the applicable Municipal Planning Strategy

ADVERTISING

In addition to MGA requirements, PAC will require that the following steps be taken to ensure information on proposed planning amendments is properly distributed:

- In the case of Municipal Planning Strategy amendments affecting a specific property, flyers will be distributed to homes in affected areas to advertise public participation program meetings (affected area to be identified by staff in consultation with local Councillor)
 - Maps will be included in all newspaper ads related to rezonings, development agreements and Municipal Planning Strategy amendments except in cases where the affected property can be identified by a civic number, in which case a map will not be required. All maps will be a *minimum* of 3" by 3" in size.
 - Where the affected property is located more than a 20km. driving distance from the Civic Centre, a copy of the map showing the affected property will be displayed in a CBRM citizen service centre, community centre or convenience store which is in the vicinity of the affected property, and the location of the map will be identified in the newspaper ad.
-

Approved by Regional Council on March 20, 2001

**AMENDED by Regional Council: April 20, 2010
March 15, 2016**



**CBRM Fees to process
Land Use Bylaw amendments, Development Agreements,
and Municipal Planning Strategy amendments**

FEES

Municipal Planning Strategy Amendments

\$1,000 when the application is submitted. The purpose of this fee is to provide a monetary contribution to the cost of conducting the amendment process e.g. Public Participation Program and Public Hearing notice fees, and the final notice fees pursuant to the Municipal Government Act. Therefore the applicant shall be reimbursed if the application is withdrawn before these costs are incurred or if the total public notification cost is less than the fee.

Land Use Bylaw Amendments/Development Agreements

\$1,000 when the application is submitted. The purpose of this fee is to pay for the cost of the Public Hearing notices and notice of Council's decision pursuant to the Municipal Government Act. Therefore the applicant shall be reimbursed if the application is withdrawn before these costs are incurred or if the total public notification cost is less than the fee.

NOTE: The pertinent committee of Council, at its discretion, may waive any or all fees in the following cases:

- a. when the request is made by registered non profit organization and where the amendment will benefit the community in general rather than a specific property;
- b. when the amendment being requested is necessary to correct an inconsistency between a land use bylaw and the applicable Municipal Planning Strategy.

Originally adopted by Regional Council on March 20, 2001, with amendments on April 20, 2010.

Amended by Regional Council: _____ 2016

Port Morien Development Association – Request for License Indemnification Agreement for PID #15646300:

Motion:

Moved by Councillor Saccary, seconded by Councillor Flynn, that a recommendation be made to Council to authorize the Mayor and Clerk to sign a license and indemnification agreement for property PID #15646300 as required until the transfer of former ECBC properties as outlined in the staff report of April 25, 2016.

Motion Carried.

**CBRM***A Community of Communities*

Issue Paper

DATE: April 25, 2016

TO: Mayor & Council

FROM: Bill Murphy, Director Parks, Recreation, Buildings & Facilities

Background

The Port Morien Development Association has a permission agreement for use of the Property PID # 15646300 as a fishermen's memorial for the fishing village. As part of its development plans the Association has designed and is working with funding partners to further expand the area and provide stair access to a popular beach area, just below the memorial park.

To confirm funding, the letter of permission for use has to be extended until an agreement is reached between PWGSC and the municipality on former ECBC lands to be conveyed to CBRM for public purposes. This would be one of those properties. The original letter of permission was provided by ECBC. Until a transfer agreement is reached with the municipality Public Works Government Services Canada (PWGSC) requires the attached be signed by the Mayor and Clerk to give authorization for the permission extension. This will allow the organization to continue with their plans.

Recommendation

A motion of council is required to authorize the Mayor and Clerk to sign a license and indemnification agreement for Property PID #15646300 as required until the transfer of former ECBC properties.

ORIGINAL SIGNED BY

Bill Murphy, Director
Parks, Recreation, Buildings & Facilities
attachments

THIS LICENCE AND INDEMNIFICATION AGREEMENT
is made as of the _____ day of April 2016.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA., as
represented by the Minister of Public Works Government
Services Canada

(the "**Licensor**")

OF THE FIRST PART

- and -

CAPE BRETON REGIONAL MUNICIPALITY, a body corporate
and politic in and for Cape Breton County, in and for the Province
of Nova Scotia,

(the "**Company**")

OF THE SECOND PART

WHEREAS the Licensor is the apparent owner of certain land located at Port Morien,
in the Province of Nova Scotia, bearing PIDs 15646300 more particularly described in
Schedule "A" and shown in Schedule "B", both of which are attached hereto (the "**Licensor's
Property**"); and

WHEREAS the Company is a local government body that is desirous of facilitating
the use of the Licensor's Property for a public purpose; and

WHEREAS the Licensor has agreed to grant to the Company a limited temporary
and non-exclusive license to enter and occupy the Licensor's Property for the desired

purpose of construction, installation and use of a public stairway, walkway and related infrastructure for the benefit of the general public as shown on sketch attached hereto as Schedule "C"; and

WHEREAS the Company is desirous of purchasing the Licensor's Property and the Licensor is desirous of selling the Licensor's Property, the Company and Licensor have agreed to a licensing arrangement until such time as the Licensor's Property is formally declared surplus and listed for sale; and

WHEREAS the Company shall enter into an Agreement of Purchase and Sale with the Licensor wherein the Company shall purchase the Licensor's Property in accordance with the terms and conditions set out therein;

THEREFORE in consideration of the respective covenants and agreements herein and the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions. In this Agreement:

"Business Day" means any day except a Saturday, Sunday, or holiday observed by chartered banks in Sydney, Nova Scotia, Canada.

"Claims" means any and all claims or actions, threatened or filed by any third party and, whether groundless, false, fraudulent or otherwise, and the resulting losses, damages, expenses, legal fees and disbursements and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

"Environmental Damages" means any and all loss, injury, death, damage or other event of any kind whatsoever, and howsoever or whenever occurring, to or in relation to the environment (including by not limited to any loss or damage to real or personal property) in respect of which any liability or obligation has accrued or may in future accrue to Licensor, her successors and heirs, to incur any remediation, reclamation, clean-up or other expenses, or to compensate any Person or the estate of any individual, whether by reason of any equitable, common law, statutory or civil liability or obligation or remedy available, whether applicable by reason of the ownership of the Licensor's Property or responsibility for any operations conducted on or in respect thereof at any time in the past, present or future, and whether or not resulting from negligence, nuisance or otherwise, which loss, injury or damages shall include but not be limited to all damages, awards, expenses and

costs (including legal costs on a solicitor and client basis) incurred in any way relating to such matters.

“Environmental Insurance” has the meaning ascribed thereto in Section 5.1(b).

“Environmental Law” means any law, by-law, order, ordinance, ruling, regulation, certificate, approval, consent or directive of any applicable federal, provincial or municipal government, governmental department, agency or regulatory authority or any court of competent jurisdiction:

- (a) relating to pollution or the protection of human health or the environment (including workplace health and safety);
- (b) dealing with filings, registrations, emissions, discharges, spills, releases or threatened releases of Hazardous Substances or materials containing Hazardous Substances; and/or
- (c) regulating the import, storage, distribution, labelling, sale, use, handling, transport or disposal of a Hazardous Substance.

“General Liability Insurance” has the meaning ascribed thereto in Section 5.1(a).

“Government Authority” means any federal, provincial, regional, municipal or local government or any department, agency, board, tribunal, court or other authority thereof, and includes any individual or other Person having, or purporting to have, the right to exercise executive, legislative, judicial, regulatory or administrative functions.

“Hazardous Substance” means any substance capable of posing a risk or damage to health, safety, property or the environment including, without limitation, any contaminant, pollutant, dangerous or potentially dangerous substance, noxious substance, toxic substance, hazardous waste, flammable or explosive material, radioactive material, urea formaldehyde foam insulation, asbestos, polychlorinated biphenyls, polychlorinated biphenyl waste, polychlorinated biphenyl related waste, gasoline, fuel oil, heating oil and other petroleum substances and any other substance or material now or hereafter declared, defined or deemed to be regulated or controlled under any Environmental Law.

“Indemnified Persons” has the meaning ascribed thereto in Section 4.1.

“License” has the meaning ascribed thereto in Section 2.1.

“Notices” has the meaning ascribed thereto in Section 6.1.

"Licensor's Property" has the meaning ascribed thereto in the recitals.

"Party" or **"Parties"** means any Person and its successors, heirs and permitted assigns who is a party to and is bound by this Agreement.

"Person" means an individual, firm, body corporate, partnership, trust, union, pension fund, government, government department or agency or other legal entity, as the case may be.

"Required Insurance" has the meaning ascribed thereto in Section 5.1.

"Term" means the period commencing on the date of this Agreement and ending on the date specified in section 2.2.

"Work" means any work or activity of any nature or kind whatsoever including, without limitation to the generality of the foregoing, and whether permitted by the License or not, any construction, demolition, excavation, blasting, shoring, underground work, underpinning, pile driving, caisson work or other work or activities on, in, under or around the Licensor's Property at any time undertaken or conducted by the Company or any of its contractors or subcontractors or any of their respective employees.

1.2 Additional Interpretation Rules. Unless a contrary intention appears in context, or express provisions of this Agreement provide otherwise:

- (a) the inclusion of headings and a table of contents herein are for convenience of reference only and are not to be considered or taken into account in construing the provisions of this Agreement, or to in any way qualify, modify or explain the effect of any such provisions;
- (b) references to an Article, Section, or Schedule are references to an Article, Section, or Schedule, as the case may be, of this Agreement;
- (c) references herein to an enactment, statute or similar legislative instrument shall include all amendments thereto and replacements therefore in whole or in part, and all regulations or other subordinate legislation issued, prescribed or otherwise in effect pursuant thereto, from time to time, whether or not so stated herein;
- (d) words importing the singular shall include the plural and vice versa, and words importing a particular gender shall include all genders;

- (e) capitalized words and phrases used herein which are derivatives of words or phrases otherwise defined herein shall have a corresponding meaning;
- (f) the rule of contractual interpretation known as "*contra proferentum*" shall not apply in the interpretation or construction of this Agreement, and in this regard, it shall be irrelevant who drafted or authored this Agreement or any portion hereof; and
- (g) words such as "hereof", "herein" or "hereunder" shall mean of, in or under this Agreement and not the specific section in which the reference occurs, unless expressly otherwise noted.

ARTICLE 2 ACCESS TO LICENSOR PROPERTY

2.1 License. The Licensor hereby grants to the Company a license to enter and use (the "**License**"), in common with the Licensor and other Persons authorized by Licensor, during the Term, the Licensor's Property for the limited purpose of construction, installation and use of stairs, walkway and related infrastructure for the benefit of the general public, specifically:

- (i) the temporary right to use the Licensor's Property for the limited purposes construction and installation of stairs, walkway and related infrastructure. The right noted above includes construction, clearing, leveling, but does not include the right to park or store vehicles or equipment on the Licensor's Property.

The Company shall undertake work and activities permitted by the License only during the Term of the License.

2.2 Term of License. The License shall commence on April _____, 2016.

The License shall expire and come to end on: November _____, 2016

unless the Term of the License is extended in writing by Licensor in its sole discretion.

Prior to the expiry of the Term of the License, if an Agreement of Purchase and Sale has not been completed by the Company and the Licensor, the Company shall repair and restore the Licensor's Property to its original condition and repair and remediate any damage to the Licensor's Property and any damage to any adjacent property caused by the Company or its contractors or subcontractors or any of their employees. To this end, the Licensor and the Company acknowledge and agree that they will conduct both pre-License and post-

License inspections of the Licensor's Property at dates and times arranged mutually by the parties.

2.3 No Interest in Land. The License does not, and is not intended to, grant to the Company an interest in land or property and accordingly the License is not, and is not to be construed as, a lease or easement or grant of right-of-way over land or property. In particular, but not so as to restrict the generality of the foregoing, the Company acknowledges and agrees that, subject to the rights given to the Company by the License, Licensor retains and may exercise at all times during the Term all its rights of ownership, possession and occupation in relation to the Licensor's Property which it had immediately prior to the execution of this Agreement by the parties.

2.4 Prohibition Assignment of License. The benefit of the License is personal to the Company, and accordingly is not capable of being and shall not be assigned or sub-licensed, and may only be exercised by the Company.

2.5 Prohibited Activities. The License does not permit the Company, or anyone on behalf of the Company to undertake or perform any construction, demolition, excavation, blasting, shoring, mining, underground work, underpinning, pile driving or caisson work or to place, install or construct any pipes, equipment, footings, foundations or other structures on, in or under the Licensor's Property, except as specifically set out herein.

2.6 Nuisances. In conducting any activity on the Licensor's Property, the Company, its contractors and subcontractors shall not cause any nuisance, excessive noise, or other disturbance to Licensor or any owners or occupants of adjacent properties.

2.7 Liens. The Company shall not permit any builders lien, construction lien, mechanics lien or other lien or encumbrance to be claimed or registered against the Licensor's Property or any portion thereof in connection with any Work or any activity conducted pursuant to the License. If any such lien or encumbrance is claimed or registered against the Licensor Property, or any portion thereof, the Company shall promptly cause the same to be discharged and released.

2.8 Safety. In connection with any activity on the Licensor's Property, the Company shall comply with and observe and shall cause its employees, contractors, subcontractors and their employees to comply with and observe all federal, provincial and municipal safety statutes, rules, regulations, codes, ordinances and standards and any and all site specific safety rules or plans.

2.9 Additional Covenants. The Company agrees:

- (a) not to construct any buildings or other structures, or install or permanently place any goods, machinery or equipment, on the Licensor's Property except as may be necessary for the exercise of the rights given in Section 2.1 hereof;
- (b) not to bring temporarily any goods, machinery or equipment onto the Licensor's Property without the consent of Licensor, except as may be necessary for the exercise of the rights given in Section 2.1 hereof;
- (c) to keep the Licensor's Property clean and tidy and clear of waste caused by or during the exercise of rights under the License and not deposit or leave waste materials thereon;
- (d) not to do any act, matter or thing which would or might constitute a breach of any statutory requirement affecting the Licensor's Property;
- (e) to observe such other reasonable rules, regulations or guidelines as Licensor may make from time to time governing the use of property, occupational health and safety or environmental matters provided that the Company has been notified by Licensor of such rules, regulations or guidelines;
- (f) not to impede in any way Licensor in the exercise of Licensor's rights of possession and control of the Licensor's Property including , without limitation, flooding and flowage rights.
- (g) the Company has confirmed and advised that the Certificate of Insurance as attached hereto as Schedule is true and valid and will cover the Work contemplated by this License.
- (h) that the Company has been advised that the Licensor's land may be subject to subsidence due to the previous mining of coal and shall not and will not at any time bring action or assert any claim or demand whatsoever against the Licensor or its predecessors or successors in title for or in respect of any damage relating to subsidence.

ARTICLE 3

ENVIRONMENTAL MATTERS

3.1 Compliance with Environmental Laws. The Company agrees that it shall, at its sole cost and expense, observe and comply with, and cause its employees,

contractors and subcontractors to observe and comply with all Environmental Laws in connection with any Work or other activity conducted in, on or around the Licensor's Property. Without limiting the generality of the foregoing, the Company covenants and agrees that:

- (a) the Company shall not cause or permit any Hazardous Substance to be brought into, stored, kept or used in or about the Licensor's Property or any part thereof;
- (b) the Company shall not permit any emissions, discharges or releases of Hazardous Substances or materials containing Hazardous Substances onto or from the Licensor's Property;
- (c) the Company shall cause each and every Hazardous Substance that is emitted, released or discharged on, into or from the Licensor's Property as a result of any Work or other activity of the Company, its contractors or subcontractors or their respective employees to be removed from the Licensor's Property and other properties and all damage caused thereby to be remediated in compliance with all Environmental Laws pertaining thereto.

3.2 Compliance with Environmental Standards. In addition to the environmental standards required by the foregoing provisions of this Article 3 to be met by the Company, the Company agrees that it will comply with any additional environmental requirements that Licensor may be required to meet and any further standards that may be introduced during the Term of the License to which Licensor is required, or to which in Licensor's opinion it would be in its interest, to adhere.

