

Cape Breton Regional Municipality

Council Meeting

AGENDA

TUESDAY, FEBRUARY 17TH, 2015

6:00 P.M.

Council Chambers
2nd Floor, Civic Centre
320 Esplanade, Sydney, NS

Cape Breton Regional Municipal Council

Tuesday, February 17th, 2015

6:00 p.m.

AGENDA ITEMS

PRAYER (See page 6)

ROLL CALL

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

- Regular Council– January 20th, 2015
- Special Council – January 26th, 2015

2. **DELEGATIONS:**

- 2.1 **Child Welfare Board of Cape Breton - Victoria:** Spokespersons Ms. Delores Feltmate, Chair of the Child Welfare Board for Cape Breton-Victoria and Ms. Nadine Bernard (See page 7)
- 2.2 **New Dawn Centre for Innovation, Arts and Culture:** Spokesperson Ms. Erika Shea, Director, Communications, New Dawn Enterprises (see page 14)

3. **BUSINESS ARISING:**

3.1 **Special Council – February 3rd, 2015:**

- i. **Creation of Working Group of Council to guide the transition to the new Port of Sydney Development Corporation:**
 - a) **Port Governance Report:** James R. Gogan, Solicitor; and Marlene Usher, CEO - Port of Sydney Corporation (see page 18)
 - b) **Issue Paper:** Michael Merritt, Chief Administrative Officer (see page 49)

Continued....

Business Arising Cont'd:

3.2 General Committee– February 3rd, 2015:

i. CBRM Civic Addressing Policy – Amendment to Schedule “B”:

Committee recommends that Council amend the Civic Addressing Policy to permit the use of an Alpha Suffix in the circumstances outlined in the Staff Report dated January 23rd, 2015. Karen Neville, Planner (see page 51)

ii. Proposed Amendments to Resolution RF3 – Signing Officers:

Committee recommends approving the proposed Amendments to Resolution RF3 – Signing Officers, as outlined in the staff report dated January 23rd, 2015. Demetri Kachafanas, Regional Solicitor (See page 59)

**iii. Request to Purchase Property from Joseph Lambert MacIntosh
Location: 221 Hospital Road, Edwardsville, NS (PID 15210420)**

Committee recommends that CBRM purchase the property located at 221 Hospital Road, Edwardsville, PID # 15210420, for the consideration of \$14,000.00. Demetri Kachafanas, Regional Solicitor (See page 63)

4. PLANNING ISSUES:

4.1 Final Approval – Public Hearings:

**i. Request by Martin MacFarlane to amend the North End Sydney
Secondary Planning Strategy and Land Use By-law:**

Public Hearing to consider amending the North End Sydney Secondary Planning Strategy and Land Use By-law to allow the owner to convert 43 Esplanade, Sydney, to a maximum of four dwelling units. Malcolm Gillis, Director of Planning and Development (see page 70)

ii. Request by Bruce Kennedy to amend the CBRM Land Use Bylaw:

Public Hearing to consider amending the CBRM Land Use By-Law that will allow the property owner to subdivide his property located at 48 O’Neil Lane, Glace Bay, along the interior center wall of an existing free-standing garage. Karen Neville, Planner (See page 78)

Continued....

Planning Issues Cont'd:

4.2 Approval to Advertise:

i. Zoning Amendment Application – Warehouse at 1541 Gabarus Highway, Prime Brook – G-998:

Request by Mr. Peter Harris for a zoning amendment for property located at 1541 Gabarus Highway, Prime Brook to permit the construction of a large warehouse storage building in the rear yard of the property. Malcom Gillis, Director of Planning (see page 97)

5. REPORTS:

5.1 Financial Reports to December 31, 2014 and Financial Forecast to March 31, 2015: (for information only) Marie Walsh, Chief Financial Officer (See page 101)

6. BY-LAWS, RESOLUTIONS & MOTIONS:

6.1 By-Laws: N/A

6.2 Resolution:

a) The Late Lawrence Henry Devison:
Councillor Darrell Flynn (See page 102)

6.3 Motions: N/A

Adjournment

Cape Breton Regional Municipal Council

Tuesday, February 17th, 2015

6:00 p.m.

PRAYER

God Our Creator, bless us as we gather today for this meeting;
You know our most intimate thoughts;
Guide our minds and hearts
so that we will work
for the good of the community,
and help all your people.

Give us today the strengths
and wisdom to carry out our duties
in the most caring and respectful ways.

Teach us to be generous in our outlook,
courageous in the face of difficulty,
and wise in our decisions.

Amen

The Nova Scotia Department of Community Services has indicated that it will be opening the outdated Children and Family Services Act. This is a move that has been recommended by the Auditor General in his report on child welfare (May 2013).

The Cape Breton Victoria Child Advocacy Society welcomes such a move. We are, however, those who do not support making changes to the legislation. We encourage municipalities to write the Department of Community Services to indicate their support for making changes to the Children and Family Services Act which would include the Provincial Government closing the gap in services for vulnerable 16-18 year olds, and expanding the definition of neglect beyond simple physical neglect.

Child welfare should be a priority for all of the Cape Breton community. This is most relevant when reports put child poverty rates as high as 1 in 3 here in Cape Breton. The establishment of a Provincial Child Advocacy Office, something other provinces in Canada have, would go a long way in giving voice to the issues vulnerable children in our community face.

The Cape Breton Victoria Child Advocacy Society, represented by Delores Feltmate and Nadine Bernard would like the opportunity to present to the Council on February 17, 2015.

We are requesting a letter of support for opening up the Children and Family Services Act and the establishment of a Children's Ombudsman's Office be sent to the Minister of Community Services, Joanne Bernard.

Child Advocacy in Nova Scotia

In Nova Scotia, the division of the Ombudsman's office dealing with children is considered a low impact child advocacy office.

The UN Committee on the Rights of the Child, the body responsible for monitoring the implementation of the CRC, recommends the establishment of strong child advocacy offices. A common role of these offices is to give children a voice and to advocate for their rights on both individual and state levels.

Variations exist in the structure and work that Child Advocacy Offices do. Variations also exist in the level of impact these offices have.

Impact of a child advocacy office is measured by impact, not only in individual cases, but impact on policy, legislative change, systems reform, public consciousness and child participation.

Factors associated with a high level of impact by a child advocacy office are:

- independent from government
- exclusively focused on children
- accessible to children
- wide mandate
- strong statutory powers
- broad advocacy functions
- a receptive political culture
- resources
- leadership

In conjunction with, or in the absence of, other facilitating factors, leadership in a supportive political culture can play a significant role in advancing the rights of children.

Nova Scotia

In Nova Scotia, youth and senior services are grouped together, and are part of a larger ombudsman office.

The Nova Scotia Ombudsman Office was established in 1970. Youth services were incorporated in 1996. In 2000, a full time Children's Ombudsman was hired. The Children's Ombudsman was also the assistant ombudsman and the office administrator. In 2002, The Children's Ombudsman was also the assistant ombudsman and the Director of Investigation. Currently, Youth and Senior Services are grouped together as a division of the Ombudsman's Office. There is a dedicated Children's Ombudsman.

In 2004, the Ombudsman's Act was revised to acknowledge the ombudsman's authority to investigate complaints about Child Welfare Agencies and licensed child care facilities.

The Nova Scotia Children's Ombudsman's Office is not considered a high impact office. The following are a list of factors that are believed to contribute to this lower impact.

The Nova Scotia Children's Ombudsman's Office does have independent oversight. That is, it does report directly to the legislature. However, the office, as a whole, submits annual reports to the legislative assembly. Funding for the Provincial Ombudsman comes from the legislature but how funding is allocated, throughout the office, varies.

More of a concern is that the office is not a stand alone body. The children's section is grouped with seniors and part of the larger ombudsman's office. The rationale for a stand alone body is that rights and interests of children are more likely to receive a higher public and political profile and less likely to be compromised when there is no competition for resources between children's interests and the interests of others.

The children's office has made considerable effort to be accessible to children. One of the fundamental tasks of a child advocacy office is to put the words and concerns of youth into broader, systemic context to inform and influence legislation, policy and practice. The office has made outreach through print materials and presentations to children receiving services, and they have also, recently, distributed materials to schools. However, the scale and influence are at a much lower level than higher impact offices. Many in the community, including those who could use the services of the office, are confused about the office's role, or are even unaware of its existence.

Many child advocacy offices report insufficient funding as a reason for lack of agency effort in areas such as systemic investigation, the organization of consultations with youth and the development of stronger programs of public education.

The office does not have a wide mandate. The focus, although not exclusively, of the children's division of the Ombudsman's Office, is on children in youth detention facilities and youth group homes. The office does not advocate for children in care, in individual cases. Instead, it informs children of their rights and what services are available to them.

The Nova Scotia Children's Advocacy Office does not do as much in terms of policy advocacy, systemic advocacy, raising public consciousness as do higher impact offices in other Provinces. A notable exception to this is that the office has had success in systemic reform through improving the treatment of youth in the youth correction system and providing police and correction training in children's rights.

It has been noted that, although resources are important, the importance of resources can be overstated. The keys to effectiveness on a limited budget are:

- 1) willingness to publicize issues [in Nova Scotia, a youth report has never been made public by the office].
- 2) raise the profile of the office.
- 3) prod government into action

Even without more resources, the office has the ability to address issues and hold government accountable. Although the recommendations of the Ombudsman's Office are non-binding, the office states that the vast majority of recommendations are either implemented or are seriously considered. If a recommendation by the office is dismissed, the office can table it with the Speaker of the House to raise public profile of the issue. The office can also conduct its own motion investigations if it feels there are a pattern of concerns in a particular area. The office has to be willing to do this.

According to the Children's Rights Centre, while the division of the Ombudsman's Office that deals with children already has a valuable role, addressing the factors associated with its limited impact would affect the offices scale of influence and ultimately the lives of children.

Why we need to update the Children and Family Services Act of Nova Scotia

The Child Welfare Boards of Nova Scotia join voices with many other groups calling for changes to the outdated Children and Family Services Act. This is the legislation that governs the lives of foster children.

What changes are we looking for?

We agree with the Auditor General of Nova Scotia who stated, “We found the Children and Family Services Act has gaps related to age limits for foster care and an outdated definition of neglect. We recommend these areas of the Act be updated.” (Report of the Auditor General, May, 3013)

Why are we recommending these changes?

Again, in the words of the Auditor General, we want to change the way a child is defined in the Act. Currently a child is defined as a person under the age of 16. This is a problem. We also want to include forms of neglect other than just physical neglect to determine if a child is in need of protection. Here are the reasons the Auditor General gave and his recommendation:

Age limits- Under the current legislation, Community Services has no authority to investigate complaints of possible abuse or neglect if a child is between the ages of 16-18, unless the child is already in care. Allegations regarding a child in care can be investigated. The provision means the Department has to treat children who are the same age, differently, depending on individual circumstances. In some provinces, children in need of protection are covered up to age 18. (Auditor General, May, 2013)

Definition of neglect- The Children and Family Services Act deems a child to be in need of protective services due to neglect when there is physical harm or risk of physical harm. This conflicts with the modern view of neglect. Limiting the definition of neglect to only physical harm ignores the emotional and developmental impact that neglect can have on a child. The Act’s wording limits the Department’s authority to investigate complaints related to emotional and developmental neglect. Harm is defined more broadly in other jurisdictions. (Report of Auditor General, May, 2013)

Recommendation 3.4- The Department of Community Services in partnership with the Executive Council should update the Children and Family Services Act to ensure it adequately addresses modern practices related to age groups covered by child welfare and includes a modern definition of harm due to neglect. (Report of Auditor General, May, 2013)

Have any other groups called for one or both of these changes?

Yes, a couple of examples would be the Standing Committee on Community Services. They have called for a change to the definition of child in the Act. The Children and Youth in Crisis Working Group of the Maritime Conference of the United Church of Canada. This group has called for both of these changes.

Isn't child welfare a provincial matter and can't a Province determine how to define a child in any piece of legislation?

Not really. When Canada signed the UN Convention on the Rights of the Child, we agreed to define a child as a person up to the age of 18. Nova Scotia is not honouring this international treaty.

How are other Provinces doing? What Provinces have Child Welfare Legislation that defines a child at least up to the age of 18? What Provinces have broader definitions of neglect than Nova Scotia? Is there evidence that neglect, other than physical neglect harms children?

Provinces which define 'a child' as a person up to age 18 or older:

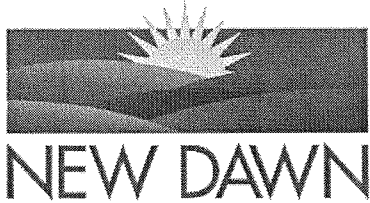
- PEI
- NB
- Quebec
- Ontario
- Manitoba
- Alberta
- BC
- Yukon

Provinces where neglect is defined more broadly than physical neglect

- NFLD
- PEI
- NB
- Quebec
- Ontario
- Manitoba
- Sask
- Alberta
- BC
- Yukon
- NWT

Research on impact of neglect on children

- Canadian Child Welfare Research portals
 - <http://cwrp.ca/child-abuse-neglect/neglect>
 - <http://cwrp.ca/>
- Resource Sheets: Australia
 - Child welfare: <http://www.aifs.gov.au/nch/pubs/sheets/menu.html>
 - Effects of child abuse and neglect:
<http://www.aifs.gov.au/nch/pubs/sheets/rs17/rs17.html>
- CW Info Gateway; US gov
 - <http://www.childwelfare.gov/>
 - Impact of abuse and neglect <https://www.childwelfare.gov/can/impact/>
 - Brain development:
<https://www.childwelfare.gov/pubs/braindevtrauma.pdf>
 - Neglect and attachment:
<https://www.childwelfare.gov/can/impact/development/attachment.cfm>
- Dana Foundation:
 - Long term impact on children's brain development
<http://dana.org/news/cerebrum/detail.aspx?id=28926>



New Dawn Enterprises Ltd

P.O. Box 1055, 75 Prince Street, Sydney, Nova Scotia B1P 6J7
Phone: 539-9560 Fax: 539-7210
Website: www.newdawn.ca

January 21, 2015

Dear Madame Clerk:

I am writing today to request the opportunity to make a presentation to CBRM Council at the February 17th, 2015 Council meeting.