3.3 Prohibitions on Use of Premises. No activity will be undertaken or allowed on the Licensor's Property by the Company or any of its contractors or subcontractors or their respective employees which may cause or increase the likelihood of the escape, seepage, leakage, spillage, release or discharge of any Hazardous Substance on, from or under the Licensor's Property. The Company shall not use or permit to be used all or any part of the Licensor's Property for the sale, storage, manufacture, disposal, treatment, generation, use, transport, refinement, processing, production, remediation, or release into the environment of, or any other dealing with, any Hazardous Substance. In no event shall the Company dispose of, handle, treat, or release a Hazardous Substance in a manner that, in whole or in part, causes the Licensor's Property or any adjacent property to become a contaminated site under Environmental Laws.

3.4 Ownership of Contaminants. Notwithstanding any rule of law to the contrary, any Hazardous Substance brought onto, used at, or released from the Licensor's Property by the Company or any person for whom it is in law responsible shall be and

remain the sole and exclusive property of the Company and shall not become the property of Licensors, notwithstanding the expiry or earlier termination of the License.

3.5 Discovery of Contaminants. The Company shall notify Licensors immediately and in reasonable detail upon discovery of any Hazardous Substance, or receipt of any claim, notice or communication relating to any Hazardous Substance affecting the Licensors' Property or if the Company becomes aware of any violation or potential violation by the Company of any environmental orders or any warranty, covenant or representation in this Article and shall describe therein the action which the Company intends to take with respect to such matters. Forthwith upon receipt, the Company shall send copies to Licensors of all orders, approvals or licenses affecting the Licensors' Property and all correspondence with authorities having jurisdiction or any other person with respect to any Hazardous Substance or Environmental Laws relating to the Licensors' Property including without limitation results of any environmental tests and reports in the Company's possession.

3.6 Remediation. If any Government Authority shall require the clean-up of any Hazardous Substance released, emitted or discharged onto or from the Licensors' Property, or any part thereof, or into the environment by reason of anything done by the Company, its contractors, subcontractors or employees or anyone permitted on the Licensors' Property by the Company, or as a result of the Work or activities undertaken on the Licensors' Property by the Company, its contractors, subcontractors or employees, the Company shall, at its own expense: (a) prepare all necessary studies, plans and proposals required as a result thereof; (b) obtain all necessary approvals of such authorities required to complete the remediation to the standards required by all Environmental Laws together with any other work required; (c) provide all bonds and other security required by such authorities; and (d) carry out and complete the remediation to the standards required by all Environmental Laws together with any other work required. The Company shall also provide Licensors with copies of the plans and proposals and keep Licensors advised from time to time as to the status of its remediation and other work. For greater certainty, the foregoing obligations of the Company shall include, without limitation, the treatment of water (including surface and groundwater) and the remediation by removal of any soils containing Hazardous Substance at levels exceeding the standards set as acceptable at the time of remediation by the applicable Government Authority. Any soil so removed shall be promptly replaced by soil free of Hazardous Substance in concentrations above the standards prescribed in the preceding sentence. The Company shall provide to Licensors full information with respect to any remedial work performed pursuant to this clause and shall comply with the Licensors' reasonable requirements with respect to such work. The Company agrees that if Licensors reasonably determines that Licensors, its property, its reputation, or the Licensors' Property is placed in any jeopardy by the requirement for any such remedial work, Licensors may, but shall be under no obligation to, undertake itself such work or any part thereof at the cost of the Company.

3.7 Rectification of Breach. In the event that Licensor determines that the Company is in breach of its obligations under this Agreement, Licensor may, without limiting any other rights or remedies, provide the Company with notice in writing of the breach, and the Company shall commence promptly to rectify such breach at the Company's sole cost and expense, and shall complete such rectification as soon as reasonably possible. In the event that the Company does not commence promptly to rectify such breach, Licensor may, at its option and in its sole discretion, and without further notice to the Company, terminate the License and any other right or license of the Company, or its contractors or subcontractors to enter onto the Licensor Property or any part thereof and in addition or alternatively Licensor may rectify such breach at the cost of the Company, and the Company shall forthwith, on demand, reimburse Licensor for the cost of rectification.

3.8 Environmental Assessments and Reports. The Company shall, at its own cost, at Licensor's reasonable request from time to time, obtain from an independent environmental consultant approved by Licensor an environmental site assessment of the Licensor's Property or an environmental audit of the operations at the Licensor's Property with regard to any Work or any activity conducted on the Licensor's Property pursuant to the License. The Company shall promptly provide to Licensor a copy of any environmental site assessment, audit, or report relating to the Licensor's Property conducted by or for the Company at any time before, during, or after the Term (or any renewal or extension thereof). The Company shall, at the Licensor's request from time to time, provide Licensor with a certificate of a senior officer of the Company certifying that the Company is in compliance with all Environmental Laws and that no adverse environmental occurrences have taken place at the Licensor's Property, other than as disclosed in writing to Licensor.

3.9 Confidentiality of Environmental Assessments and Reports. The Company shall maintain all environmental site assessments, audits, and reports relating to the Licensor's Property in strict confidence and shall not disclose their terms or existence to any third party (including without limitation any governmental authority) except as required by law, or to the Company's professional advisors and lenders on a need-to-know basis, or with the prior written consent of Licensor, which consent may be unreasonably withheld.

3.10 Maintaining Environmental Records. The Company shall maintain all environmental and operating documents and records, including permits, licenses, orders, approvals, certificates, authorizations, registrations, and other such records relating to any work on the Licensor's Property, which may be reviewed by the Licensor at any time during the Term on 24 hours' prior written notice, except in the case of an emergency, when no prior notice shall be required. Licensor shall have the ongoing right during normal business hours to enter any office or other premises of the Company so that it may review the environmental books and records of the Company. Licensor shall also have the right to carry out such environmental tests, checks and reviews as considered necessary, in its sole discretion, from time to time, including a comprehensive environmental audit. If any

review or audit reveals a failure by the Company to comply with the terms and conditions of this Agreement, then the cost of such review and the cost of performing any environmental audit will be paid by the Company and if such costs are paid by Licensor, the Company shall reimburse Licensor promptly after demand.

3.11 No Representations or Warranties by Licensor. The Company acknowledges that Licensor has made no representations or warranties with respect to the environmental condition of the Licensor's Property and agrees that Licensor is granting the License in respect of the Licensor's Property on an "as is, where is" basis with respect to the environmental condition, soil stability, and subsurface contents thereof. The Company specifically acknowledges that the Licensor's Property may be subject to subsidence as a result of former mining activities in the area.

3.12 Survival of Obligations. The obligations of the Company under this Article (including without limitation, its obligation to remove and remediate Hazardous Substances), shall survive the expiry or earlier termination of the License or this Agreement.

ARTICLE 4 INDEMNIFICATION

4.1 Indemnity by Company. The Company agrees to be liable for and to indemnify and save harmless Licensor her officers, agents, servants, and employees (collectively the "**Indemnified Persons**") from and against any and all liabilities, damages, interest, penalties, fines, monetary sanctions, losses, costs and expenses whatsoever (including, without limitation, all Environmental Damages and all Claims in respect thereof, reasonable costs of professional advisors, consultants and experts in respect of any investigation, and all costs of remediation and other clean-up costs and expenses) arising in any manner whatsoever out of:

- (a) any Work or activity in, on, under or around the Licensor's Property by the Company or its contractors or subcontractors or their respective employees;
- (b) any breach by the Company of any provisions of this Agreement;
- (c) any noncompliance by the Company, its contractors, subcontractors or employees, with any Environmental Laws;
- (d) any release, discharge or emission of any Hazardous Substance onto or from the Licensor's Property as a result of any Work or other activity done, conducted or performed by the Company, or its contractors, subcontractors or their respective employees; and

- (e) any illness, injury or death of persons, or any loss or damage to property, caused or resulting from any of the foregoing.

Without limitation to the generality of the foregoing, the Company agrees:

- (i) to be liable for any damage, loss or destruction of any real or personal property of Licensor caused by any Work or other activity conducted on, in, under or around the Licensor's Property by the Company or any of its contractors, subcontractors or employees and regardless of whether any of them shall be negligent or not; and
- (ii) to indemnify and save harmless the Indemnified Persons from and against any and all actions, causes of action, suits, claims, demands, costs, losses and expenses resulting from any claim, loss, expense, injury, death or damage respecting any Person or property which may be brought against or incurred or suffered by an Indemnified Person or which any Indemnified Person may sustain, pay or incur by reason of, or which may be attributable to or arise out of, any act or omission of the Company or any contractors or subcontractors in conducting, or in any way connected to or arising out of or related to, any Work or other activity conducted, performed or done on, in or under the Licensor's Property, whether contractual or tortious, breach of contract, negligence of any degree, concurrent liability in contract or tort, statutory, strict or absolute liability or otherwise.

4.2 Survival of Indemnity. The obligations of the Company under this Article shall survive the expiry or earlier termination of the License or this Agreement.

ARTICLE 5 INSURANCE REQUIREMENTS

5.1 Required Insurance. The Company or if the Company's personnel will not be present on Licensor's Property, the Company's contractor whose personnel will be present on Licensor's Property, shall obtain and maintain throughout the Term of the License (or for such longer period as may be stipulated below) and pay for the insurance coverages listed below (the "**Required Insurance**"):

- (a) **General Liability Insurance:** Commercial general liability insurance ("**General Liability Insurance**") with limits of not less than five million dollars (\$5,000,000.00) inclusive per occurrence for bodily injury, death and damage

to property including loss of use thereof providing for coverage in respect of anything done during the period such insurance is required to be maintained under this Agreement whether or not the claim in respect thereof is made during such period including a rider for sudden and accidental pollution.

5.2 General Requirements.

- (a) The Required Insurance may be met through any combination of primary insurance and excess insurance, so long as the total amounts carried combine to meet the minimum amounts required hereunder. Certificates of proof of insurance of the Required Insurance shall be submitted to Licensor on or prior to the commencement of the Work. Approval by Licensor of any certificate of insurance submitted by the Company, or by the Company on behalf of a contractor or subcontractor, shall in no way relieve the Company of its obligations to provide and to cause its contractors and subcontractors to provide the Required Insurance, nor shall it imply that the policies are in accordance with the terms of this Agreement.

5.3 Non-Recourse Provision. The Required Insurance policies shall provide that the insurers shall have no recourse against Licensor thereunder for payment of any premium assessment and shall each contain a severability of interest provision and a cross liability clause.

5.4 Contractors and Subcontractors. The Company shall be responsible for ensuring that all contractors and subcontractors of the Company secure and maintain all insurance coverages (including, without limitation, workers' compensation insurance) required by law or this Agreement and as may reasonably be required or prudent in connection with the performance of any Work on Licensor's Property.

5.5 Specific Provisions for Commercial General Liability Insurance. The General Liability Insurance required under paragraph (a) of Section 5.1 shall be on the IBC standard commercial general liability insurance (CGL) form or the equivalent thereof and shall cover bodily injury, death and damage to property (Broad Form) including loss of use thereof and including, but not limited to, coverage for:

- (i) premises and operations liability;
- (ii) owner's and contractor's contingent liability with respect to the operation of persons, firms and corporations having a contract for the execution of a part or parts of any Work;
- (iii) products and completed operations liability;

- (iv) blanket contractual liability and specific contractual liability covering this Agreement and any amendments hereto;
- (v) cross liability;
- (vi) contingent employer's liability;
- (vii) personal injury liability;
- (viii) non-owned automobile liability.

5.6 Workers' Compensation Coverage. The Company shall throughout the Term of the License pay all premiums and assessments for Workers' Compensation insurance as required by law with respect to all employees of the Company engaged in any Work on the Licensor's Property and shall require its contractors and subcontractors to pay such premiums and assessments with respect to employees of the contractors and subcontractors.

ARTICLE 6 MISCELLANEOUS

6.1 Notices. All notices, invoices, payments, statements and communications made pursuant to this Agreement ("**Notices**") shall be in writing and delivered to the parties at the following addresses:

To the LICENSOR:

Attention: Tracey Campbell, 70 Crescent Street, Sydney, NS 902-564-7275
Fax: 902-564-3825

To the COMPANY:

Attention: *****
Fax:

A party may change its address for receipt of Notices by giving Notice to that effect to the other parties. All Notices may be sent by facsimile or mutually acceptable electronic means, a national recognized overnight courier service, first class mail, certified mail return

receipt requested, or hand delivered. Notice shall be given when received on a Business Day by the addressee. In the absence of proof of the actual receipt date, the following presumptions will apply. Notices sent by facsimile shall be deemed to have been received upon the sending Party's receipt of its facsimile machine's confirmation of successful transmission. If the day on which such facsimile is received is not a Business Day or is after five p.m. (at the receiving Party's place of business) on a Business Day, then such facsimile shall be deemed to have been received on the next Business Day after it was sent or such earlier time as is confirmed by the receiving Party. First class mail is deemed delivered three (3) days after mailing.

6.2 Assignment. The Company shall not assign this Agreement and any attempt to do so shall be void. This Agreement shall enure to the benefit of and be binding on the successors and permitted assigns of each of the parties. Licensor shall be permitted, without any requirement to obtain the consent of the Company, to assign, in whole or in part, the benefit of this Agreement to any Indemnified Person or any purchaser or transferee of the Licensor's Property.

6.3 Entire Agreement. This Agreement, including its schedules (if any), contains the entire agreement between the Parties relating to the subject matter hereof. This Agreement supersedes all proposals, oral or written, all previous negotiations and all other communications between the Parties with respect to the subject matter. There are no warranties, agreements or representations, either written or oral, relating to the subject matter of this Agreement other than as expressly stated in this Agreement.

6.4 Agreement Prepared Through Joint Effort. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against any particular Party as a result of its involvement in the preparation, negotiation, drafting or execution hereof.

6.5 No Amendment Except in Writing. No amendment or variation of the provisions of this Agreement shall be effective or binding upon the Parties unless it is set forth in writing and is duly executed by each of the Parties by their respective proper officers or authorized representatives.

6.6 Validity of Provisions. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein and this Agreement shall be enforceable to the fullest extent permitted by law.

6.7 Waiver. No consent or waiver, express or implied, by a Party of any breach or default by any other Party in the performance by such other Party of its obligations

hereunder shall be deemed or construed to be a consent or waiver of any other breach or default hereunder. Failure on the part of a Party to complain of any act, or failure to act, on the part of any other Party or to declare any other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such Party of its rights hereunder.

6.8 Governing Law. This Agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the Province of Nova Scotia (other than any conflicts of law principles that would require the laws of another jurisdiction to be applied) and the laws of Canada applicable in Nova Scotia.

6.9 Attornment. Each of the Parties irrevocably and unconditionally attorns and submits to and accepts the exclusive jurisdiction of the courts of Nova Scotia with respect to any matter or thing arising out of or pertaining to this Agreement.

6.10 No Partnership. Nothing contained in this Agreement shall be deemed or construed as creating the relationship of principal and agent, nor of partnership nor of joint venture between the Company and Licensor, it being understood and agreed that no provision contained in this Agreement nor any acts of the Company and Licensor, or either of them, shall be deemed to create any relationship between the Company and Licensor, other than the relationship of licensor and licensee.

6.11 Term of Agreement. The obligations of the Company under this Agreement shall be for the on-going benefit of Licensor and shall not terminate in any manner or by any means whatsoever except by and with the written acknowledgement of Licensor that the representations, warranties, covenants and agreements on the part of the Company herein are terminated and discharged.

DATED at _____, _____, as of the date first above written.