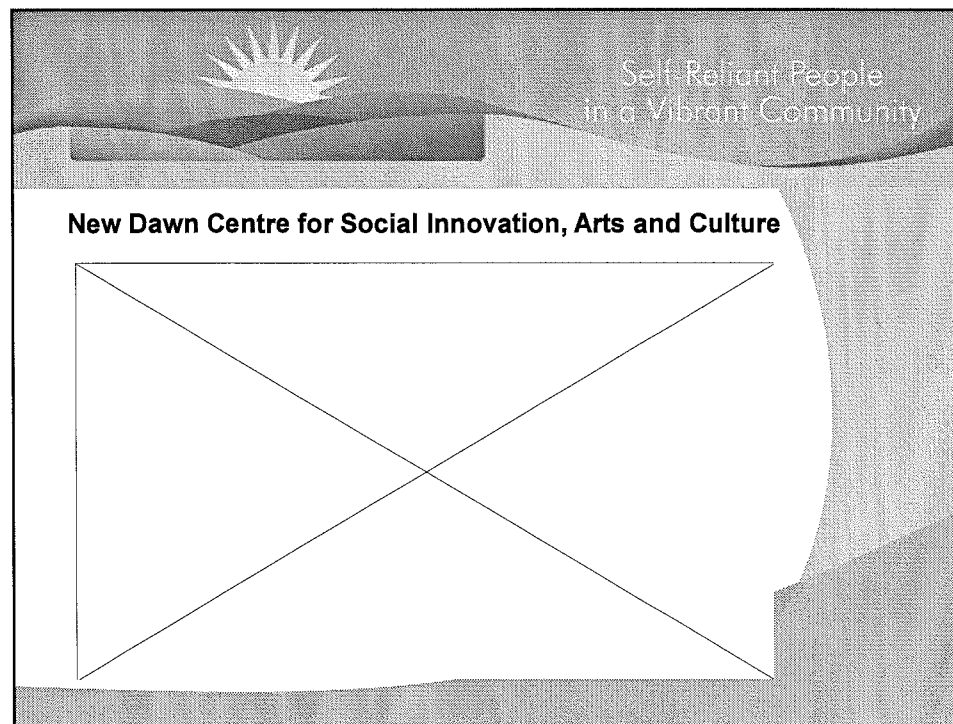
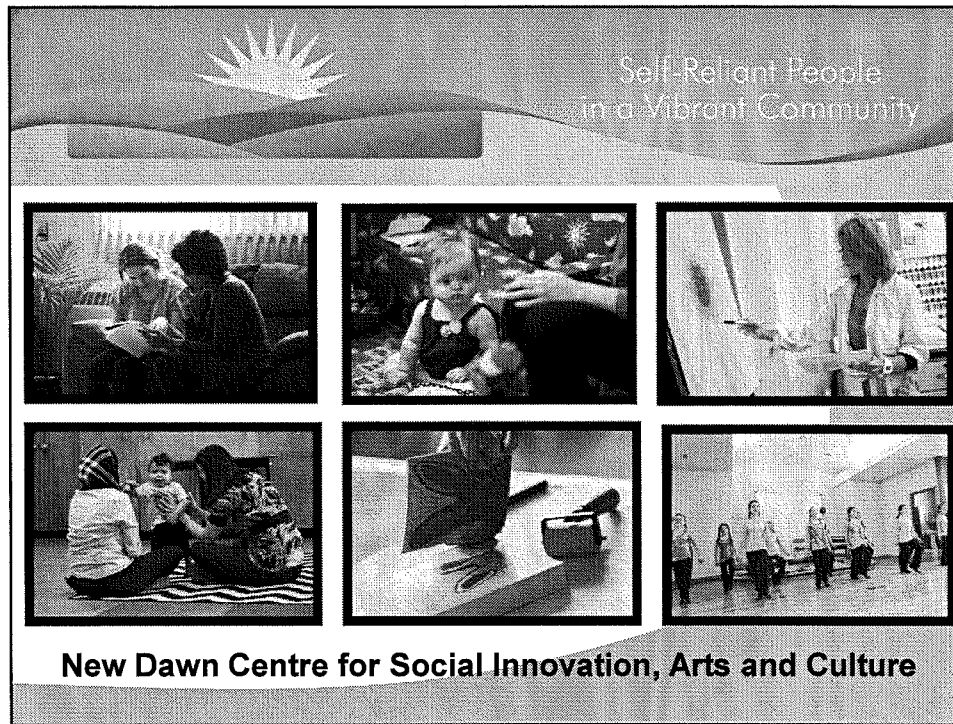
A delegation from the New Dawn Centre for Social Innovation made a presentation to Council at a General Committee meeting on February 4th, 2014 and we are seeking an opportunity to update Council on the progress that has been made in the last year and the project's next steps.

We are not seeking a specific action from Council, rather want to share with Mayor and Council the activities, businesses, opportunities and collaborations that continue to make the Centre a unique and dynamic space for working, co-working, learning, gathering, growing, collaborating and innovating.

Please find attached a copy of the presentation we wish to make.

Sincerely,

Erika Shea
Director of Communications
New Dawn Enterprises
erika@newdawn.ca





Self-Reliant People
in a Vibrant Community

New Dawn Centre for Social Innovation, Arts and Culture

A base for the expansion of the creative and innovation economy in the CBRM

90% of permanent high school classroom/office space rented – new business creation


Municipal and Provincial Future Uses Study Complete (CBRM, NSREDT, CCH)

Study's findings: supported concept/vision, sound structure, fiscally sustainable

ACOA Application for Capital Upgrades Submitted: December 2014

Full Time Facilities and Business Development Manager Hired: December 2014

Ongoing Community Partnerships: NSCC, The Centre for Craft and Design, Fortress of Louisbourg Association, CBU, The Savoy Theatre, HEAL Cape Breton



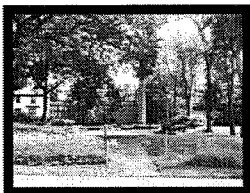
Self-Reliant People
in a Vibrant Community

Permanent Tenants	Flex Space Users
<ul style="list-style-type: none"> •Nova Stream (formerly Shot on Site Media) •Community Sector Council of Nova Scotia •Celtic Colours International Festival Box Office •The Art Room •Kindermusik •Forrester School of Dance •Cabot and Rose •ICEAP ACCESS Program •Cooperative Study Club (CBU) •Uhma Institute of Technology •New Dawn Homecare •Corey Katz Photography •Green Lotus Yoga •Cape Breton Music Industry Cooperative •All Kids Early Intervention •Enter Left Productions/The Savoy Theatre •Cape Breton Orchestra 	<ul style="list-style-type: none"> •Cape Breton Roller Derby •Basketball Cape Breton •Coalition for Social Justice •All for the Love of Singing (Bev Niven) •Cape Breton Gaelic Society •Martha Associates •Taking the Stage (Robyn Cathcart) •Aboriginal Peoples Commission of Nova Scotia •Triathlon Nova Scotia •Cape Breton Stage Company •Pathways to Employment •Hospice Palliative Care Society of CB •Cape Breton Partnership •The Carousel Players •Sydney Ports Corporation •Cape Breton Special Olympics •Homeless Partnering Community Strategy •Weirdbeard Puppet Troupe •Springtide Collective •TEDx Cape Breton •CBRM Recreation



Self-Reliant People
in a Vibrant Community

New Dawn Centre for Social Innovation, Arts and Culture



New Dawn Centre for Social Innovation

- Mix of permanent and flex space users
- For-profit, not-for-profit, charitable
- United by a desire to change the world
- Focus: Innovation, Learning, Education
- Future: Incubation/Tech Start-up Centre
- Future: Co-working Space (hot desks)



New Dawn Centre for Arts and Culture

- Small Artists Studios: dance, visual arts, creative writing, music, pottery, sculpture
- Culinary Institute of Cape Breton
- Residences/Artists-in-Residence
- Small Performance Venue
- Shared Rehearsal Space
- Arts Administration Offices
- Conference/Community Space

Referral from In Camera Council Meeting of February 3, 2015:

Update on Governance of the Port of Sydney Corporation

Motion:

Moved by Councillor MacLeod, seconded by Councillor Saccary, to approve the recommendation (as amended) from the In Camera Council meeting for the creation of a new Port of Sydney Board in the new fiscal year, with an expanded mandate to develop and market the Sydney Harbour. The new Board would be created with the following features:

- A Working Group of Council will be formed to assist in the transition of the old Board to the new Board;
- An interim Board of Council will be created in April of 2015 to replace the existing Board;
- A new Board with public membership will be created in 2016, and consultation will continue with Membertou and Eskasoni First Nations with respect to Board representation. The terms of new members will be staggered to ensure the Board is not fully replaced at once;
- A CEO will be appointed to provide executive management leadership to administer the operations of the Board;
- The CBRM's CAO will be a non-voting chair of the Board to be a conduit back to the CBRM Council.

The Mayor, Council and officials will meet with the existing Board to discuss the transition process and to provide next steps.

Motion Carried.

I Introduction

II New Governance Model

- i) Memorandum of Association
- ii) Articles of Association
- iii) Best Practices
- iv) Company Limited by Guarantee
- v) CBRM's Role in New Entity
- vi) Board of Directors
- vii) Reporting Requirements

III Transitional Issues

- i) Sydney Ports Development Corporation
- ii) Dissolution of SPC
- iii) SPC Employees
- iv) Appointment of Interim /Requisite Board

V Schedule A: Memorandum of Association of New Entity

VI Schedule B: Articles of Association of New Entity

I Introduction

Our involvement with the establishment of a new corporate entity mandated with the broad economic development of the Sydney Harbour and surrounding municipally owned lands, dates back to mid year 2014. The proposed divestiture of Sydney Harbour Seabed from Transport Canada to CBRM formed the genesis for consideration of establishment of a new governing entity. The intention behind the establishment of a new harbour authority corporation was to broaden the current mandate which exists within the Sydney Ports Corporation (SPC) to a larger economic model encompassing intermodal transportation issues relating to Sydney Harbour development, appropriate land use development, contemplated establishment of a municipal land bank, and a more traditional coordinated harbour development strategy.

In the course of providing advice and guidance on the appropriate corporate structure, we reviewed numerous examples of similar operations across Canada, including Canada Port Authority models, private harbour operations, provincial control Crown corporation models, municipal operations and private harbours. Based upon these existing structures, and adopting best practices, we have proposed, what we believe to be, the optimal corporate model and related governance structure.

II New Governance Model

i) Memorandum of Association

A Memorandum of Association is the initial incorporating document of a newly formed company. It sets out the objects, purposes and powers of the new company. In the case of the proposed Port of Sydney Development Corporation (the "new entity"), the objects of the Company are as follows:

- (a) To manage and operate the Port of Sydney, in the Cape Breton Regional Municipality, Nova Scotia;
- (b) To manage and operate all matters in relation to the Port of Sydney;
- (c) To support and promote the development of the Port of Sydney;
- (d) To sponsor, undertake and encourage such projects, industries, businesses or companies which are conducive to the attainment of the objects of the Company;
- (e) To develop, build and purchase infrastructure needed for the operation, promotion or economic development of the Port of Sydney and/or its facilities or in relation to the realization of any of the objects of the Company;
- (f) To acquire by way of grant, gift, purchase, bequest, devise, lease or otherwise, real property, both above and underwater, and personal property and to use and apply such property to the realization of the objectives of the Company;
- (g) To buy, own, hold, lease, mortgage, sell and convey such real and personal property as may be necessary or desirable in carrying out the objects of the Company;
- (h) To carry on the business of the Company without purpose of gain for its Members and any surpluses (or what may otherwise be characterized as "profits") or other accretions to the Company shall be used in promoting its objects;
- (i) To consult and liaise with governmental departments, commissions or agencies (whether federal, provincial or municipal) as well as such other organizations involved in promoting and establishing ventures that contribute to the economic development of the port facilities;
- (j) To do all the acts or things set forth in sub-clauses (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), and (s) of sub-section (4) of section 26 of the **Companies Act** of Nova Scotia (Chapter 81, R.S.N.S., 1989) with the qualification that:
 - i. the sanction of a special resolution need not be required with respect to sub-clauses (f), (g), and (i); and

- ii. the reference to the letter "(a)" in sub-paragraph "(r)" be replaced with the letter "(b)" and it being understood that sub-clause (h) of sub-section (4) of section 26 is and has been deleted.
- (k) To contract or hire such permanent and temporary staff as the Company deems necessary to carry out its objects and to enter into all agreements and provide all security necessary to finance its operations in a manner consistent with good business practices;
- (l) Subject to the rights of outstanding creditors, upon a winding-up or termination of the Company, to deliver and pay over the remaining assets of the Company to the Cape Breton Regional Municipality or its lawful successor; and
- (m) To acquire shares and/or membership and/or to enter into partnership with and/or enter into joint ventures with any other company or companies or such other legal entities in an outside of Canada, as the case may be, having objects similar to those of the Company.

In listing the above objects, the Corporation is legally empowered to advance those initiatives specifically set out in (a) through (m). These objects, in our opinion, broadly craft the mandate of the organization in a manner which will allow it to operate as a broad based economic development engine for the Municipality.

ii) **Articles of Association**

The Articles of Association of a Company are the "rules" by which the company must operate. These fundamental regulations set out the following:

- Governance procedures:
 - Rights of Membership;
 - Appointment and reappointment of Directors;
 - Codification of powers of Members and Directors;
 - Appointment and duties of Officers; and
 - Assembly of Committees and power to delegate to same.
- Conduct of meetings, whether they be meetings of the Directors or meetings of the Members (including the Annual General Meeting of the Members);
- Reporting requirements; and
- Particular aspects tailored to the nature of the business to be carried on by the corporation.

Transparency was an important consideration in developing the Articles of Association of the new entity, due to the following factors:

- Public scrutiny of new entity as a result of CBRM's direct involvement;
- Record-keeping and reporting requirements; and
- Public attendance at Annual General Meetings (pursuant to section 4.08 of the Articles)

Further, the Articles provide a framework that incorporates the best practices specific to port governance. This will provide further public confidence in the role of the new entity.

In addition, Article 12 sets out the activities that the new entity may undertake in order to support port operations. These activities were based on the activities set out in Letters Patent issued to ports controlled by the Federal Government.

In preparing the Articles of Association, we have established a procedure for attaining membership in the corporation. As presently drafted, CBRM, as represented by the Council of the Municipality, serves as the initial and sole Member of the corporation. The Membership (CBRM) is given broad power to add additional Members of the company who, in their opinion, would further advance the objects of the company. At this time, we do not envisage there becoming a significant number of additional Members of the company. However, in order to allow for the possibility that at some future point in time, a further Member may wish to be added, we have included the procedure in the Articles themselves.