Witness

Witness

)
) **HER MAJESTY THE QUEEN IN RIGHT**
) **OF CANADA** as represented by the Minister of
) Public Works Government Services Canada
)
)
)
)

) Per: _____
)
)
)

) **CAPE BRETON REGIONAL MUNICIPALITY**
)
)
)

) Per: _____
)
)

) Per: _____
)

Schedule A

SCHEDULE

PID 15646300
PLAN S-5936
PUBLIC WORKS AND
GOVERNMENT SERVICES CANADA

All that certain lot, piece or parcel of land situate, lying and being on Highway #255, Port Morien, County of Cape Breton, Province of Nova Scotia and being shown on a plan of survey titled "Plan of Survey Showing Lands of Her Majesty the Queen in Right of Canada (Public Works and Government Services Canada)", Public Works and Government Services Canada Plan # S-5936, dated February 2, 2016, as signed by David T. Attwood, NSLS., (hereinafter referred to as the "plan") and being more particularly bounded and described as follows:

- Beginning:** at a placed survey marker at the intersection of the eastern boundary of Highway #255 with the northern boundary of lands deeded to Kathy MacDonald (see document #107626310), as shown on said plan;
- Thence:** on an azimuth of 7 degrees 08 minutes 07 seconds along the said eastern boundary of Highway #255 for a distance of 77.126 metres to a point of curvature;
- Thence:** in a northeasterly direction, along a southeastern boundary of said Highway #255 and following the arc of a curve to the right, having a radius of 351.090 metres, for an arc distance of 145.942 metres to a placed survey marker at the intersection with the southwestern boundary of lands of Her Majesty the Queen in Right of Canada (Public Works and Government Services Canada), said survey marker being on an azimuth of 19 degrees 02 minutes 39 seconds and a distance of 144.894 metres from last mentioned point, said survey marker also being on an azimuth of 49 degrees 49 minutes 52 seconds and a distance of 53.046 metres from Nova Scotia Co-ordinate Monument #1858.
- Thence:** on an azimuth of 136 degrees 37 minutes 46 seconds along the said southwestern boundary of lands of Her Majesty the Queen in Right of Canada (Public Works and Government Services Canada) for a distance of 20.000 metres to a placed survey marker situated at the intersection of the Ordinary High Water Mark (1898) of Morien Bay and also the northwestern boundary of water lot grant #8017 to the New York and Cape Breton Coal Company (see grant book B, at page 170);
- Thence:** in a southerly direction along the said Ordinary High Water Mark (1898) of Morien Bay for a distance of 117 metres, more or less, to an unmonumented point situated at the intersection of the Ordinary High Water Mark (2016) of Morien Bay, said unmonumented point being on a azimuth of 194 degrees 00 minutes 34 seconds and a distance of 116.266 metres from last said survey marker;
- Thence:** continuing in a southerly direction along the said Ordinary High Water Mark (2016) of Morien Bay, for a distance of 96 metres, more or less, to a point situated at the intersection with the aforesaid northern boundary of lands deeded to Kathy MacDonald;

SCHEDULE

PID 15646300
PLAN S-5936
PUBLIC WORKS AND
GOVERNMENT SERVICES CANADA

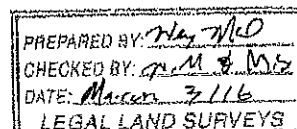
Thence: on an azimuth of 277 degrees 08 minutes 08 seconds along the said northern boundary of lands deeded to Kathy MacDonald for a distance of 9.5 metres, more or less, to a placed survey marker, said survey marker being on an azimuth of 191 degrees 47 minutes 54 seconds and a distance of 91.052 metres from the aforesaid unmonumented point situated at the intersection of the Ordinary High Water Mark (1898) with the Ordinary High Water Mark (2016) of Morien Bay, as shown on the above mentioned plan;

Thence: continuing on an azimuth of 277 degrees 08 minutes 08 seconds along the said northern boundary of lands deeded to Kathy MacDonald for a distance of 24.016 metres, to the point of beginning.

The above described parcel, containing an area of 5712 square metres, more or less, by calculation.

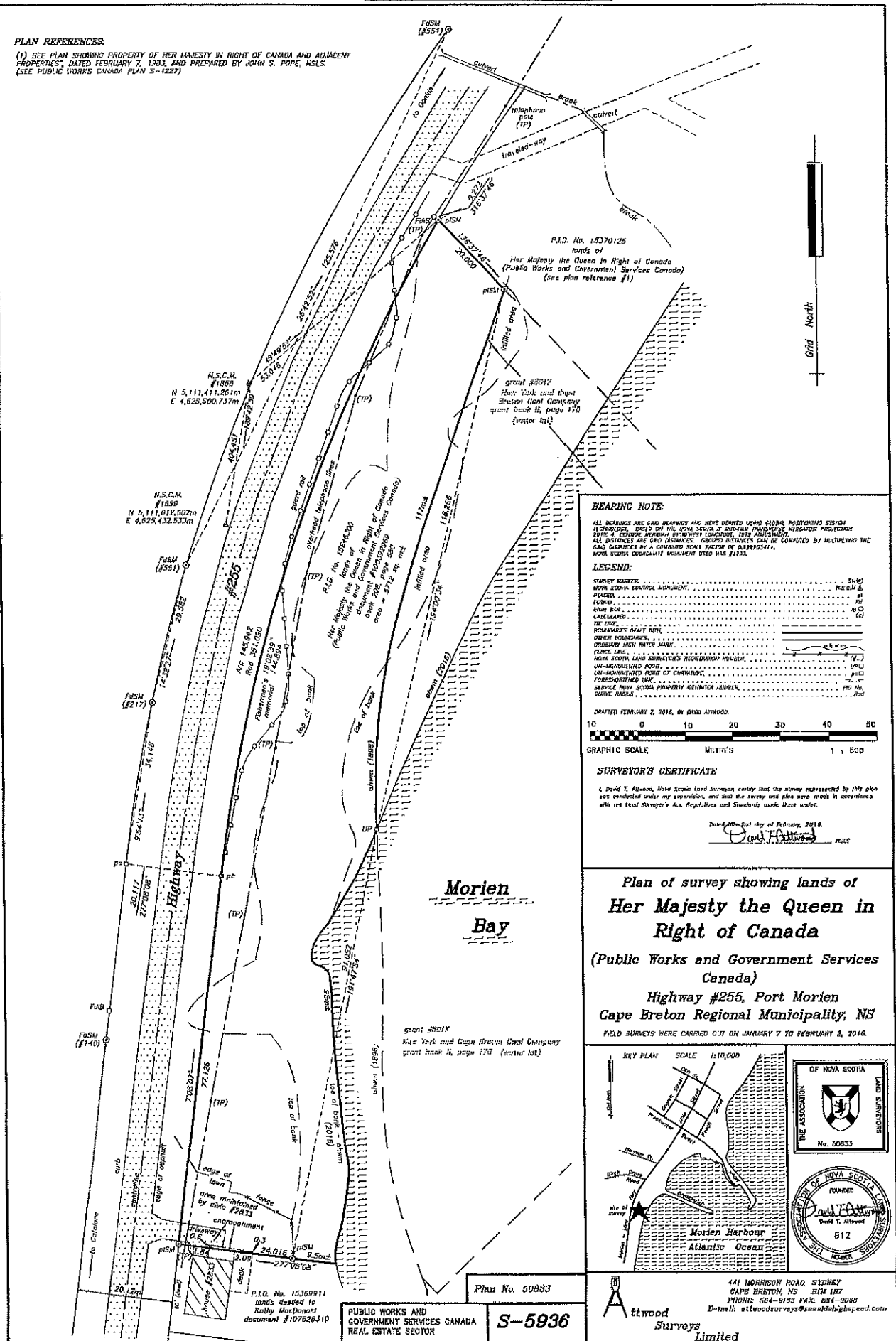
The above described parcel, intended to be lands of Her Majesty the Queen in Right of Canada (Public Works and Government Services Canada)", as recorded in document #100392969 and more particularly described in book 208, at page 680.

All azimuths herein described are grid azimuths and referenced to the Nova Scotia 3°modified transverse mercator projection, zone 4, central meridian 61°30' west longitude, of the 1979 adjustment.



PLAN REFERENCES:

(1) SEE PLAN SHOWING PROPERTY OF HER MAJESTY IN RIGHT OF CANADA AND ADJACENT PROPERTIES, DATED FEBRUARY 7, 1983, AND PREPARED BY JOHN S. POPE, NSLS. (SEE PUBLIC WORKS CANADA PLAN S-1227)



Summary

Unaudited Revenues and Expenditures

March 31, 2016

Revenue	Year To Date Assigned	12 Month Budget	12 Month Budget Variance	Annual Budget	Annual Budget Remaining
Total Taxes	\$ 102,929,778	\$ 101,883,955	\$ 1,045,823	\$ 101,883,955	\$ (1,045,823)
Total Federal Government	2,630,683	2,536,056	94,627	2,536,056	(94,627)
Total Federal Government Agencies	1,177,513	1,177,510	3	1,177,510	(3)
Total Provincial Government	1,836,002	1,324,898	511,104	1,324,898	(511,104)
Total Provincial Government Agencies	2,709,248	2,928,070	(227,822)	2,928,070	227,822
Total Services to Other Local Government	429,780	429,779	1	429,779	(1)
Total Transit	590,385	630,000	(39,615)	630,000	39,615
Total Environmental Development Services	277,972	260,168	17,804	260,168	(17,804)
Total Licenses & Permits	148,643	179,000	(30,357)	179,000	30,357
Total Fines & Fees	558,209	553,353	4,856	553,353	(4,856)
Total Rentals	618,625	550,000	68,625	550,000	(68,625)
Total Concessions & Franchises	402,192	366,517	35,675	366,517	(35,675)
Total Return on investments/Interest on Taxes	1,583,185	1,250,500	332,685	1,250,500	(332,685)
Total Finance Revenue	28,575	30,500	(1,925)	30,500	1,925
Total Solid Waste Revenue	2,304,576	2,267,000	37,576	2,267,000	(37,576)
Total Recreation & Cultural Service Programs	1,809,036	1,789,105	19,931	1,789,105	(19,931)
Total Water Utility Charges	4,951,510	4,951,510	(0)	4,951,510	0
Total Unconditional Transfers	15,873,402	15,921,458	(48,056)	15,921,458	48,056
Total Conditional Transfers	3,722,016	4,178,021	(456,005)	4,178,021	456,005
Total Revenue to date	144,572,328	\$ 143,207,400	\$ 1,364,929	\$ 143,207,400	\$ (1,364,928)

Expenditures	Year to date Expended	12 Month Budget	12 Month Budget Variance	Annual Budget	Annual Budget Remaining
Legislative	\$ 1,390,970	\$ 1,415,714	\$ 24,744	\$ 1,415,714	\$ 24,744
Administration	938,826	995,609	56,783	995,609	56,783
Finance	2,582,332	2,739,607	157,275	2,739,607	157,275
Legal	535,711	565,444	29,733	565,444	29,733
Human Resources	1,591,289	1,600,549	9,260	1,600,549	9,260
Technology & Communications	1,093,572	1,153,099	59,527	1,153,099	59,527
Municipal Clerk	433,960	480,466	46,506	480,466	46,506
Fiscal Services	35,023,320	34,772,031	138,803	34,772,031	138,803
Occupational Health & Safety	203,228	215,532	12,304	215,532	12,304
Facilities: Centre 200 & Arenas	3,594,144	3,127,621	(466,024)	3,127,621	(466,024)
Police Services	25,143,796	25,110,074	(33,722)	25,110,074	(33,722)
Fire Services (Incl EMO)	16,978,444	16,550,728	(427,716)	16,550,728	(427,716)
Engineering & Public Works	49,031,051	48,849,744	(181,306)	48,849,744	(181,306)
Planning	2,617,946	2,650,361	32,415	2,650,361	32,415
Recreation	2,842,217	2,980,821	138,604	2,980,821	138,604
Total Expended to date	\$ 144,000,805	\$ 143,207,400	\$ (402,814)	\$ 143,207,400	\$ (403,314)

Surplus/ Deficit to date \$ 571,523

ORIGINAL SIGNED BY

Departmental

ORIGINAL SIGNED BY

Reviewed



**CAPE BRETON
REGIONAL MUNICIPALITY**

NOTICE
By-Laws for Second (Final)
Reading by Council

TAKE NOTICE that the following By-Laws will be brought to Council for second (final) reading on **Tuesday, May 17, 2016** at 6:00 p.m., Council Chambers, 2nd Floor, City Hall, 320 Esplanade, Sydney, NS:

BY-LAW	INTENT
Amendments to the Vendors and Traders of Goods By-law	• To change the title to "Vendors By-law" • To update the Statutory Authority for adopting this By-law • To add a map which identifies where a vendor's licence can be issued. • To revise or add definitions • To change the fee for Transient Vendors from \$5000 to \$500
Amendments to the following: • Building By-Law • Civic Addressing By-Law • Parking Meter By-Law • Taxi By-Law • Vending Machines By-Law	• To change reference to any of the former Standing Committees to the "General Committee"

The above By-law amendments may be inspected at the Clerk's Office, 4th Floor, Room 405, City Hall, 320 Esplanade, Sydney, N.S.

Signed: Deborah Campbell
Municipal Clerk
April 30, 2016

7276981

First Reading - Proposed Changes to CBRM By-laws re: Reference to General Committee:

Motion:

Moved by Councillor MacLeod, seconded by Councillor Flynn, that the proposed amendments to the CBRM By-laws with reference to “General Committee” in the:

- Building By-Law
- Civic Addressing By-Law
- Parking Meter By-Law
- Taxi By-Law; and
- Vending Machines By-law

as outlined in the staff report dated March 11, 2016, be approved for first reading.

Motion Carried.



Clerk's Office

M·E·M·O

320 Esplanade

Sydney, Nova Scotia, B1P 7B9

902-563-5010

To: CBRM Mayor and Council

From: Deborah Campbell, Municipal Clerk

Date: March 11, 2016

Subject: Proposed Changes to CBRM By-Laws (reference to the "General Committee")

At the January 5, 2016 meeting of the General Committee, a motion was passed recommending that Council approve the proposed amendments to the following By-laws to reflect reference to the "General Committee":

- * Building By-Law
- * Civic Addressing By-law
- * Parking Meter By-law
- * Taxi By-law
- * Vending Machines By-law

The full documents with the proposed amendments are in a separate attachment to the Council agenda.

Staff Recommendation:

I recommend that Council approve the proposed amendments to the foregoing CBRM By-laws, noting that these amendments require two readings by Council.

Yours truly,

ORIGINAL SIGNED BY

Deborah Campbell
Municipal Clerk



**CAPE BRETON
REGIONAL MUNICIPALITY**

NOTICE By-Laws for Second (Final) Reading by Council

TAKE NOTICE that the following By-Laws will be brought to Council for second (final) reading on **Tuesday, May 17, 2016** at 6:00 p.m., Council Chambers, 2nd Floor, City Hall, 320 Esplanade, Sydney, NS:

BY-LAW	INTENT
Amendments to the Vendors and Traders of Goods By-law	• To change the title to "Vendors By-law" • To update the Statutory Authority for adopting this By-law • To add a map which identifies where a vendor's licence can be issued. • To revise or add definitions • To change the fee for Transient Vendors from \$5000 to \$500
Amendments to the following: • Building By-Law • Civic Addressing By-Law • Parking Meter By-Law • Taxi By-Law • Vending Machines By-Law	• To change reference to any of the former Standing Committees to the "General Committee"

The above By-law amendments may be inspected at the Clerk's Office, 4th Floor, Room 405, City Hall, 320 Esplanade, Sydney, N.S.

**Signed: Deborah Campbell
Municipal Clerk
April 30, 2016**

7276981

Application #1021: Amendment to the CBRM Vendors and Traders of Goods By-law; Amendment to Section 44 of the CBRM Land Use By-law; and Amendment to Section 39 of the CBRM North End Sydney Secondary Land Use By-law:

Motion:

Moved by Councillor Eldon MacDonald, seconded by Councillor MacLeod, approval to advertise notice of a Public Hearing to be held during the May 2016 meeting of Council, to consider amending the Vendors and Traders of Goods By-law, Section 44 of the CBRM Land Use By-law, and Section 39 of the CBRM North End Sydney Secondary Land Use By-law, as outlined in the staff Issue Paper dated April 13th, 2016.

Motion Carried.



TO: CBRM Council

FROM: Karen Neville

SUBJECT: AMENDMENTS TO THE CBRM VENDORS AND TRADERS OF GOODS BY-LAW

DATE: May 3rd, 2016

Introduction

Mobile vendors can have positive impacts on the community, including increasing economic development, animating streets and other public spaces, and increasing consumer food and retail choices provided appropriate measures are put into place to mitigate issues such as impacts to on-street parking. The relatively low start-up costs, overhead costs and on-going operating costs (as compared to a restaurant or a retail store) make a mobile vendor business attractive to an entrepreneur trying to establish a new business.