We would note that in the form of this corporation, a company limited by guarantee, there is no issued share capital. Unlike traditional share capital companies where each shareholder holds a share (or more) in the capital stock of the company, under companies limited by guarantee, there is no stated capital. Consequently, the "Members" effectively become the "shareholders" in the more traditional form of entity. Therefore, care should be given in any consideration of adding additional Members to this company at any point in the future. The Members are given broad powers to carry out the objects of the corporation and have significant rights attached to governance.

iii) What Types of Best Practices Have Been Included in the New Governance Model?

The Articles of Association of a corporation establish the "mode" in which a corporation operates. In drafting the Articles for the new entity, we have attempted to incorporate the concept of "best practice" in current Board governance. Examples of such best practices include, but are not limited to:

1. Staggered terms for Directors to ensure continuity of operation at all times;
2. Chief Executive Officer, serving as ex officio Member of the Board and Member of all Committees;

3. Comprehensive approval process of annual capital and operating plan for the corporation. This ensures that at all times, the corporation, while operating at arms-length from the Municipality, is advancing under a financial model which has been pre-approved by Council of CBRM prior to implementation;
4. The recruitment of corporate Directors on the basis of skill set. This procedure ensures that at all times, the corporation is operating with an optimal Director's skill set which will best serve to advance the interests of the corporation;
5. Term Limits – Mandatory retirement from the Board after two (2) terms serves to ensure that the Board is continually invigorated with new and energetic corporate leadership. The use of term limits is believed to eliminate possible Board apathy that can develop where all, or a significant portion of a Board, remains in place for an extended term.

iv) What is a Company Limited by Guarantee?

A Company Limited by Guarantee is a rarely incorporated entity, regulated by the Nova Scotia *Companies Act*. It is generally used for non-for-profit entities that wish to carry on business. These companies are generally incorporated with no share capital. Accordingly, instead of having shareholders, the company has members. The members agree to guarantee the company up to a certain amount. This guaranteed amount is set out in the company's memorandum. Further, there are few reporting requirements under the NS *Companies Act* for this type of company. In addition, the incorporators of this type of company are not constrained by statutory requirements in drafting the Articles of Association of the Company. This means they are free to enact Articles that best suit the company and its objectives.

v) What is the CBRM Council's Role in the New Company?

The CBRM Council has the power to incorporate the new company. Accordingly, the CBRM Council has the power to approve the first Articles of Association and appoint the first Directors of the new entity.

In addition, the CBRM Council will be the initial Member of the new company, and it may appoint further members if it desires. The business to be conducted by the Members at the Annual General Meeting of the Members is set out in section 4.08 of the Articles.

Additionally, the CAO of the CBRM, Michael Merritt (or his designate or successor) will serve as the Chair of the Board of Directors of the new entity, (pursuant to article 5.02(a)).

The Board of Directors is also required to report certain business decisions to the CBRM Council. This is discussed below under "Reporting Requirements". Further, the Board must make certain documents

available for CBRM Council's inspection at any time. This is also discussed below under "Record Requirements".

Pursuant to section 5.24 of the Articles, the CBRM Council shall appoint the First Directors of the Company. The First Directors will remain in office until the Requisite Board has been established pursuant to section 5.05.

vi) Board of Directors

Section 5 of the Articles of Association sets out the composition and powers of the Board of Directors of the new entity. We have highlighted some of these provisions in the discussion below.

a) Policy Board

Generally there are two types of approaches that a Board may take in governing a company. These approaches are known as the Operational Model and the Policy/Advisory Model. The type of Board that the new entity will be implementing is a Policy/Advisory Board. Pursuant to this approach, the CEO is actively involved in the Company's activities and manages the Company's operations on a day to day basis. In contrast, the Board takes on an advisory role and assists the CEO when required. This is contrary to the Operational Model where the Board is actively involved in the day-to-day activities of the Company.

With that said, it is important to remember that it is the legal responsibility of the Board to manage the affairs of a company. Further, it is the Board, not the CEO, who may be responsible for certain actions of the company's employees and committees. Accordingly, the Board holds a superior position to the CEO and the CEO must report to the Board.

b) Composition of Board

The Articles of Association of the new entity set out the requirements of the Board of Directors. As the Articles currently stand, there must be at least seven but no more than twelve Directors, and the quorum necessary to transact business at a meeting of the Board is a majority of Directors in office (pursuant to sections 5.03 and 5.04, respectively). Further, the appointment of Directors shall be effected by a duly authorized resolution of the CBRM Council (pursuant to section 5.05). In addition, the Board must be comprised of the following professionals:

- 2 professional accountants;
- 1 practicing lawyer;
- 1 professional engineer;
- Not less than 1 individual with expertise in marketing; and
- Not less than 2 individuals with expertise in business and commerce

(pursuant to section 5.05 of the Articles).

It should be noted that the Mayor, councillors, officers and employees of the CBRM, or any other elected or politically appointed official, shall not be eligible to be a Director.

c) Officers of the Company

The Officers of the new entity shall be the Chairperson, Vice-Chairperson, Secretary, Treasurer and such other officers as the Board may appoint from time to time (section 6.01). The Officers must be selected from the Board of Directors (section 6.02).

The responsibilities and duties of the Chairperson/Vice-Chairperson, Secretary, and Treasurer are set out in Articles 8, 9, and 10, respectively.

d) Appointments by Members

The Directors of the Board will be appointed by the Members of the Company, and the Members may remove a Director by majority vote (sections 5.05 and 5.17, respectively).

e) Appointments by the Board

The Board is responsible for appointing and hiring the Chief Executive Officer of the Company and the CEO shall not be a Director (article 5.12). Marlene Usher, a senior executive, has been seconded through ACOA to serve as CEO of the new entity for a term of three years.

Further, the Board shall elect the Vice-Chairperson, Secretary, and Treasurer, along with any other officers it considers to be appropriate (section 6.02). The offices of Secretary and Treasurer may be combined into one office with the consent of the Board (section 6.06).

In addition, the Board may appoint committees and delegate certain powers to those committees, subject to the approval of the Members (section 5.14). There will be two obligatory committees of the Company:

- the Governance Committee (section 5.15); and
- the Executive Committee (section 7.01)

In addition, the creation of two other committees has been proposed, but these committees are not currently provided for in the Articles. These committees would be an audit/risk committee and a human resources committee. Further discussion is required on this point.

i) Governance Committee

The Governance Committee shall be appointed by the Board, and shall be made up of no less than three Directors. The duties and functions of the Governance Committee are set out in section 5.16 of the Articles.

ii) **Executive Committee**

The Executive Committee shall serve as a standing committee of the Board. It shall be made up of the Officers of the Company, from time to time. Further, the Company CEO shall be a non-voting member of the Executive Committee. The duties and functions of the Executive Committee are set out in section 7.02 of the Articles.

f) **Term**

Section 5.06 of the Articles provides that the appointment of directors shall be staggered. Further, this section provides that a Director will serve on the Board for a *de facto* term of 3 years. Members of the Company may pass a resolution to extend a Director's term for one additional term, but such term must not exceed three years. In addition, the Board must meet at least six times during the fiscal year (pursuant to section 5.01).

g) **Reporting Requirements**

The Board must report to the CBRM Council, within 48 hours of approving any of the following decisions:

- (a) filling a vacancy in the office of CEO;
- (b) approving the annual financial statements;
- (c) approving a borrowing of more than Fifty Thousand Dollars (\$50,000.00);
- (d) adopting a land use plan or business plan; or
- (e) authorizing or ratifying any activity carried on or to be carried on, or any power exercised or to be exercised, by a subsidiary of the port authority;

(pursuant to section 5.22).

h) **Record Requirements**

Further, upon request by CBRM Council, the Board must make the following records available for inspection:

- (a) copies of the annual financial statements, for a period of six years after the end of the fiscal year to which they relate;
- (b) copy of every document received by it in the last six years notifying it of the appointment or cessation of office of a director;
- (c) copy of the constating instruments of each of its wholly-owned subsidiaries ;

(d) Records relating to the traffic and general use of the Port of Sydney;

(pursuant to section 5.21).

i) Further Duties of the Board

The Board is also responsible for requisitioning a proper risk assessment of the Port of Sydney every five years (section 5.23).