The current Vendors and Traders of Good By-law was adopted in 1998 with subsequent amendments in 1999 and 2000 (Attachment E). Since that time, mobile vendors, especially food trucks, have been increasing in popularity within the CBRM. As a result, staff is recommending several amendments to the Vendors and Traders By-law in order to provide clarification for staff and applicants.

Amendments to the Vendors and Traders of Good By-law

Staff initially undertook these amendments to address concerns related to the connection between the Vendors and Traders of Goods By-law and Land Use By-laws. It is recommended that instead of zoning linking these documents, a map illustrating areas where a vendors licence can be issued should be added to the Vendors and Traders of Goods By-law. While this map correlates to zones where restaurants and sales are permitted, it is a standalone map that may be amended without amending the Land Use By-laws. Provisions were also added to clarify under what circumstances a person can apply for a vendors licence for a property not identified on this map.

In addition to clarifying where a vendor's licence can be issued, the statutory authority to adopt such a by-law needs to be amended. When this By-law was originally adopted the authority to do so was under the *Cape Breton Regional Municipality Act*; however, this Act was repealed in 1998. The authority to adopt a vending by-law is now under the *Municipal Government Act*; as a result the Vendors and Traders of Goods By-law should be amended to reflect this change. Due to the fact that this By-law has not had a major review since its adoption in 1998, minor housekeeping amendments are also recommended (Attachment A). A copy of the draft of the CBRM Vendor By-law has been included as Attachment B for Council's consideration.

Past recipients of a vendors licence will be mailed a summary of the proposed changes to the Vendors and Traders of Good By-law. They will also be encouraged to contact Planning and Development

Department staff if they have any questions and informed of their opportunity to attend the Public Hearing.

Summary Offence Ticket Regulation

In addition to having to amend CBRM By-laws, Schedule M-1 of the *Summary Offence Ticket Regulation* will also be amended. The Vendors and Traders of Goods By-law is one of CBRM's By-laws which is subject to Summary Offence Ticket. If Council approves the proposed amendment staff will begin the process to have the *Summary Offence Ticket Regulation* updated to reflect these changes.

Recommendation

I recommend that Council approve the By-law to amend the Vendors and Traders of Good By-law.

The Vendors By-law can be found in Attachment B. A copy of the draft maps can be found at: <http://www.cbrm.ns.ca/municipal-planning.html>

I recommend that Council pass a motion directing staff to begin the process to have the *Summary Offence Ticket Regulation* updated to reflect the amendments to the Vendors By-law and Traders of Good By-law.

Submitted by:

Originally Signed By

Karen Neville
Planning and Development Department

Summary of proposed changes to the Vendors and Trader of Good By-law

1. The title was simplified to Vendors By-law.

2. Statutory Authority for adopting this By-law

At the time the current By-law was adopted the statutory authority to do so was under the *Cape Breton Regional Municipality Act*; however, this Act was repealed in 1998. The authority to adopt the Vending By-law is now under the *Municipal Government Act*. The Vending By-law has been amended to reflect the appropriate statutory authority.

3. Definitions

To aid in the administration and interpretation of the By-law the following definitions were added:

Auction
Auctioneer
Busking

General Committee of Council
Licencing Authority
Vendor

Definitions deleted:

Protective Service Committee

- Replaced with General Committee of Council throughout the By-law

Trade

- The current By-law has definitions for both Trade and Vend. Due to the similarity between the terms, Trade was removed.

4. Administration and Enforcement Responsibilities

Instead of Council appointing a person as the Licencing Authority, this section was amendment to state that Council shall appoint the position of Assistant By-law Manger. This would mean the authority to issue a vendors licence will be connect to the position and not a particular employee.

5. Section 3 Exceptions was added

The provisions in the section are found throughout the current By-law, they have simply been complied in one section. Also, garage or yard sales, door to door sales, and busking were added to the list of exceptions.

6. Section 4 Location was added

This section replaces Section 10 Zoning and references the designated areas where vending is permitted. Designated area are shown a Schedule "A" which accompanies the By-law. While Schedule "A" does correlate with zoning, it is a standalone map that may be amended without amending the Land Use By-law(s). Provisions were also added to clarify under what circumstances a person can apply for a vendors licence for a property not identified on Schedule "A".

7. Section 5 Licence Requirements was amended

- A provision was added to this section requiring an applications to be submitted a minimum of 30 days in prior to the applicant's intention to vend. This does not mean that it will take 30 days for the Licencing Authority to issue a vendors licence. This timeframe is meant to provide the Licencing Authority an adequate timeframe to process and evaluate each application to ensure compliance with the By-law.
- Applicants are now required to submit a site plan
- For those vendors vending from a motor vehicle they are now required to submit proof of motor vehicle registration, up-to-date motor vehicle inspection, and insurance

8. Provisions were added to the General Provisions Section

No vendor shall:

- Dump any trash or refuse or any fat or other food substances into the CBRM's sewer system
- Vend to person in motor vehicles

9. The term 'Lobster Retail' was replaced with Seafood Vending

The current By-law has provisions for the retailing of lobster but it does not reference the vending of other types of seafood.

10. The fee for Transient Vendors was changed from \$5000 to \$500

The change in fee structure for a transient vendors licence was the result of a comparing the fees charged by other municipalities.

Cape Breton Regional Municipality

By-Law _____

Vendors By-law

Adopted by CBRM Council _____

Effective Date is _____

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Cape Breton Regional Municipality

By-Law _____

Vendors By-law

Pursuant to Section 173 of the *Municipal Government Act*, BE IT ENACTED by the Council of the Cape Breton Regional Municipality (CBRM) as follows:

- (1) This By-law shall be known as the "Vendors By-law";
- (2) Where a provision of this By-law conflicts with the provisions of another By-law in force within the Municipality, the provision that establishes the higher standards to protect the health, safety, and welfare of the general public shall prevail.

WHEREAS the Cape Breton Regional Municipality intends to regulate vending:

- to ensure such facilities and their surroundings are adequately maintained;
- to ensure their customers receive a high degree of service; and

in lieu of the fact such businesses are not obliged to pay property taxes

- to ensure the taxpayer is compensated for the municipal services such businesses are the beneficiaries of; and
- to compensate for the fact businesses who are in direct competition with such vendors which are obliged to pay property taxes are burdened with a tax not imposed on vendors and traders of goods

the Council of the Cape Breton Regional Municipality hereby adopts this By-law.

1 Definitions

Auction means a publicly held sale where goods are sold to the highest bidder, but does not include local estate auctions or auctions organized by Service Clubs and non-profit organizations

Auctioneer means a person who vends goods, wares, merchandise or effects or livestock by public auction.

Busking – means a person or group that performs in a public place for donation.

Council means the Council of the Cape Breton Regional Municipality.

Craft Fair Organizer means the person leasing the facility used to host the craft fair.

General Committee of Council means the General Committee of the Council of the Cape Breton Regional Municipality

Licensing Authority means the Assistant By-law Manager, or such employee or agent of the Municipality as the Assistant By-law Manager may designate to receive applications for licence under this By-law;

Non-Profit Organization means an organization which is created primarily for a charitable object or purpose, is operated not for profit, with 100% of the funds raised going to the designated charity, and includes, but is not limited to a religious organization, school activities, or minor sports group.

Manufactured Products means products to be retailed, which were produced by means of a large scale assembly line operation using sophisticated technology and machinery.

Motor Vehicle means a self-propelled vehicle, as defined in the *Motor Vehicle Act*, driven otherwise than by muscular power.

Municipality means the Cape Breton Regional Municipality.

Non-Profit Organization means an organization which is created primarily for a charitable object or purpose, is operated not for profit, with 100% of the funds raised going to the designated charity, and includes, but is not limited to a religious organization, school activities, or minor sports group.

Person means an individual, guild, agency or a corporation.

Special Event means a publicized temporary festival, carnival, or fair at a particular site for no more than a few consecutive days.

Stand means any table, showcase, bench, rack, pushcart, wagon, or wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licenced and registered pursuant to the *Motor Vehicle Act* as a motor vehicle or a trailer, used for the display, storage, transportation, or sale of food, beverages, or other merchandise by a vendor.

Street means within the entire right-of-way of a public street owned and maintained by the Cape Breton Regional Municipality or the Department of Transportation and Infrastructure Renewal.

Traffic Authority means the position of responsibility delegated by Regional Council by recorded resolution to be responsible for the powers of a traffic authority pursuant to the *Motor Vehicle Act*.

Trailer means a vehicle without motive power designed to carry property or passengers to be drawn by a motor vehicle.

Transient Vendor means a person, firm, or corporation temporarily vending manufactured products at a particular location for a specified period of time (e.g. *retailing clothing from a hotel location*) that is not operating such a business elsewhere in the Municipality from a building as defined in the Provincial Building Code which is subject to the business occupancy assessment pursuant to the *Assessment Act* of Nova Scotia.

Unprocessed products means produce in its natural state which has not been manufactured beyond harvesting.

Vend or Vending means the sale, or offering for sale of food, beverages or other merchandise or service, not in an enclosed building as defined in the Provincial Building Code, whether on public property or private property.

Vending vehicle means a vehicle used for the displaying, storing, transportation or sale of food and beverages by a vendor which is:

- required to be licenced and registered pursuant to the *Motor Vehicle Act* as a motor vehicle or a trailer; or
- propelled by human power whether required to be licenced or not.

Vendor means any person who engages in vending as defined under this By-law.

Unightly means a vending vehicle or stand which does not have a well maintained facade and site including but not limited to:

- clean and painted and rust free;
- tires with the right air pressure for traveling on public streets;
- vending site free of rubbish.

2 Administration and Enforcement Responsibilities

- (1) No person shall vend in the Municipality except in accordance with the provisions of this By-law.
- (2) Council shall appoint the position of Assistant By-law Manger as the Licencing Authority to grant or refuse any application for a licence under this By-law.
- (3) The By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any Peace Officer shall have authority to enforce any and all provisions of this By-law.

3 Exceptions

- (1) This bylaw does not apply to
 - (a) A person vending fruits, vegetables and other products harvested from a farm located within the Municipality;
 - (b) A person vending forestry products from a woodlot located within the Municipality;
 - (c) A fisher licenced by the Province of Nova Scotia vending lobster, fish, oysters or any other seafood they have harvested from the sea;
 - (d) Non-profit organizations and religious organizations associated with fund-raising by community or religious not for profit groups from the CBRM;
 - (e) Estate Auctions held to dispose of property and or personnel items belonging to properties listed on the CBRM Tax Role;
 - (f) Vending by the operator of a commercial business on the sidewalk in front of that commercial business, although approval may be required from the Traffic Authority;
 - (g) A garage or yard sale held at a residential home, when conducted by the owner or legal occupant, or a group including the owner or legal occupant;
 - (h) Door to door sales; or
 - (i) Busking.

4 Location

- (1) Those areas shown on Schedule "A" attached hereto and forming part of this Bylaw are designated as authorized sites on which vending is permitted.
- (2) A person may vend on a site not shown on Schedule "A" subject to the following:

- (a) The property has been previously occupied by a business development similar or more obnoxious to the vending proposal within the last 10 years if irrefutable evidence of the former land use can be verified by an independent source other than the applicant; or
- (b) The property is owned by the CBRM and written, signed permission is received by the site's CBRM Manager; or
- (c) The mobile vehicle does not vend at any one location for a period longer than thirty (30) minutes within a street right-of-way nor vend from on any property for a period longer than sixty (60) minutes; or

5 Licence Requirements

- (1) No person shall vend in the Municipality without having obtained a licence to do so pursuant to this By-law.
- (2) A licence to vend is required for each vending stand, vending vehicle, or transient vender operating in the Municipality.
- (3) Every application for a licence to vend in the Municipality shall be made in writing to the Licencing Authority, with a minimum of 30 days advance notice of the intention to vend, shall contain:
 - (a) the name, mailing address and telephone number of the applicant;
 - (b) company name if applicable;
 - (c) description of the merchandise to be sold;
 - (d) photograph of the stand or vending vehicle;
 - (e) if the applicant is proposing to vend on property owned by the Municipality, the period of time during the year the applicant proposes to be in operation and the hours of operation;
 - (f) if the applicant is proposing to vend food prepared on-site, a copy of the licence issued by the Nova Scotia Department of Agriculture in compliance with their Regulations;
 - (g) if the applicant is proposing to cook food to be prepared for consumption by the general public, a statement from the Fire Marshall's office of the Province of Nova Scotia, or a person licenced to supply or install propane equipment by the Fire Marshall's office, that the equipment used by the vendor to cook the food is in compliance with the minimum requirements of the "Liquified Petroleum Gas Installation and Equipment Regulation" made pursuant to the *Fire Prevention Act* of Nova Scotia;
 - (h) if the applicant is proposing to vend at a particular site or sites, adequate property information to identify the specific parcel(s) of land including a site plan(s). Each site plan shall show the area being utilized by the vendor, ingress and egress, and the location of all buildings on the property;
 - (i) if the applicant is proposing to vend from a motor vehicle and said motor vehicle travels on public street, proof of motor vehicle registration, up-to-date motor vehicle inspection, and insurance;
 - (j) if the applicant is proposing to vend at a particular site and the applicant is not the owner of the parcel of land, written and signed permission from the property owner;
 - (k) if the applicant is proposing to vend on a street, written, signed permission from the Traffic Authority;
 - (l) confirmation of insurance in the amount of \$1,000,000 including the Municipality as an additional named insured, and if it is a vendor, with a cross liability clause in connection with the presence and operation of the vendor within the street, and that the Cape Breton Regional

Municipality will be notified by the insurance company if and when the insurance policy on the vehicle or stand in effect with respect to the vehicle or stand to be used has expired;

(m) Payment in accordance with Schedule "B".

- (4) After receiving a completed application, the Licencing Authority shall issue a licence in compliance with the provisions of this By-law.
- (5) A person who is issued a licence by the Licencing Authority shall operate only at the site or sites for which the licence was issued under this By-law.
- (6) Any person who has been refused a licence may appeal such licence to the General Committee of Council by writing to the Clerk of the Municipality within 15 days of the revocation. The General Committee of Council may confirm the decision of the Licencing Authority or order that a licence is issued subject to compliance with the provisions of this By-law.

6 Reasons for Revoking Licence

- (1) A licence shall be revoked by the Licencing Authority for the following reasons:
 - (a) the licence issued by the Nova Scotia Department of Agriculture is revoked;
 - (b) the vendor is vending merchandise not stipulated on the application for a licence;
 - (c) the vending business is in violation of any specific provision of this By-law;
 - (d) the vending business is in violation of any other By-law of the Municipality;
 - (e) the vending business is in violation of provisions of the *Motor Vehicle Act* or any regulations made thereunder;
 - (f) the vending business is not insured as stipulated in Section 5 and as confirmed on the licence application.
- (2) Any person whose licence has been revoked by the Licencing Authority may appeal to the General Committee of Council in writing to the Clerk of the Municipality within 15 days of the revocation. The General Committee of Council may confirm the decision of the Licencing Authority or order that a licence not be revoked subject to compliance with the provisions of this By-law.
- (3) A licence in respect of any site may be revoked by the General Committee of Council if, in the opinion of the Committee, the site is required for the purposes of the Municipality and the Municipality shall refund to the applicant a portion of the licence fee paid by the applicant pro-rated in proportion to the amount of time that the licence is revoked.