III Transitional Issues

What are the Remaining Transitional Issues from the Sydney Ports Corporation to the New Entity?

We have identified four major transitional issues that must be considered in transferring governance of the port from the Sydney Ports Corporation (SPC) to the new entity. These issues are:

1. The Port of Sydney Development Corporation
2. Dissolution of SPC
3. SPC Employees
4. Appointment of Transitional/Requisite Board

1. The Port of Sydney Development Corporation

The proposed name of the new entity is the "Port of Sydney Development Corporation". A company name must be acceptable to the Registry of Joint Stock Companies of Nova Scotia, and the Registry does not permit a the registration of a name that is too similar to another company already in existence. Accordingly, as the "Port of Sydney Development Corporation" is too similar to "Sydney Ports Corporation", the SPC will have to change its name before the new company can be named the Port of Sydney Development Corporation.

Formal requests for the assignment of the name rights to Sydney Ports Corporation have been requested of the Sydney Ports Corporation Board. Upon confirmation of assignment rights, the new name – "Port of Sydney Development Corporation" will be registered and attached to this new entity.

It should be noted that this will not interfere with the timeline of the incorporation of the new entity, as the new entity can be incorporated under a different name until the "Port of Sydney Development Corporation" is an available company name.

2. Dissolution of SPC

In the course of the establishment of a new entity for the development of the Sydney Harbour, it is anticipated that the existing Sydney Ports Corporation Incorporated (SPC) will be wound down. It is not necessary that this corporation be legally terminated in order for the new entity to exist. However, certain steps must be taken in order to ensure that the new entity is properly structured. At a minimum, it is anticipated that Sydney Ports Corporation would transfer over all of its existing assets to the new entity, together with the assumption by the new entity of the existing operational liabilities of SPC. Included amongst these transfers would be the surrender of the lease agreement between CBRM and SPC relating to the Sydney Marine Terminal. Additionally, those funds currently vested in the name of SPC and housed in SPC Bank accounts, would be transferred to the new entity on an unrestricted basis.

Given that SPC is a not for profit company, it is required to follow certain legislative requirements for disposition of its assets. Under the terms of SPC's Articles, it is permitted to wind-up and distribute its assets to an entity having similar objects or purposes. In this case, the current structure and objects of the new entity are sufficient to allow this transfer to occur. Other assets which would be transferred include:

i) SPC's Current Reserves

The most substantial reserve on the accounts include a \$2.5 million trust fund for the construction and installation of navigational aids associated with the operation of Sydney Harbour. This project was originally coordinated through Enterprise Cape Breton Corporation as a final step in the recent dredging of Sydney Harbour. At the time of the wind down of ECBC, this project was transferred to Sydney Ports Corporation for its administration. The Administration Agreement between ECBC and SPC allows for the assignment of administration rights to another entity upon consent of the Federal Government.

ii) SPC's Real Property

SPC currently owns certain real property located in Point Edward, Nova Scotia, identified as PID No. 15209786.

iii) SPC's Current Material Contracts

All material contracts associated with the operation of Sydney Marine Terminal would be legally assigned to the new entity. All such assignments will require the consent of the relevant third parties.

3. SPC Employees

All current SPC employees shall continue to be employed with the new entity at the current rates of pay and benefits. This will be done through a contractual assumption agreement between the entities. Any associated liabilities, including seniority rights, would also be assigned under the terms of the contract.

4. Appointment of Transitional/Requisite Board

The requisite Board, as described above, will need to be formed; however until this can be done, an interim board must be appointed to manage the Company. As noted above, the Articles provide for the appointment of the First/interim Board, and any other additional directors who may be approved by CBRM Council. The interim Board will be the working Committee, as appointed by CBRM Council.

Schedule "A"

MEMORANDUM OF ASSOCIATION

OF

PORT OF SYDNEY DEVELOPMENT CORPORATION

1. The name of the Company shall be **Port of Sydney Development Corporation (the "Company")**.
2. The Company is formed for the following objects and purposes and with the following powers (all of which are hereinafter referred to as "objects"):
 - (a) To manage and operate the Port of Sydney, in the Cape Breton Regional Municipality, Nova Scotia;
 - (b) To manage and operate all matters in relation to the Port of Sydney;
 - (c) To support and promote the development of the Port of Sydney;
 - (d) To sponsor, undertake and encourage such projects, industries, businesses or companies which are conducive to the attainment of the objects of the Company;
 - (e) To develop, build and purchase infrastructure needed for the operation, promotion or economic development of the Port of Sydney and/or its facilities or in relation to the realization of any of the objects of the Company;
 - (f) To acquire by way of grant, gift, purchase, bequest, devise, lease or otherwise, real property, both above and underwater, and personal property and to use and apply such property to the realization of the objectives of the Company;
 - (g) To buy, own, hold, lease, mortgage, sell and convey such real and personal property as may be necessary or desirable in carrying out the objects of the Company;
 - (h) To carry on the business of the Company without purpose of gain for its Members and any surpluses (or what may otherwise be characterized as "profits") or other accretions to the Company shall be used in promoting its objects;
 - (i) To consult and liaise with governmental departments, commissions or agencies (whether federal, provincial or municipal) as well as such other organizations involved in promoting and establishing ventures that contribute to the economic development of the port facilities;
 - (j) To do all the acts or things set forth in sub-clauses (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), and (s) of sub-section (4) of section 26 of the **Companies Act** of Nova Scotia (Chapter 81, R.S.N.S., 1989) with the qualification that:
 - i. the sanction of a special resolution need not be required with respect to sub-clauses (f), (g), and (i); and
 - ii. the reference to the letter "(a)" in sub-paragraph "(r)" be replaced with the letter

"(b)" and it being understood that sub-clause (h) of sub-section (4) of section 26 is and has been deleted.

- (k) To contract or hire such permanent and temporary staff as the Company deems necessary to carry out its objects and to enter into all agreements and provide all security necessary to finance its operations in a manner consistent with good business practices;
- (l) Subject to the rights of outstanding creditors, upon a winding-up or termination of the Company, to deliver and pay over the remaining assets of the Company to the Cape Breton Regional Municipality or its lawful successor; and
- (m) To acquire shares and/or membership and/or to enter into partnership with and/or enter into joint ventures with any other company or companies or such other legal entities in an outside of Canada, as the case may be, having objects similar to those of the Company.

AND it is further declared that the intention is that the objects specified in each paragraph of this clause shall, except where otherwise expressed in such paragraph, be in no way limited or restricted by reference to or inference from the terms of any other paragraph or the name of the Company.