7 General Provisions

- (1) No vendor shall:
 - (a) leave any vending vehicle or stand unattended on a street;
 - (b) leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor;
 - (c) place any items relating to the operation of the vending anywhere other than in, on or under the stand or vending vehicle with the exception of litter and recycling receptacles or a table (*if vending goods on a particular site other than a street*);
 - (d) dump any trash or refuse or any fat or other food substances into the CBRM's sewer system.
 - (e) solicit business orally or by means of any sound emitted by a device to pedestrians or persons in motor vehicles;

- (f) vend within 100 feet of a doorway of a permanent business establishment located within a building subject to property tax and selling similar products as the vendor, unless the vendor is a pedestrian powered vehicle or stand selling food in front of an eating establishment in which the restaurant is closed (*For purposes of clarity, "selling similar products" shall mean for example food vendors and restaurants, craft vendors and jewelry stores etc.*);
 - (g) allow the vending vehicle, vending stand, or any item relating to the operation of the vending of business to lean against or hang from any building on private property or any structure lawfully placed on public property without the owner's permission;
 - (h) operate such a business from a stand or vending vehicle which is unsightly because the facade has not been maintained or a particularly obnoxious part of the stand or vending vehicle is not effectively screened from outside of the stand or vending vehicle;
 - (i) locate the vending vehicle or stand in such a way as would restrict or interfere with vehicles entering or exiting a driveway accessing a street or pedestrians attempting to enter the premises of a building;
 - (j) leave a vending vehicle or stand at any location which is not being used for vending purposes for a period of time exceeding one (1) week;
 - (k) place the vending vehicle or stand so as to obstruct the view of approved signage or displays in storefront windows;
 - (l) vend to persons in motor vehicles;
- (2) In addition to the provisions of this By-law, it is the responsibility of the vendor to comply with all other applicable Municipal, Provincial and Federal Legislation.

8 Sidewalk Vending

- (1) No motor vehicle shall be used for vending purposes while on a sidewalk, and no pedestrian powered vending vehicle or stand shall be permitted on a sidewalk unless:
 - (a) the width of the sidewalk is a minimum of 10 feet
 - (b) provided the pertinent provisions of Section 4 can be met; and
 - (c) provided the pertinent provision of Section 7(1)(f) is met.

9 Special Events

- (1) A special event does not need to be located in a designated area identified in Schedule "A".
- (2) Any person vending at a special event in the Municipality shall:
 - (a) have a vending licence in compliance with this By-law; and
 - (b) acquire written invitation from the special event organizer; unless the beneficiary of the proceeds from the vending is a religious denomination or a non-profit corporation or a society incorporated under the *Societies Act*.
- (3) A person intending to vend at a special event in the Municipality may acquire a per event licence from the Regional Municipality or acquire an annual licence from the Regional Municipality.

10 Craft Fairs

It is the responsibility of the craft fair organizer to acquire a special event vendor's licence on behalf of all vendors participating in the craft fair. Each vendor is not required to be licenced individually.

11 Christmas Tree and Seafood Vending

- (1) The seasonal vending of Christmas trees during the weeks leading up to Christmas day shall be subject to a licence fee as per Schedule "B" unless:
 - (a) the retailing is being conducted by the woodlot owner who harvested the trees as described in Section 3; or
 - (b) the retailing is being conducted by, or for the benefit of, a non-profit organization registered under the *Societies Act of Nova Scotia*.
- (2) The vending of seafood in the Municipality shall be subject to a licence fee as per Schedule "B" unless:
 - (a) the vending is being conducted by the licenced fisher who caught the seafood as described in Section 3; or
 - (b) the seafood is being sold by, or for the benefit of, a non-profit organization registered under the *Societies Act of Nova Scotia*.

12 Transfer of Licence

A licence to vend may not be transferred to a new licensee.

13 Period of Time Licence in Effect

A licence to vend shall be an annual licence (*12 months*), which shall expire on the 31st day of March of each calendar year; therefore, a new application, documentation and payment of the fee for a vendor's licence is required each and every year.

14 Licence Identification and Display

Every licence shall bear a number and shall be conspicuously displayed at all times during the operation of the vending business.

15 Amendments

- (1) A person who seeks to have this By-law amended shall
 - (a) address a written and signed letter to the Clerk's Office requesting permission to present their request to the General Committee of Council; and
 - (b) pay for all costs of public notification of a Public Hearing of Council and public notice of Council's decision to adopt the amendment.
- (2) If the General Committee of Council deems it appropriate to proceed, a recommendation shall be made that the Licencing Authority prepare an Issue Paper to be presented at a subsequent meeting of Regional Council.
- (3) Prior to presenting an Issue Paper to Regional Council, the Licencing Authority shall circulate the request in Subsection (1) the Traffic Authority, the Planning and Development Department and any other relevant agencies for input.

16 Records

The Licencing Authority shall keep a record of every licence issued and every application accepted.

17 Penalties

- (1) Every person who contravenes or fails to comply with any provisions of this By-law, or any proprietor who allows un-licenced vendors the use of their premises or property, shall, for each offence, be liable on summary conviction to a penalty of not less than \$100.00 and not more than

\$200.00; and, in default of payment, the By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any other Peace Officer may cancel or suspend the licence of such person. In the case of a continuing offence, a further penalty, not exceeding \$100 for each day during which the offence continues, may be imposed.

(2) Where a person is vending:

- (a) without a licence required by this By-law; or
- (b) from a space other than the space allocated to that person and specified in a Licence issued pursuant to this By-law;

in addition to any other remedy or penalty imposed by this By-law, the By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any other Peace Officer may, immediately and without notice of any kind, remove any vehicle or stand used as an integral part of the vending or trading business to a place selected by the Municipality and all costs and charges incurred by the Municipality for the removal and storage shall be a lien thereon and the Municipality may, by action in any Court of competent jurisdiction, recover as a civil debt due to the Municipality by the owner, the cost of removal and storage thereof.

18 Previous By-laws Repealed

By-law No. V – 200, cited as the *Vendors and Traders of Goods By-law* and all amendments thereto are hereby repealed.

PASSED AND ADOPTED by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipality held on _____.

MAYOR CECIL P. CLARKE

DEBORAH CAMPBELL, CLERK

<i>THIS IS TO CERTIFY</i> that the attached is a true and correct copy of the <i>Vendors By-law</i> of the Cape Breton Regional Municipality including amendments to _____.
DEBORAH CAMPBELL, CLERK

Schedule "B"
of the
Vendors By-law
of the
Cape Breton Regional Municipality

Fee Schedule for Vendors Licence

Type of Vendor	Period of Time Licence is in Effect	Special Provisions
Mobile motor vehicle traveling from one location to another	\$450 annual fee per vehicle	This \$450 per vehicle annual fee is replaced with a \$1,000 fleet fee for three or more vehicles owned by the same proprietor who is paying property and business occupancy tax in relation to the vending activity
Stationary motor vehicle	\$450 annual fee	Minimum site rental on CBRM property is \$350 per month; <i>except</i> metered parking spaces where the vendor is prohibited from locating the vending vehicle while the Parking Meter By-law is in effect, in which case the site rental fee is \$175 per month This \$450 per vehicle annual fee is replaced with a \$1,000 fleet fee for three or more vehicles owned by the same proprietor who is paying property and tax in relation to the vending or activity The vendor licenced to locate on a particular site owned by the CBRM for the previous year may renew their licence prior to the CBRM accepting applications from other vendors.
Pedestrian power stand	\$225 annual fee	
Bicycle vendors	\$50 annual fee per vehicle	
Special events and craft fairs	\$100 per event	
Christmas tree and seafood vending	\$100 per season	Refer to Section of By-law titled "Christmas Trees and Seafood Vending"
Auctioneer	\$100 per auction	
Transient vendors	\$500 per day	

Vendors and Traders of Goods By-law

Pursuant to Section 119 (1) (l) and Section 127 of the Cape Breton Regional Municipality Act, S.N.S. 1994, c.3

WHEREAS the *Cape Breton Regional Municipality Act* enables the Cape Breton Regional Municipality to regulate and licence vendors and traders of goods; and

WHEREAS the Cape Breton Regional Municipality intends to regulate vending and trading of goods:

- to ensure such facilities and their surroundings are adequately maintained;
- to ensure their customers receive a high degree of service; and
in lieu of the fact such businesses are not obliged to pay property taxes or business occupancy fees
- to ensure the taxpayer is compensated for the municipal services such businesses are the beneficiaries of; and
- to compensate for the fact businesses who are in direct competition with such vendors and traders of goods which are obliged to pay property taxes and business occupancy fees are burdened with a tax not imposed on vendors and traders of goods

the Council of the Cape Breton Regional Municipality hereby adopts this By-law.

1. Definitions

Council means the Council of the Cape Breton Regional Municipality.

Craft Fair Organizer means the person leasing the facility used to host the craft fair.

Manufactured Products means products to be retailed, which were produced by means of a large scale assembly line operation using sophisticated technology and machinery.

Motor Vehicle means a self-propelled vehicle, as defined in the *Motor Vehicle Act*, driven otherwise than by muscular power.

Municipality means the Cape Breton Regional Municipality.

Person means an individual, guild, agency or a corporation.

Protective Services Committee means the Protective Services Committee of the Council of the Cape Breton Regional Municipality.

Special Event means a publicized temporary festival, carnival, or fair at a particular site for no more than a few consecutive days.

Stand means any table, showcase, bench, rack, pushcart, wagon, or wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licenced and registered pursuant to the *Motor Vehicle Act* as a motor vehicle or a trailer, used for the display, storage, transportation, or sale of food, beverages, or other merchandise by a trader.

Street means within the entire right-of-way of a public street owned and maintained by the Cape Breton Regional Municipality or the Department of Transportation & Public Works on behalf of the Municipality.

Trade means the sale, or offering for sale of food, beverages or other merchandise from locations other than:

- within a street;
- in a dedicated area (*other than transient traders retailing manufactured products*) within a building as defined in the Provincial Building Code which is subject to the business occupancy assessment pursuant to the *Assessment Act* of Nova Scotia.
except for the following:
 - farmers retailing produce harvested from a farm located in the Municipality;
 - foresters whose woodlot is located in the Municipality;
 - fishers licenced by the Province of Nova Scotia.

Traffic Authority means the position of responsibility delegated by Regional Council by recorded resolution to be responsible for the powers of a traffic authority pursuant to the *Motor Vehicle Act*.

Trailer means a vehicle without motive power designed to carry property or passengers to be drawn by a motor vehicle.

Transient Vendor or Trader means a person temporarily vending or trading manufactured products at a particular location for a specified period of time (*e.g. retailing clothing from a hotel location*) that is not operating such a business elsewhere in the Municipality from a building as defined in the Provincial Building Code which is subject to the business occupancy assessment pursuant to the *Assessment Act* of Nova Scotia.

Unprocessed products means produce in its natural state which has not been manufactured beyond harvesting.

Vend means the sale, or offering for sale of food, beverages or other merchandise *within the confines of a street* except for the following:

- farmers retailing produce harvested from a farm located in the Municipality;
- foresters whose woodlot is located in the Municipality;
- fishers licenced by the Province of Nova Scotia.

Vending vehicle means a vehicle used for the displaying, storing, transportation or sale of food and beverages by a vendor which is:

- required to be licenced and registered pursuant to the *Motor Vehicle Act* as a motor vehicle or a trailer; or
- propelled by human power whether required to be licenced or not.

Unightly means a vending vehicle or stand which does not have a well maintained facade and site including but not limited to:

- clean and painted and rust free;
- tires with the right air pressure for traveling on public streets;
- vending or trading site free of rubbish.

2. Administration and Enforcement Responsibilities

- a. No person shall vend or trade goods in the Municipality except in accordance with the provisions of these regulations.
- b. Council shall appoint a person as the licencing authority to grant or refuse any application for a licence under this By-law
- c. The By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any Peace Officer shall have authority to enforce any and all provisions of this By-law.
- d. Estate Auctions held to dispose of property and or personnel items belonging to properties listed on the Cape Breton Regional Municipality Tax Role have an exception from the requirements of this by-law

3. License Requirements

- a. No person shall vend or trade goods in the Municipality without having obtained a licence to do so pursuant to these regulations.
- b. A licence to vend or trade is required for each vending stand or vending vehicle to be operated in the Municipality.
- c. Every application for a licence to vend or trade in the Municipality shall be made in writing to the person (s) appointed by Council to grant or refuse any application for a licence under this By-law. An application for a licence shall contain:
 - the name, mailing address and telephone number of the applicant;
 - company name if applicable;
 - description of the merchandise to be sold;
 - photograph of the stand or vending vehicle;
 - if the applicant is proposing to vend or trade on property owned by the Municipality, the period of time during the year the applicant proposes to be in operation and the hours of operation;
 - if the applicant is proposing to vend or trade food prepared on-site, a copy of the licence issued by the Nova Scotia Department of Agriculture in compliance with their Regulations;
 - if the applicant is proposing to cook food to be prepared for consumption by the general public, a statement from the Fire Marshall's office of the Province of Nova Scotia, or a person licenced to supply or install propane equipment by the Fire Marshall's office, that the equipment used by the vendor to cook the food is in compliance with the minimum requirements of the "Liquified Petroleum Gas Installation and Equipment Regulation" made pursuant to the *Fire Prevention Act* of Nova Scotia;
 - if the applicant is proposing to trade at a particular site other than a street, adequate property information to identify the specific parcel of land including a site plan;
 - if the applicant is proposing to trade at a particular site and the applicant is not the owner of the parcel of land, written permission from the property owner;
 - if the applicant is proposing to vend on a street, written permission from the Traffic Authority;

- confirmation of insurance in the amount of \$1,000,000 including the Municipality as an additional named insured, and if it is a vendor, with a cross liability clause in connection with the presence and operation of the vendor within the street, and that the Cape Breton Regional Municipality will be notified by the insurance company if and when the insurance policy on the vehicle or stand in effect with respect to the vehicle or stand to be used has expired;
- d. After receiving a completed application, the licencing authority shall issue a licence unless the application is to vend or trade at a site, which is not in compliance with the zoning provisions of the land use by-law in effect.
- e. Any person who has been refused a licence may appeal such licence to the Protective Services Committee by writing to the Clerk of the Municipality within 15 days of the revocation. The Protective Services Committee may confirm the decision of the licencing authority or order that a licence is issued subject to compliance with the provisions of this By-law.

4. Reasons for Revoking Licence

- a. A licence shall be revoked by the licencing authority for the following reasons:
 1. the licence issued by the Nova Scotia Department of Agriculture is revoked;
 2. the vendor or trader is vending or trading merchandise not stipulated on the application for a licence;
 3. the vending or trading business is in violation of any specific provision of this By-law;
 4. the vending or trading business is in violation of any other By-law of the Municipality;
 5. the vending or trading business is in violation of provisions of the *Motor Vehicle Act* or any regulations made thereunder;
 6. the vending or trading business is not insured as stipulated in Part 3 and as confirmed on the licence application.
- b. Any person whose licence has been revoked by the licencing authority may appeal to the Protective Services Committee in writing to the Clerk of the Municipality within 15 days of the revocation. The Protective Services Committee may confirm the decision of the licencing authority or order that a licence not be revoked subject to compliance with the provisions of this By-law.
- c. A licence in respect of any site may be revoked by the Protective Services Committee if, in the opinion of the Committee, the site is required for the purposes of the Municipality and the Municipality shall refund to the applicant a portion of the licence fee paid by the applicant pro-rated in proportion to the amount of time that the licence is revoked.

5. General Provisions

No vendor or trader of goods shall:

- a. leave any vending vehicle or stand unattended on a street;
- b. leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor or trader of goods;
- c. place any items relating to the operation of the vending or trading of goods anywhere other than in, on or under the stand or vending vehicle with the exception of a litter receptacle (*both vendors and traders of goods*) or a table (*if trading goods on a particular site other than a street*);
- d. solicit business orally or by means of any sound emitted by a device to pedestrians or persons in motor vehicles;
- e. vend goods within 100 feet of a doorway of a permanent business establishment located within a building subject to property and business occupancy tax and selling similar products as the vendor, unless the vendor is a pedestrian powered vehicle or stand selling food in front of an eating establishment in which the restaurant is closed (*For purposes of clarity, "selling similar products" shall mean for example food vendors and restaurants, craft vendors and jewelry stores etc.*);
- f. allow the stand or vending vehicle or any item relating to the operation of the vending or trading of goods business to lean against or hang from any building on private property or any structure lawfully placed on public property without the owner's permission;
- g. operate such a business from a stand or vending vehicle which is unsightly because the facade has not been maintained or a particularly obnoxious part of the stand or vending vehicle is not effectively screened from outside of the stand or vending vehicle;
- h. locate the stand or vending vehicle in such a way as would restrict or interfere with vehicles entering or exiting a driveway accessing a street or pedestrians attempting to enter the premises of a building;
- i. leave a vending vehicle or stand at any location which is not being used for vending or trading purposes for a period of time exceeding one (1) week;
- j. place the vending vehicle or stand so as to obstruct the view of approved signage or displays in storefront windows.