AND it is further declared that no one or more of the foregoing objects shall, as regards all or any of the other objects, be deemed the primary or principal object of the Company.

PROVIDED that nothing herein contained shall be deemed to authorize the Company to carry on the business of banking, loan, trust, or insurance company.

- 3. The liability of the Members of the Company shall be limited, it being understood that the Company is a company limited by guarantee.
- 4. Every Member of the Company undertakes to contribute to the assets of the Company in the event of the same being wound-up during the time that he or she is a Member of the Company or within one (1) year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he or she ceased to be a Member of the Company, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as is required, not exceeding Ten (\$10.00) Dollars.

DATED at Sydney, Nova Scotia, this _____ day of February, 2015.

First Member: Cape Breton Regional Municipality

Per:

Per:

Witness to all of the above signatures:

Witness signature

Address of witness

SCHEDULE "B"

ARTICLES OF ASSOCIATION OF PORT OF SYDNEY DEVELOPMENT CORPORATION

ARTICLE 1: NAME, PURPOSE AND DEFINITION

- 1.01 The name of the Company is Port of Sydney Development Corporation.
- 1.02 The purposes, objects and powers of the Company are as set out in the Memorandum of Association of the Company.
- 1.03 In these Articles of Association of the Company:
- (A) "Company" means Port of Sydney Development Corporation;
 - (B) "Board" or "Board of Directors" means the board of directors of the Company;
 - (B) "Board Member" or "Director" means an individual who has been appointed as a member to the Board of Directors of the Company;
 - (C) "Member(s) of the Company" means an individual or such other legal entity who has acquired Membership in the Company in accordance with Article 3 of the Articles of Association of the Company.

ARTICLE 2: POWERS

- 2.01 Subject to the Memorandum of Association of the Company, the powers of the Company are as set out in the Companies Act, Chapter 81, Revised Statutes of Nova Scotia, 1989, as amended from time to time.
- 2.02 In addition the Company shall have the power:
- (a) to fix and determine the basis and terms of membership in the Company;
 - (b) to carry out the financing and other agreements necessary to achieve its objects either alone or jointly with others; and
 - (c) to guarantee and act as an endorser on loans and obligations arranged by or on behalf of individuals or groups.

ARTICLE 3: MEMBERSHIP

- 3.01 Subject to the right of the Company to extend its membership and to provide for the terms of such extension, the Members of the Company shall be as follows:
- (a) the Cape Breton Regional Municipality as represented by the Council of the Cape Breton Regional Municipality (the "Initial Member");

- (b) such additional Members of the Company who shall be appointed by the Initial Member; and
 - (c) such additional Members of the Company who shall be appointed by the Members of the Company.
- 3.02 Members of the Company (other than the Cape Breton Regional Municipality), shall, as a condition of membership, sign and file with the Company a copy of the Company's Memorandum of Association as confirmation of an undertaking to contribute to the assets of the Company, subject to the limitations expressed in Article 4 of the Memorandum of Association of the Company.
- 3.03 The number of Members who may be admitted to membership in the Company is unlimited.
- 3.04 The acts and votes of the Members of the Company shall be deemed to be legal and valid notwithstanding any default in the appointment of Members of the Company at the time of such acts or votes; and the act and vote of a majority of those present and voting at any duly convened meeting of the Members of the Company shall be deemed to be the act and vote of the Company.
- 3.05 Subject to Article 3.06, the Members of the Company, including the signatories to the Company's Memorandum of Association, shall continue to maintain membership in the Company unless otherwise removed by a vote of $\frac{3}{4}$ of the Members of the Company present in person or by proxy at a duly constituted meeting of the Members of the Company for which notice of the proposed removal of the Member has been provided.
- 3.06 Any Member of the Company, including any signatory to the Company's original Memorandum of Association, shall cease to be a Member of the Company upon:
- (a) in the case of a Member of the Company which is a corporate entity, upon the corporate entity becoming insolvent or being assigned into bankruptcy or being wound up.
 - (b) with the approval of the Board of Directors, if the Member of the Company fails to pay any fee which may be levied on the Member.

ARTICLE 4: MEETINGS AND VOTING OF THE MEMBERS OF THE COMPANY

- 4.01 The Secretary or his or her designate shall be responsible for giving notice of all meetings of the Members of the Company.
- 4.02 Notice of the Annual General Meeting of the Members of the Company (the "Annual General Meeting") shall be given by prepaid post, dated not less than (2) two weeks prior to the Annual General Meeting of the Members of the Company.
- 4.03 Notice of general meetings of the Members of the Company, other than the Annual General Meeting of the Members of the Company, shall be given by prepaid post, dated no less than five (5) days previous to the general meeting of the Members of the Company.
- 4.04 Notice of any emergency meetings will be deemed sufficient if the Secretary gives notice by telephone, fax or message either in person to the Members of the Company or by message

left with some responsible person at the respective homes or offices of the Members of the Company the day previous to the date of the emergency meeting of the Members of the Company.

- 4.05 Voting at any meeting of the Members of the Company shall be voiced "aye" or "nay" or by show of hands or by standing vote, unless a secret vote by ballot is requested by motion, seconded and carried by a majority of the Members of the Company present. A motion of request for secret ballot may not be ruled out of order by reason of there being a prior motion on the floor.
- 4.06 Subject to Article 8.01 of the Articles of Association of the Company, each Member of the Company shall be entitled to one (1) vote and no more on any motion.
- 4.07 A quorum of any meeting of the Members of the Company (whether annual, general or emergency) shall be fifty-one percent (51%) of the Members of the Company (actually present, or by proxy) with no person entitled to be counted as more than one (1). Any Member present at any meeting of the Members by proxy shall have filed with the Secretary or his or her designate at any time prior to the meeting of the Members of the Company a proxy form, (substantially similar to the one set out in Appendix "A" to these Articles of Association) and bearing the signature (or certifies the consent to the Secretary's satisfaction) of the Member who wishes to be present at the meeting of the Members of the Company by way of proxy. The proxy form may be presented to the Secretary or his or her designate either by hand (by any person), prepaid post, fax or such other device which, in written form, evidences the consent of the Member being present at the Meeting of the Members of the Company by proxy, the Secretary or his or her designate shall duly note such fact in the minutes of the meeting of the Company and the proxy form or a copy of the proxy form shall be filed with the minutes of the meeting of the Members.
- 4.08 The Members of the Company shall hold not less than one (1) meeting each year, which meeting shall be the Annual General Meeting of the Members of the Company. The Annual General Meeting of the Members of the Company shall be open to the public and is to be held at the Joan Harris Cruise Pavilion, or such other convenient location, at such time as is deemed expedient by the Board of Directors of the Company. At the Annual General Meeting of the Members of the Company, the order of business shall be as follows:
- (a) Roll call;
 - (b) Approval of minutes of preceding Annual General Meeting of the Members of the Company;
 - (c) Adoption of the annual report which shall include:
 - Audited financial statements;
 - Completion of a business plan for the fiscal year containing such information as the Council of the Cape Breton Regional Municipality may require;
 - Risk assessment, if applicable in the year of the Annual General Meeting; and

- Summary of infrastructure maintenance and development for the particular fiscal year.
 - (d) Adoption of treasurer's report and appointment of auditors;
 - (e) Adoption and approval of the final business plan of the Company for the ensuing year;
 - (f) Receiving report of Governance Committee of the Board of Directors;
 - (g) Appointment of individuals to the Board of Directors;
 - (h) Election of new Members to Membership in the Company;
 - (h) New business.
- 4.09 General meetings of the Members of the Company may be held at the discretion of the Board of Directors of the Company. Such meetings shall be held at such time and place, and shall take such form as is deemed expedient by the Board of Directors of the Company.
- 4.10 Emergency meetings of the Members of the Company may be called at such time and place as is deemed in the best interests of the Company. Such meetings shall be held when requested by:
- (a) One-third (1/3) or more Members of the Company by notice in writing, delivered to any officer of the Company; or
 - (b) the Board of Directors of the Company; or
 - (c) the Chairperson.
- 4.11 Subject to such modification as may be required by law and/or pursuant to the Articles of Association of the Company, the business of the Members of the Company shall be conducted in accordance with the most recent edition of Robert's Rules of Order, as it may exist from time to time.