6. Sidewalk Vending

No motor vehicle shall be used for vending purposes while on a sidewalk, and no pedestrian powered vending vehicle or stand shall be permitted on a sidewalk unless:

- the width of the sidewalk is a minimum of 10 feet between the hours of 9:00 a.m. and 5:00 p.m.;
- the sidewalk is located within a zone of the Land Use By-law in effect which permits retailing the type of commodity to be vended; and
- provided the pertinent provision of Section 5.e. is met.

7. Special Events

- a. Any person vending or trading at a special event in the Municipality shall:
 - have a vending licence in compliance with this By-law; and
 - acquire written approval from the special event organizer; unless the beneficiary of the proceeds from the vending or trading is a religious denomination or a non-profit corporation or a society incorporated under the *Societies Act*.
- b. A person intending to vend or trade at a special event in the Municipality may acquire a per event license from the Regional Municipality or acquire an annual license from the Regional Municipality.

8. Craft Fairs

It is the responsibility of the craft fair organizer to acquire a special event vendor's licence on behalf of all vendors participating in the craft fair. Each vendor is not required to be licenced individually.

9. Christmas Tree and Lobster Retail

- a. The seasonal retailing of Christmas trees during the weeks leading up to Christmas day shall be subject to a licence fee as per the fee schedule unless:
 - the retailing is being conducted by the woodlot owner who harvested the trees as described in the definition to trade or vend; or
 - the retailing is being conducted by, or for the benefit of, a non-profit organization registered under the Societies Act of Nova Scotia.
- b. The retailing of lobsters during the normal lobster season in the Municipality shall be subject to a licence fee as per the fee schedule unless:
 - the retailing is being conducted by the licenced fisher who caught the lobster; or
 - the lobster is being sold by , or for the benefit of, a non-profit organization registered under the Societies Act of Nova Scotia.

10. Zoning

The parking or placement of a vending vehicle or stand for purposes of vending or trading at any location for a period of time exceeding 30 minutes shall only be permitted subject to compliance with the Land Use By-law zoning provisions in effect for the vending or trading site regulating a similar type of land use (*e.g. food vendor/restaurant, craft vendor/retail store*), either as a main use or an accessory use, except for properties in downtown Sydney between the Esplanade and shore of Sydney harbour located in the Waterfront Commercial (WC) Zone of the Sydney Land Use By-law. Any licence application to trade on such properties shall not be obliged to ensure compliance with the zoning provisions.

11. Transfer of Licence

A licence to vend or trade may be transferred to a new licensee upon receipt of a written request from both parties.

12. Period of Time Licence in Effect

A licence to vend or trade shall be an annual licence (*12 months*), which shall expire on the 31st day of March of each calendar year.

13. License Identification and Display

Every licence shall bear a number and shall be conspicuously displayed at all times during the operation of the vending and/or trading business.

14. Records

The person appointed to grant or refuse any application shall keep a record of every licence issued and every application accepted.

15. Penalties

- a. Every person who contravenes or fails to comply with any provisions of this By-law, or any proprietor who allows unlicensed vendors the use of their premises or property, shall, for each offence, be liable on summary conviction to a penalty of not less than \$100.00 and not more than \$200.00; and, in default of payment, the By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any other Peace Officer may cancel or suspend the licence of such person. In the case of a continuing offence, a further penalty, not exceeding \$100 for each day during which the offence continues, may be imposed.
- b. Where a person is vending or trading goods:
 1. without a licence required by this By-law; or
 2. from a space other than the space allocated to that person and specified in a Licence issued pursuant to this By-law;in addition to any other remedy or penalty imposed by this By-law, the By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any other Peace Officer may, immediately and without notice of any kind, remove any vehicle or stand used as an integral part of the vending or trading business to a place selected by the Municipality and all costs and charges incurred by the Municipality for the removal and storage shall be a lien thereon and the Municipality may, by action in any Court of competent jurisdiction, recover as a civil debt due to the Municipality by the owner, the cost of removal and storage thereof.

16. Previous By-laws Repealed

All Vendors By-laws, Traders and Hawkers, Transient Traders, Trade and Licencing By-laws or similar bylaws adopted by the former municipalities of Cape Breton County to regulate vending and trading of goods by means other than in a building as defined in the Provincial Building Code which is subject to the business occupancy assessment pursuant to the Assessment Act of Nova Scotia are hereby repealed and the provisions of this By-law substituted therefor.

PASSED AND ADOPTED by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipality held on May 19th, 1998, including the amendments adopted by Regional Council on January 26th, 1999, and September 19th, 2000.

MAYOR

CLERK

***THIS IS TO CERTIFY** that the attached is a true and correct copy of the Vendors and Traders of Goods By-law of the Cape Breton Regional Municipality including amendments to September 19, 2000.*

BERNIE WHITE, CLERK

Schedule "A"
of the
Vendors and Traders of Goods By-law
of the
Cape Breton Regional Municipality

Fee Schedule for Vendors Licence

Type of Vendor or Trader	Period of Time Licence is in Effect	Special Provisions
Mobile motor vehicle traveling from one location to another	\$450 annual fee per vehicle	This \$450 per vehicle annual fee is replaced with a \$1,000 fleet fee for three or more vehicles owned by the same proprietor who is paying property and business occupancy tax in relation to the vending or trading activity
Stationary motor vehicle	\$450 annual fee	Minimum site rental on C.B.R.M. property is \$350 per month; <i>except</i> metered parking spaces where the vendor is prohibited from locating the vending vehicle while the Parking Meter By-law is in effect, in which case the site rental fee is \$175 per month This \$450 per vehicle annual fee is replaced with a \$1,000 fleet fee for three or more vehicles owned by the same proprietor who is paying property and business occupancy tax in relation to the vending or trading activity The vendor or trader licenced to locate on a particular site owned by the C.B.R.M. for the previous year may renew their licence prior to the C.B.R.M. accepting applications from other vendors or traders
Pedestrian power stand	\$225 annual fee	
Bicycle vendors	\$50 annual fee per vehicle	
Special events and craft fairs	\$100 per event	
Christmas tree and lobster sales	\$100 per season	Refer to Part of By-law titled "Christmas Trees and Lobster Retail"
Transient vendors and traders	\$5,000 per visit	



M·E·M·O

320 Esplanade

Sydney, Nova Scotia, B1P 7B9

902-563-5010

To: CBRM Council
From: Deborah Campbell, Municipal Clerk/Returning Officer
Date: May 12, 2016
Subject: CBRM Alternative Voting By-law – Proposed Amendments

There are several changes required to the CBRM Alternative Voting By-Law; a number are housekeeping issues to align our By-law with the provincial standard; and changes to reflect the recent amendments to the Nova Scotia *Municipal Election Act* (MEA). The Alternative Voting By-Law with the proposed amendments is attached, as well as the current By-Law.

Changes re: Provincial Standard:

- Section 2(r): Add Subsection (ii) to reference the PINs issued to the auditor. Any votes cast by the Auditor (Systems Election Officer) are not counted by the system in the tally of votes in any contest.
- Section 2(v): amend the definition of “rejected ballot” [i.e. refusal to accept a ballot].
- Section 2(w): Delete reference to “Assistant Returning Officer” in the definition.
- Section 2(aa): insert definition of “spoiled” ballot. [i.e. is not marked for any candidate in a race; or is marked by an elector indicating a refusal to cast a vote for any candidate in a race] and renumber the remainder of the section.
- Section 7(b)(i): add the words “Returning Officer or” to that section.
- Section 10: insert subsection (1) for first sentence, plus add subsection (2) “The system shall put spoiled ballots in the ballot box.”
- Section 15(2): insert the words “shall count spoiled ballots and”.
- Section 16: replace the word “rejected” with “spoiled”.
- Forms 31, 31A & 31B: add the words “Returning Officer or” under the signature line at the bottom of each Form.

Continued...

Changes re: Amendments to NS *Municipal Elections Act*:

- Section 2(m): delete definition of “final list of electors” and renumber the remainder of Section 2.
- Section 2(x): amend section to add definition of “revised list of electors” and reorder remainder of Section 2.
- Section 2(cc): added subsection (iii) regarding appointment of auditor.
- Section 7(a) and (b): change reference to “revised list of electors”.
- Section 24: new section regarding Appointment of Auditor.
- Forms 31,31A, 31B: change clause 2 to reflect the new residency requirements and clause 4 regarding date that an elector must be at least eighteen years of age.

Recommendation:

I recommend that Council approve the proposed amendments to the CBRM Alternative Voting By-Law as outlined above and contained in the attached amended By-law, noting that these amendments require two readings by Council.

Yours truly,

ORIGINAL SIGNED BY

Deborah Campbell
Municipal Clerk/Returning Officer

Attachments

**CAPE BRETON REGIONAL MUNICIPALITY
BY-LAW NUMBER A- 100
RESPECTING ALTERNATIVE VOTING**

BE IT ENACTED by the Council of the Cape Breton Regional Municipality, under the authority of Section 146A of the *Municipal Elections Act*, 1989 R.S.N.S. c. 300, as amended, as follows:

Short Title

1. This By-law shall be known as By-law Number A – 100 and may be cited as the “Alternative Voting By-law”.

Definitions

2. In this by-law:
 - (a) “Act” means the *Municipal Elections Act*, 1989 R.S.N.S. c. 300, as amended;
 - (b) “Advance poll” means the Tuesday immediately preceding ordinary polling day; and either
 - (i) one other day fixed by the Council by resolution that is either Thursday, the ninth day before ordinary polling day or Saturday, the seventh day before ordinary polling day; or
 - (ii) if Council has delegated its authority to fix a day to the Returning Officer, one other day fixed by the Returning Officer that is either Thursday, the ninth day before ordinary polling day, or Saturday the seventh day before ordinary polling day;
 - (c) “alternative polling days” means any hours and dates fixed by a resolution of Council for alternative voting;
 - (d) “alternative voting” means voting by telephone or via the internet and includes a combination of telephone and internet voting;
 - (e) “ballot box” means a computer database in the system where cast internet ballots and telephone ballots are put;
 - (f) “candidate” means a person who has been nominated as a candidate pursuant to the *Act*;
 - (g) “Council” means the Council of the municipality;
 - (h) “Deputy Returning Officer” means a person appointed under the Act to preside over a polling station;

(i) “Education Act” means the *Education Act*, 1995-1996 S.N.S. c. 1, as amended;

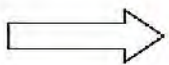
(j) “election” means an election held pursuant to the *Act*, including a school board election, a special election and a plebiscite;

(k) “Election Officer” means an “election official” under the *Act*;

(l) “elector” means a person:

(i) qualified to vote pursuant to the *Act* and the *Education Act*; and

(ii) entitled to vote for an election pursuant to section 7 of this by-law;



~~(m) “final list of electors” means the final list of electors completed pursuant to Section 40 of the *Act*;~~

(m) “friend voter” means a friend who votes for an elector pursuant to section 9 of this by-law;

(n) “internet ballot” means an image of a ballot on a computer screen including all the choices available to an elector and the spaces in which an elector marks a vote;

(o) “municipality” means the Cape Breton Regional Municipality;

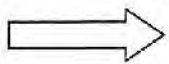
(p) “normal business hours” means the time between 8:30 a.m. and 4:30 p.m. Monday through to and including Friday;

(q) “ordinary polling day” means the third Saturday in October in a regular election year and in the case of any other election means the Saturday fixed for the election;

(r) “PIN” means a Personal Identification Number issued to:

(i) an elector for alternative voting on alternative voting polling days; or

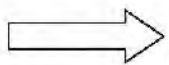
(ii) to a System Elections Officer;



(s) “plebiscite” means a plebiscite directed to be held by the Council pursuant to section 56 of the *Act*;

(t) “proxy voter” means an elector who votes by a proxy pursuant to the *Act*;

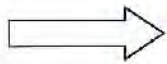
(u) “regular election year” means 2012 and every fourth year thereafter;



(v) “rejected ballot” means refusal by an electoral officer to accept a ballot in a race;



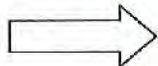
~~(w) “Returning Officer” means a Returning Officer and an assistant returning officer—~~
who are is appointed pursuant to the *Act*;



(x) “revised list of electors” means the revised list of electors completed pursuant to Section 50A of the Act;

(y) “seal” means to secure the ballot box and prevent internet and telephone ballots from being cast;

(z) “special election” means a special election held pursuant to the *Act*, including a special election for a vacancy on a school board;



(aa) “spoiled ballot” means an internet ballot or telephone ballot that is accepted by the elector that:

(i) is not marked for any candidate in a race;

(ii) is marked by an elector indicating a refusal to cast a vote for any candidate in a race;

(bb) “system” means the technology, including software, that:

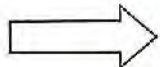
(i) records and counts votes; and

(ii) processes and stores the results of alternative voting during alternative polling days;

(cc) “System Elections Officer” means:

(i) a person who maintains, monitors, or audits the system, and

(ii) a person who has access to the system beyond the access necessary to vote by alternative voting.



(iii) a person who, pursuant to section 146A(3)(cd) of the *Act*, is appointed as auditor to audit and monitor the performance of the system of voting.

(dd) “telephone ballot” means:

(i) an audio set of instructions which describes the voting choices available to an elector; and

(ii) the marking of a selection by an elector by depressing the number on a touch tone keypad.

Alternative Voting Permitted

3. Subject to this by-law, alternative voting shall be permitted on alternative polling days.

Notification of Electors

4. (1) The Returning Officer shall cause notice of alternative polling days to be published in a newspaper circulating in the municipality.
- (2) The notice of alternative polling days shall:
 - (a) identify the alternative polling days for alternative voting; and
 - (b) inform the elector that telephone voting and internet voting is permitted during alternative polling days.
- (3) The notice may include any other information the Returning Officer deems necessary.

Form of Telephone and Internet Ballots

5. (1) A telephone ballot and internet ballot shall:
 - (a) identify by the title “Election for Mayor” or “Election for Councillor” or “Election for School Board Member”, as the case may be;
 - (b) identify the names or names by which they are commonly known of the candidates with given names followed by surnames, arranged alphabetically in order of their surnames and, where necessary, their given names; and
 - (c) warn the elector to “vote for one candidate only” or “vote for not more than (the number of candidates to be elected) candidates”, as the case may be.
- (2) No title, honour, decoration or degree shall be included with a candidate’s name on an internet ballot or telephone ballot.

Oath

6. Any oath that is authorized or required shall be made:
 - (i) in the form specified by this by-law, or
 - (ii) if the form is not specified by this by-law, in the form required by the Act.

Electors

7. No person shall vote by alternative voting unless:

→ (a) the person's name appears on the revised list of electors pursuant to Section 50A of the Act; or

(b) the person's name does not appear on the revised list of electors and:

→ (i) the person appears before the Returning Officer or the Deputy Returning Officer during normal business hours during alternative polling days; and

(ii) the person swears an oath in the prescribed form to this by-law.

Proxy Voting

8. A proxy voter shall not vote for an elector by alternative voting.

Friend Voting

9. (1) A friend voter shall only vote for an elector by alternative voting if:

(a) an elector is unable to vote because:

(i) the elector is blind

(ii) the elector cannot read; or

(iii) the elector has a physical disability that prevents him or her from voting by alternative voting.

(b) the elector and the friend appear, in person, before the Returning Officer and take the prescribed oaths.

(2) A candidate shall not act as a friend voter unless the elector is a child, grandchild, brother, sister, parent, grandparent, or spouse of the candidate.

(3) The elector shall take an oath in the prescribed form to this by-law providing that he or she is incapable of voting without assistance.

(4) The friend of the elector shall take an oath in the prescribed form to this by-law that:

(a) the friend has not previously acted as a friend for any other elector in the election other than an elector who is a child, grandchild, brother, sister, parent, grandparent, or spouse of the friend of the elector.

(b) the friend will mark the ballot as requested by the elector; and

- (c) the friend will keep secret the choice of the elector.
- (5) The Returning Officer shall enter in the poll book:
 - (a) the reason why the elector is unable to vote;
 - (b) the name of the friend; and
 - (c) the fact that the oaths were taken.

Voting

10. (1) The system shall put internet ballots and telephone ballots cast by an elector in the ballot box.



- (2) The system shall put spoiled ballots in the ballot box.

Seal

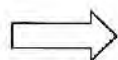
11. (1) Where alternative voting closes before the close of the polls on ordinary polling day, the system shall seal the ballot box until after the close of the poll on ordinary polling day.
- (2) The system shall seal the ballot box even where fewer than ten persons from any polling district voted for a candidate during alternative polling days.

List of persons who voted

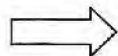
12. Where alternative voting closes before the close of the polls on ordinary polling day, the system shall:
- (a) generate a list of all electors who voted by alternative voting; and
 - (b) on the revised list of electors cause a line to be drawn through the name of all the electors who voted during alternative polling days.
13. A printed and electronic copy of the lists under Section 12 shall be delivered to the Returning Officer within 24 hours of the close of alternative voting.
14. Where alternative voting closes at the close of the polls on ordinary polling day, the system shall generate a list of all electors who voted by alternative voting.

Counting

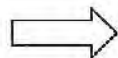
15. (1) At the close of ordinary polling day, the system shall generate a count of the telephone ballots and internet ballots in the ballot box that were cast for each candidate during the alternative polling days.



- (2) In counting the votes that were cast for each candidate during alternative polling days, the system shall count spoiled ballots and shall not count rejected ballots.



Tallying of Rejected Spoiled Ballots



16. At the close of ordinary polling day, the system shall tally the number of rejected spoiled ballots that were cast during alternative polling days and the tally shall be delivered to the Returning Officer.

Recount by System

17. In the event of a recount, the system shall regenerate the election count and a printed copy of the regenerated count shall be given to the Returning Officer.
18. If the initial count and the regenerated count match, the regenerated count shall be the final count of the votes cast by alternative voting.
19. (1) If the regenerated count and the initial count do not match, the Returning Officer shall:
- (a) direct one final count be regenerated by the system of the votes cast by alternative voting, and
 - (b) attend while the final count is being regenerated.
- (2) The regenerated final count pursuant to Subsection (1) shall be the final count of the votes cast by alternative voting.

Recount by Court

20. (1) For a recount, the judge shall only consider the final count by the system, as determined by Section 18 or 19 of the total number of votes that were cast by alternative voting for each candidate.
- (2) The final count by the system, as determined by Section 18 or 19, of the total number of votes that were cast by alternative voting for each candidate shall be added to the judge's count of the number of votes for each candidate cast by non-alternative voting.

Secrecy

21. An election officer and system election officer shall maintain and aid in maintaining the secrecy of the voting.
22. Every person in attendance at a polling station, or at the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting.

Other Methods of Voting

23. If voting via the Internet through the unsupervised use of a personal computing device is permitted during an election, voting shall be permitted by some other means on each advance polling day and on ordinary polling day.

Appointment of Auditor

24. (1) The Returning Officer may appoint a System Elections Officer for the purpose of auditing and monitoring the performance of the system of voting.
- ➡ (2) A System Elections Officer so appointed shall carry out the duties of auditor as outlined in the procedures and forms for the conduct of voting pursuant to Section 146A(4) of the Act.
- (3) Before carrying out the duties described in subsection (2), the System Elections Officer shall swear an oath in the form prescribed by the regulations.

Severability

25. If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

Prohibitions

26. No person shall:
 - (a) use another person's PIN to vote or access the system unless the person is a friend voter;
 - (b) take, seize, or deprive an elector of his or her PIN: or
 - (c) sell, gift, transfer, assign or purchase a PIN.

27. No person shall:
- (a) interfere or attempt to interfere with an elector who is casting an internet ballot or telephone ballot;
 - (b) interfere or attempt to interfere with alternative voting; or
 - (c) attempt to ascertain the name of the candidate for whom an elector is about to vote or has voted.
28. No person shall, at any time, communicate or attempt to communicate any information relating to the candidate for whom an elector has voted.

Offences and Penalty

29. (1) A person who:
- (a) violates any provision of this by-law; or
 - (b) permits anything to be done in violation of any provision of this by-law;
- is guilty of an offence.
- (2) A person who contravenes subsection (1) of this section is guilty of an offence and is liable, on summary conviction, to a penalty of not less than five thousand dollars and not more than ten thousand dollars and in default of payment, to imprisonment for a term of two years less a day, or both.
- (3) In determining a penalty under subsection (2), a judge shall take into account:
- (a) the number of votes attempted to be interfered with;
 - (b) the number of votes interfered with; and
 - (c) any potential interference with the outcome of an election.
- (4) Pursuant to Section 146A of the *Act*:
- (a) the limitation period for the prosecution of an offence under this by-law is two years from the later of the date of the commission of the offence and the date on which it was discovered that an offence had been committed; and

- (b) *The Remission of Penalties Act*, 1989 SNS c. 397, as amended, does not apply to a pecuniary penalty imposed by this by-law.

PASSED AND ADOPTED by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipality held on the 15th day of May , 2012, and amended by Council on the ____ day of _____, 2016.

Mayor Cecil P. Clarke

Municipal Clerk – Deborah Campbell

I, Deborah Campbell, Municipal Clerk of the Cape Breton Regional Municipality, hereby certify that the above noted by-law was passed at a meeting of the Cape Breton Regional Municipal Council on May 15th , 2012, and amended on the ____ day of _____, 2016.

Municipal Clerk – Deborah Campbell

Publication Date: _____

CAPE BRETON REGIONAL MUNICIPALITY BY-LAW NUMBER A-100

**FORM 26
BY-LAW SECTION 9**

**OATH OR AFFIRMATION OF FRIEND OF ELECTOR REQUIRING ASSISTANCE
FOR ALTERNATIVE VOTING**

(For use by a person who is not a candidate and who is not related to the elector)

You swear (or solemnly affirm) that:

- (a) you have not previously acted as a friend for any other elector in the election who is not a child, grandchild, brother, sister, parent, grandparent, or spouse;
- (b) you will carry out the wishes of the elector on whose behalf you act; and
- (c) you will keep secret the name of the candidate or candidates for whom you mark the internet ballot or telephone ballot.

NOTE: A candidate shall not act as a friend of an elector who is not a child, grandchild, brother, sister, parent, grandparent, or spouse of the candidate. A person who is not a candidate may act as a friend for one unrelated elector and any number of electors who are a child, grandchild, brother, sister, parent, grandparent, or spouse of the friend.

CAPE BRETON REGIONAL MUNICIPALITY BY-LAW NUMBER A- 100

**FORM 26A
BY-LAW SECTION 9**

**OATH OR AFFIRMATION OF FRIEND OF ELECTOR REQUIRING ASSISTANCE
FOR ALTERNATIVE VOTING
(CANDIDATE/RELATIVE)**

(For use by a person, including a candidate, who is related to the elector)

You swear (or solemnly affirm) that:

- (a) the elector on whose behalf you acted is a child, grandchild, brother, sister, parent, grandparent, or spouse,
- (b) you will carry out the wishes of the elector on whose behalf you act; and
- (c) you will keep secret the name of the candidate or candidates for whom you mark the internet ballot or telephone ballot.

NOTE: A candidate shall not act as a friend of an elector who is not a child, grandchild, brother, sister, parent, grandparent, or spouse of the candidate. A person who is not a candidate may act as a friend for one unrelated elector and any number of electors who are a child, grandchild, brother, sister, parent, grandparent, or spouse of the friend.

CAPE BRETON REGIONAL MUNICIPALITY BY-LAW NUMBER A- 100

**FORM 31
BY-LAW SECTION 7**

**OATH OR AFFIRMATION OF ELECTOR
NOT ON LIST OF ELECTORS**

I swear (or solemnly affirm) that:

1. On this date I actually reside in Polling Division Number _____ of the Cape Breton Regional Municipality.
- ➡ 2. I have been ordinarily resident in the Province of Nova Scotia for a period of six months immediately preceding the first advance polling day, and have been ordinarily resident in the Cape Breton Regional Municipality since immediately before the first advance polling day.
3. I have not voted before in this election.
- ➡ 4. I am a Canadian citizen and of the full age of eighteen years, or will be on the first advance polling day.
5. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary polling day.

Address of Elector	Elector's Date of Birth	Signature of Elector	Consents to Name Being added to Voters List*
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(*write "yes" or "no")

Sworn (or affirmed) at _____
in the Cape Breton Regional Municipality,
this ____ day of _____, _____ before me

➡ _____
Returning Officer or
Deputy Returning Officer

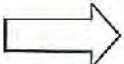
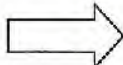
The Voters List may be used in future municipal, provincial or federal elections.
(Date of Birth will be removed from final list of electors).

CAPE BRETON REGIONAL MUNICIPALITY BY-LAW NUMBER A- 100

**FORM 31A
BY-LAW SECTION 7**

**OATH OR AFFIRMATION OF ELECTOR NOT ON LIST OF ELECTORS
FOR USE WHEN ELECTOR CAN VOTE ONLY FOR
REGIONAL/DISTRICT SCHOOL BOARD**

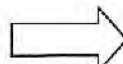
I swear (or solemnly affirm) that:

1. On this date I actually reside in Polling Division Number _____ of the Cape Breton Regional Municipality.
2.  I have been ordinarily resident in the Province of Nova Scotia for a period of six months immediately preceding the first advance polling day in this election, and have been ordinarily resident in the school region/district in which my polling division is located since immediately before the first advance polling day.
3. I have not voted before in this election.
4.  I am a Canadian citizen and of the full age of eighteen years, or will be on the first advance polling day.
5. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary polling day.

Address of Elector	Elector's Date of Birth	Signature of Elector	Consents to Name Being added to Voters List*
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(*write "yes" or "no")

Sworn (or affirmed) at _____
in the Cape Breton Regional Municipality,
this ____ day of _____, _____ before me

 **Returning Officer or
Deputy Returning Officer**

The Voters List may be used in future municipal, provincial or federal elections.
(Date of Birth will be removed from final list of electors).

CAPE BRETON REGIONAL MUNICIPALITY BY-LAW NUMBER A- 100

**FORM 31B
BY-LAW SECTION 7**

**OATH OR AFFIRMATION OF ELECTOR NOT ON LIST OF ELECTORS
FOR USE WHEN ELECTOR CAN VOTE ONLY FOR
CONSEIL SCOLAIRE ACADIEN PROVINCIAL**

I swear (or solemnly affirm) that:

1. On this date I actually reside in Polling Division Number _____ of the Cape Breton Regional Municipality.
- ➡ 2. I have been ordinarily resident in the Province of Nova Scotia for a period of six months immediately preceding the first advance polling day in this election.
3. I have not voted before in this election.
- ➡ 4. I am a Canadian citizen and of the full age of eighteen years, or will be on the first advance polling day.
5. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary polling day.

Address of Elector	Elector's Date of Birth	Signature of Elector	Consents to Name Being added to Voters List*
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(*write "yes" or "no")

Sworn (or affirmed) at _____
in the Cape Breton Regional Municipality,
this ____ day of _____, before me

➡ **Returning Officer or**
Deputy Returning Officer

(Le present formulaire est également disponible en français)

The Voters List may be used in future municipal, provincial or federal elections.
(Date of Birth will be removed from final list of electors).

MUNICIPALITÉ RÉGIONALE DU CAP BRETON RÈGLEMENT NUMÉRO A-100

FORMULAIRE 31B

ARTICLE 7

**SERMENT OU DÉCLARATION SOLENNELLE DE L'ÉLECTEUR (TRICE)
NON INSCRIT(E) SUR LA LISTE DES ÉLECTEURS, À UTILISER LORSQUE L'ÉLECTEUR
(TRICE) NE PEUT VOTER QUE POUR LE CONSEIL SCOLAIRE ACADIEN PROVINCIAL**

Je jure (ou j'affirme solennellement) que:

1. A ce jour, je réside dans la section de vote numéro _____ de la municipalité régionale du Cap Breton.
- ➡ 2. J'ai habituellement résidé dans la province de la Nouvelle-Écosse pendant la période de **trois six mois** précédant immédiatement le jour ordinaire du scrutin de cette élection.
3. Je n'ai pas voté lors de cette élection.
- ➡ 4. Je suis un citoyen(ne) canadien(ne) et de l'âge **j'ai de dix-huit ans ou plus les aura** sera le premier jour de scrutin spécial.
5. Je ne suis pas le(la) directeur(trice) du scrutin, une personne purgeant une peine dans un établissement pénitentiaire ou un centre d'éducation surveillée ou une personne condamnée pour corruption au cours des six années précédant le jour du scrutin selon la Loi sur les élections municipales.

Adresse de l'électeur(trice)	Date de naissance de l'électeur(trice)	Signature de l'électeur l'électeur(trice)	Consent à ce que son nom soit ajouté la liste des électeurs
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	(Indiquer oui ou non)

Juré (ou déclaré solennellement) à _____
dans le comté de la Municipalité Régionale du Cap Breton,
de le ____ jour du mois de _____ de l'an en ma présence

Adjoint Directeur ou
Adjoint Directrice de scrutin

(A translation of this form is available in English)

➡ **La liste des électeurs électoral pourrait être utilisée servir lors dans les d² futures élections municipales, provinciales ou fédérales ultérieures.**

**CAPE BRETON REGIONAL MUNICIPALITY
BY-LAW NUMBER A- 100
RESPECTING ALTERNATIVE VOTING**

BE IT ENACTED by the Council of the Cape Breton Regional Municipality, under the authority of Section 146A of the *Municipal Elections Act*, 1989 R.S.N.S. c. 300, as amended, as follows:

Short Title

1. This By-law shall be known as By-law Number A – 100 and may be cited as the “Alternative Voting By-law”.

Definitions

2. In this by-law:
 - (a) “Act” means the *Municipal Elections Act*, 1989 R.S.N.S. c. 300, as amended;
 - (b) “Advance poll” means the Tuesday immediately preceding ordinary polling day; and either
 - (i) one other day fixed by the Council by resolution that is either Thursday, the ninth day before ordinary polling day or Saturday, the seventh day before ordinary polling day; or
 - (ii) if Council has delegated its authority to fix a day to the Returning Officer, one other day fixed by the Returning Officer that is either Thursday, the ninth day before ordinary polling day, or Saturday the seventh day before ordinary polling day;
 - (c) “alternative polling days” means any hours and dates fixed by a resolution of Council for alternative voting;
 - (d) “alternative voting” means voting by telephone or via the internet and includes a combination of telephone and internet voting;
 - (e) “ballot box” means a computer database in the system where cast internet ballots and telephone ballots are put;
 - (f) “candidate” means a person who has been nominated as a candidate pursuant to the *Act*;
 - (g) “Council” means the Council of the municipality;
 - (h) “Deputy Returning Officer” means a person appointed under the Act to preside over a polling station;

- (i) “Education Act” means the *Education Act*, 1995-1996 S.N.S. c. 1, as amended;
- (j) “election” means an election held pursuant to the *Act*, including a school board election, a special election and a plebiscite;
- (k) “Election Officer” means an “election official” under the *Act*;
- (l) “elector” means a person:
 - (i) qualified to vote pursuant to the *Act* and the *Education Act*; and
 - (ii) entitled to vote for an election pursuant to section 7 of this by-law;
- (m) “final list of electors” means the final list of electors completed pursuant to Section 40 of the *Act*;
- (n) “friend voter” means a friend who votes for an elector pursuant to section 9 of this by-law;
- (o) “internet ballot” means an image of a ballot on a computer screen including all the choices available to an elector and the spaces in which an elector marks a vote;
- (p) “municipality” means the Cape Breton Regional Municipality;
- (q) “normal business hours” means the time between 8:30 a.m. and 4:30 p.m. Monday through to and including Friday;
- (r) “ordinary polling day” means the third Saturday in October in a regular election year and in the case of any other election means the Saturday fixed for the election;
- (s) “PIN” means a Personal Identification Number issued to an elector for alternative voting on alternative voting polling days;
- (t) “plebiscite” means a plebiscite directed to be held by the Council pursuant to section 56 of the *Act*;
- (u) “proxy voter” means an elector who votes by a proxy pursuant to the *Act*;
- (v) “regular election year” means 2012 and every fourth year thereafter;
- (w) “rejected ballot” means an internet ballot or telephone ballot that has not been marked for any candidate;
- (x) “Returning Officer” means a Returning Officer and an assistant returning officer who are appointed pursuant to the *Act*;

- (y) “seal” means to secure the ballot box and prevent internet and telephone ballots from being cast;
- (z) “special election” means a special election held pursuant to the *Act*, including a special election for a vacancy on a school board;
- (aa) “system” means the technology, including software, that:
 - (i) records and counts votes: and
 - (ii) processes and stores the results of alternative voting during alternative polling days;
- (bb) “System Elections Officer” means:
 - (i) a person who maintains, monitors, or audits the system, and
 - (ii) a person who has access to the system beyond the access necessary to vote by alternative voting.
- (cc) “telephone ballot” means:
 - (i) an audio set of instructions which describes the voting choices available to an elector; and
 - (ii) the marking of a selection by an elector by depressing the number on a touch tone keypad.

Alternative Voting Permitted

3. Subject to this by-law, alternative voting shall be permitted on alternative polling days.

Notification of Electors

4. (1) The Returning Officer shall cause notice of alternative polling days to be published in a newspaper circulating in the municipality.
- (2) The notice of alternative polling days shall:
- (a) identify the alternative polling days for alternative voting; and
 - (b) inform the elector that telephone voting and internet voting is permitted during alternative polling days.
- (3) The notice may include any other information the Returning Officer deems necessary.

Form of Telephone and Internet Ballots

5. (1) A telephone ballot and internet ballot shall:
- (a) identify by the title “Election for Mayor” or “Election for Councillor” or “Election for School Board Member”, as the case may be;
 - (b) identify the names or names by which they are commonly known of the candidates with given names followed by surnames, arranged alphabetically in order of their surnames and, where necessary, their given names; and
 - (c) warn the elector to “vote for one candidate only” or “vote for not more than (the number of candidates to be elected) candidates”, as the case may be.
- (2) No title, honour, decoration or degree shall be included with a candidate’s name on an internet ballot or telephone ballot.

Oath

6. Any oath that is authorized or required shall be made:
- (i) in the form specified by this by-law, or
 - (ii) if the form is not specified by this by-law, in the form required by the Act.

Electors

7. No person shall vote by alternative voting unless:
- (a) the person’s name appears on the final list of electors on the date chosen by Council for the final list of electors to be completed pursuant to Section 40 of the *Act*; or
 - (b) the person’s name does not appear on the final list of electors and:
 - (i) the person appears before the Deputy Returning Officer during normal business hours during alternative polling days; and
 - (ii) the person swears an oath in the prescribed form to this by-law.

Proxy Voting

8. A proxy voter shall not vote for an elector by alternative voting.

Friend Voting

9. (1) A friend voter shall only vote for an elector by alternative voting if:
 - (a) an elector is unable to vote because:
 - (i) the elector is blind
 - (ii) the elector cannot read; or
 - (iii) the elector has a physical disability that prevents him or her from voting by alternative voting.
 - (b) the elector and the friend appear, in person, before the Returning Officer and take the prescribed oaths.
- (2) A candidate shall not act as a friend voter unless the elector is a child, grandchild, brother, sister, parent, grandparent, or spouse of the candidate.
- (3) The elector shall take an oath in the prescribed form to this by-law providing that he or she is incapable of voting without assistance.
- (4) The friend of the elector shall take an oath in the prescribed form to this by-law that:
 - (a) the friend has not previously acted as a friend for any other elector in the election other than an elector who is a child, grandchild, brother, sister, parent, grandparent, or spouse of the friend of the elector.
 - (b) the friend will mark the ballot as requested by the elector; and
 - (c) the friend will keep secret the choice of the elector.
- (5) The Returning Officer shall enter in the poll book:
 - (a) the reason why the elector is unable to vote;
 - (b) the name of the friend; and
 - (c) the fact that the oaths were taken.

Voting

10. The system shall put internet ballots and telephone ballots cast by an elector in the ballot box.

Seal

11. (1) Where alternative voting closes before the close of the polls on ordinary polling day, the system shall seal the ballot box until after the close of the poll on ordinary polling day.
- (2) The system shall seal the ballot box even where fewer than ten persons from any polling district voted for a candidate during alternative polling days.

List of persons who voted

12. Where alternative voting closes before the close of the polls on ordinary polling day, the system shall:
 - (a) generate a list of all electors who voted by alternative voting; and
 - (b) on the Final List of Electors cause a line to be drawn through the name of all the electors who voted during alternative polling days.
13. A printed and electronic copy of the lists under Section 12 shall be delivered to the Returning Officer within 24 hours of the close of alternative voting.
14. Where alternative voting closes at the close of the polls on ordinary polling day, the system shall generate a list of all electors who voted by alternative voting.

Counting

15. (1) At the close of ordinary polling day, the system shall generate a count of the telephone ballots and internet ballots in the ballot box that were cast for each candidate during the alternative polling days.
- (2) In counting the votes that were cast for each candidate during alternative polling days, the system shall not count rejected ballots.

Tallying of Rejected Ballots

16. At the close of ordinary polling day, the system shall tally the number of rejected ballots that were cast during alternative polling days and the tally shall be delivered to the Returning Officer.

Recount by System

17. In the event of a recount, the system shall regenerate the election count and a printed copy of the regenerated count shall be given to the Returning Officer.
18. If the initial count and the regenerated count match, the regenerated count shall be the final count of the votes cast by alternative voting.

19. (1) If the regenerated count and the initial count do not match, the Returning Officer shall:
 - (a) direct one final count be regenerated by the system of the votes cast by alternative voting, and
 - (b) attend while the final count is being regenerated.
- (2) The regenerated final count pursuant to Subsection (1) shall be the final count of the votes cast by alternative voting.

Recount by Court

20. (1) For a recount, the judge shall only consider the final count by the system, as determined by Section 18 or 19 of the total number of votes that were cast by alternative voting for each candidate.
- (2) The final count by the system, as determined by Section 18 or 19, of the total number of votes that were cast by alternative voting for each candidate shall be added to the judge's count of the number of votes for each candidate cast by non-alternative voting.

Secrecy

21. An election officer and system election officer shall maintain and aid in maintaining the secrecy of the voting.
22. Every person in attendance at a polling station, or at the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting.

Other Methods of Voting

23. If voting via the Internet through the unsupervised use of a personal computing device is permitted during an election, voting shall be permitted by some other means on each advance polling day and on ordinary polling day.

Severability

24. If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

Prohibitions

25. No person shall:
- (a) use another person's PIN to vote or access the system unless the person is a friend voter;
 - (b) take, seize, or deprive an elector of his or her PIN; or
 - (c) sell, gift, transfer, assign or purchase a PIN.
26. No person shall:
- (a) interfere or attempt to interfere with an elector who is casting an internet ballot or telephone ballot;
 - (b) interfere or attempt to interfere with alternative voting; or
 - (c) attempt to ascertain the name of the candidate for whom an elector is about to vote or has voted.
27. No person shall, at any time, communicate or attempt to communicate any information relating to the candidate for whom an elector has voted.

Offences and Penalty

28. (1) A person who:
- (a) violates any provision of this by-law; or
 - (b) permits anything to be done in violation of any provision of this by-law;
- is guilty of an offence.
- (2) A person who contravenes subsection (1) of this section is guilty of an offence and is liable, on summary conviction, to a penalty of not less than five thousand dollars and not more than ten thousand dollars and in default of payment, to imprisonment for a term of two years less a day, or both.
- (3) In determining a penalty under subsection (2), a judge shall take into account:
- (a) the number of votes attempted to be interfered with;
 - (b) the number of votes interfered with; and
 - (c) any potential interference with the outcome of an election.

- (4) Pursuant to Section 146A of the *Act*:
- (a) the limitation period for the prosecution of an offence under this by-law is two years from the later of the date of the commission of the offence and the date on which it was discovered that an offence had been committed; and
 - (b) *The Remission of Penalties Act*, 1989 SNS c. 397, as amended, does not apply to a pecuniary penalty imposed by this by-law.

PASSED AND ADOPTED by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipality held on the 15th day of May , 2012

Mayor John W. Morgan

Municipal Clerk – Bernie White

I, Bernie White, Municipal Clerk of the Cape Breton Regional Municipality, hereby certify that the above noted by-law was passed at a meeting of the Cape Breton Regional Municipal Council on May 15th , 2012.

Municipal Clerk – Bernie White

Publication Date: May 19, 2012

CAPE BRETON REGIONAL MUNICIPALITY BY-LAW NUMBER A-100

**FORM 26
BY-LAW SECTION 9**

**OATH OR AFFIRMATION OF FRIEND OF ELECTOR REQUIRING ASSISTANCE
FOR ALTERNATIVE VOTING**

(For use by a person who is not a candidate and who is not related to the elector)

You swear (or solemnly affirm) that:

- (a) you have not previously acted as a friend for any other elector in the election who is not a child, grandchild, brother, sister, parent, grandparent, or spouse;
- (b) you will carry out the wishes of the elector on whose behalf you act; and
- (c) you will keep secret the name of the candidate or candidates for whom you mark the internet ballot or telephone ballot.

NOTE: **A candidate shall not act as a friend of an elector who is not a child, grandchild, brother, sister, parent, grandparent, or spouse of the candidate. A person who is not a candidate may act as a friend for one unrelated elector and any number of electors who are a child, grandchild, brother, sister, parent, grandparent, or spouse of the friend.**

CAPE BRETON REGIONAL MUNICIPALITY BY-LAW NUMBER A- 100

**FORM 26A
BY-LAW SECTION 9**

**OATH OR AFFIRMATION OF FRIEND OF ELECTOR REQUIRING ASSISTANCE
FOR ALTERNATIVE VOTING
(CANDIDATE/RELATIVE)**

(For use by a person, including a candidate, who is related to the elector)

You swear (or solemnly affirm) that:

- (a) the elector on whose behalf you acted is a child, grandchild, brother, sister, parent, grandparent, or spouse,
- (b) you will carry out the wishes of the elector on whose behalf you act; and
- (c) you will keep secret the name of the candidate or candidates for whom you mark the internet ballot or telephone ballot.

NOTE: A candidate shall not act as a friend of an elector who is not a child, grandchild, brother, sister, parent, grandparent, or spouse of the candidate. A person who is not a candidate may act as a friend for one unrelated elector and any number of electors who are a child, grandchild, brother, sister, parent, grandparent, or spouse of the friend.

CAPE BRETON REGIONAL MUNICIPALITY BY-LAW NUMBER A- 100

**FORM 31
BY-LAW SECTION 7**

**OATH OR AFFIRMATION OF ELECTOR
NOT ON LIST OF ELECTORS**

I swear (or solemnly affirm) that:

1. On this date I actually reside in Polling Division Number _____ of the Cape Breton Regional Municipality.
2. I have been ordinarily resident in the Cape Breton Regional Municipality for a period of three months immediately preceding ordinary polling day in this election.
3. I have not voted before in this election.
4. I am a Canadian citizen and of the full age of eighteen years, or will be on ordinary polling day.
5. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary polling day.

Address of Elector	Elector's Date of Birth	Signature of Elector	Consents to Name Being added to Voters List*
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(*write "yes" or "no")

Sworn (or affirmed) at _____
in the Cape Breton Regional Municipality,
this _____ day of _____, _____ before me

Deputy Returning Officer

The Voters List may be used in future municipal, provincial or federal elections.
(Date of Birth will be removed from final list of electors).

CAPE BRETON REGIONAL MUNICIPALITY BY-LAW NUMBER A- 100

**FORM 31A
BY-LAW SECTION 7**

**OATH OR AFFIRMATION OF ELECTOR NOT ON LIST OF ELECTORS
FOR USE WHEN ELECTOR CAN VOTE ONLY FOR
REGIONAL/DISTRICT SCHOOL BOARD**

I swear (or solemnly affirm) that:

1. On this date I actually reside in Polling Division Number _____ of the Cape Breton Regional Municipality.
2. I have been ordinarily resident in the school region/district in which my polling division is located for a period of three months immediately preceding ordinary polling day in this election.
3. I have not voted before in this election.
4. I am a Canadian citizen and of the full age of eighteen years, or will be on ordinary polling day.
5. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary polling day.

Address of Elector	Elector's Date of Birth	Signature of Elector	Consents to Name Being added to Voters List*
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(*write "yes" or "no")

Sworn (or affirmed) at _____
in the Cape Breton Regional Municipality,
this ____ day of _____, _____ before me

Deputy Returning Officer

The Voters List may be used in future municipal, provincial or federal elections.
(Date of Birth will be removed from final list of electors).

CAPE BRETON REGIONAL MUNICIPALITY BY-LAW NUMBER A- 100

**FORM 31B
BY-LAW SECTION 7**

**OATH OR AFFIRMATION OF ELECTOR NOT ON LIST OF ELECTORS
FOR USE WHEN ELECTOR CAN VOTE ONLY FOR
CONSEIL SCOLAIRE ACADIEN PROVINCIAL**

I swear (or solemnly affirm) that:

1. On this date I actually reside in Polling Division Number _____ of the Cape Breton Regional Municipality.
2. I have been ordinarily resident in the Province of Nova Scotia for a period of three months immediately preceding ordinary polling day in this election.
3. I have not voted before in this election.
4. I am a Canadian citizen and of the full age of eighteen years, or will be on ordinary polling day.
5. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary polling day.

Address of Elector	Elector's Date of Birth	Signature of Elector	Consents to Name Being added to Voters List*
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(*write "yes" or "no")

Sworn (or affirmed) at _____
in the Cape Breton Regional Municipality,
this ____ day of _____, _____ before me

Deputy Returning Officer

(Le present formulaire est également disponible en français)

The Voters List may be used in future municipal, provincial or federal elections.

(Date of Birth will be removed from final list of electors).

MUNICIPALITÉ RÉGIONALE DU CAP BRETON RÈGLEMENT NUMÉRO A-100

**FORMULAIRE 31B
ARTICLE 7**

**SERMENT OU DÉCLARATION SOLENNELLE DE L'ÉLECTEUR (TRICE)
NON INSCRIT(E) SUR LA LISTE DES ÉLECTEURS, À UTILISER LORSQUE L'ÉLECTEUR
(TRICE) NE PEUT VOTER QUE POUR LE CONSEIL SCOLAIRE ACADIEN PROVINCIAL**

Je jure (ou j'affirme solennellement) que:

1. A ce jour, je réside dans la section de vote numéro _____ de la municipalité régionale du Cap Breton.
2. J'ai habituellement résidé dans la province de la Nouvelle-Écosse pendant la période de trois mois précédant immédiatement le jour ordinaire du scrutin de cette élection.
3. Je n'ai pas voté lors de cette élection.
4. Je suis un citoyen(ne) canadien(ne), j'ai dix-huit ans ou plus les aurai le jour de scrutin.
5. Je ne suis pas le(la) directeur(trice) du scrutin, une personne purgeant une peine dans un établissement pénitentiaire ou un centre d'éducation surveillée ou une personne condamnée pour corruption au cours des six années précédant le jour du scrutin selon la Loi sur les élections municipales.

Adresse de l'électeur(trice)	Date de naissance de l'électeur(trice)	Signature de l'électeur l'électeur(trice)	Consent à ce que son nom soit ajouté la liste des électeurs
---------------------------------	---	--	---

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(Indiquer oui ou non)

Juré (ou déclaré solennellement) à _____
dans le comté de la Municipalité Régionale du Cap Breton,
de le ____ jour du mois de _____ de l'an en ma présence

Adjoint Directeur ou
Adjoint Directrice de scrutin

(A translation of this form is available in English)

La liste des électeurs pourra server lors d'élections municipales, provinciales ou fédérales ultérieures.

La date de naissance ne figurera pas sur la liste finale des électeurs.