ARTICLE 5: BOARD OF DIRECTORS OF THE COMPANY

- 5.01 The Board of Directors of the Company shall be responsible to establish the policies and perspectives of the Company, including, but not limited to, major policy issues, financial issues and the hiring of senior employees, if any, and shall meet no less than six (6) times during the Company's business year. The Board is responsible for the management of the activities of the Company.
- 5.02 Subject to Article 5.24, the following individuals shall not be eligible to sit as Directors:
- (a) an individual who is a mayor, councillor, officer or employee of the Cape Breton Regional Municipality, except that the Chief Administrative Officer of the Cape Breton Regional Municipality shall be an Ex Officio Director and serve as the Chairperson of the Board of Directors. The Chief Administrative Officer, from time to time, shall not be subject to the term restrictions enumerated in Article 5.06 and 5.07;

- (b) an individual who is a member of the legislature of the province of Nova Scotia, or an officer or employee of the public service or of a Crown corporation of the province of Nova Scotia;
- (c) a Senator or a member of Parliament or an officer or employee of the federal public service or of a federal Crown corporation;
- (d) an individual who is not a resident Canadian;
- (e) an individual who is under 18 years of age;
- (f) an individual who has been declared mentally incompetent by a court in Canada or elsewhere; or
- (g) an undischarged bankrupt.

5.03 The Board shall consist of at least seven (7) and no more than twelve (12) Directors.

5.04 The quorum necessary for the transaction of business at a meeting of the Board shall be a majority of the number of Directors in office. A quorum of Directors may exercise all powers of the Board.

5.05 The appointment of a Director shall be effected by a duly authorized resolution of the Council of the Cape Breton Regional Municipality and the Board of Directors shall be comprised of the following:

- (a) not less than two (2) individuals holding professional accounting designations;
- (b) not less than one (1) individual licensed to practice law in the Province of Nova Scotia;
- (c) not less than one (1) individual holding a professional engineering designation;
- (d) not less than one (1) individual with noted expertise in marketing;
- (e) not less than two (2) individuals with expertise in business and commerce; and

5.06 Directors' terms shall be staggered. No Director of the Company shall hold office as a Director of the Company for a term greater than three (3) years; the Company may, by a majority vote of the Members of the Company present in person or by proxy at a meeting of the Board, extend such term for up to one (1) additional term, which shall not exceed three (3) years.

5.07 Subject to such other requirements prescribed pursuant to the Articles of Association of the Company with respect to membership on the Board of Directors of the Company, if a Director of the Company has held office for a period of nine (9) consecutive years, he or she will not be eligible to hold office as a Director of the Company for a period of at least three (3) years from the date on which he or she attained nine (9) consecutive years as a Director of the Company.

- 5.08 A Director shall cease to hold office when:
- (a) the Director dies or resigns;
 - (b) the Director is removed for cause;
 - (c) the Director is no longer qualified to hold the office of director;
 - (d) the term of office of the Director expires; or
 - (e) the Director is removed by special resolution of the Members of the Company. Subject to those items enumerated herein Article 5.08, so long as the Cape Breton Municipality is the sole Member of the Company, a Director shall not be unilaterally removed by special resolution of the Members, without cause.
- 5.09 A Director may resign his or her office as a Director by sending to the Company a written resignation which shall become effective on the date received by the Company or on the date specified in the resignation, whichever is later.
- 5.10 Any Director may be removed for cause by the Members at any time.
- 5.11 As enumerated in Article 5.02(a), the Chief Administrative Officer of the Cape Breton Regional Municipality shall serve as the ex officio Chairperson of the Board. The Board may elect a vice-chairperson from among their number who shall act in the absence of the Chairperson.
- 5.12 The Board shall appoint a Chief Executive Officer (CEO), who shall not be a Director, and such other officers that the Board considers appropriate.
- 5.13 The Board shall fix the remuneration of the CEO of the Company, subject to the approval of the business plan of the Company at the Annual General Meeting.
- 5.14 The Board, subject to the approval of the Members, may appoint from their number one or more committees of the Board not otherwise provided for herein, to best carry out the provisions enumerated herein, however designated, and delegate to any such committee any of the powers of the Board except the Board shall not delegate to any committee the power to:
- (a) fill a vacancy in the office of the auditor of the Company;
 - (b) issue debt obligations except in the manner and on the terms authorized by the Board;
 - (c) approve the audited financial statements of the Company;
 - (d) adopt, amend or repeal by-laws; or
 - (e) authorize or ratify any activity carried on or to be carried on or any power exercised or to be exercised by a subsidiary.

- 5.15 The Board shall appoint from their number a governance committee comprised of not less than three Directors, one of whom shall be a Barrister (the "Governance Committee").
- 5.16 The Governance Committee shall perform the following functions:
- (a) Develop and manage the administration of a code of conduct;
 - (b) Develop and annually update a long-term plan, including recommendations to the Board, for the composition of the Board, in terms of the optimal combination of skills, background or experience, which plan shall take into consideration the skills, background and experience of existing Directors, retirement dates and the strategic direction of the Company;
 - (c) at least four months prior to the expiry of the term of a director appointed by the Cape Breton Regional Municipality, provide notice to the Cape Breton Regional Municipality, that the term of its appointee on the Board is about to expire and requesting an appointment;
 - (d) provide to the Cape Breton Regional Municipality the notice described in subsection 5.16(c) above, a current copy of the plan and recommendations described in subsection 5.16(b) and also provide a profile of the skills, background and experience of the continuing Directors;
 - (e) in the event a Director ceases to hold office, the Governance Committee shall forthwith provide to the Cape Breton Regional Municipality, a written request for a new appointment to fill such vacancy together with a copy of the plan and recommendations described in subsection 5.16(b) and the profile described in subsection 5.16(d).
- 5.17 Notwithstanding a term appointment of a Director to the Board of Directors of the Company by the Members of the Company, the Members of the Company shall have the right to remove any Director of the Company by majority vote of those present in person or by proxy at any meeting of the Members of the Company duly convened and held and for which notice of the proposed removal has been provided.
- 5.18 Subject to such modification as may be required by law and/or pursuant to the Articles of Association of the Company, the business of the Board of Directors shall be conducted in accordance with the most recent edition of "Robert's Rules of Order", as it may exist from time to time.
- 5.19 No Director shall be paid any salary or remuneration for the execution of his or her duties other than such out-of-pocket expenses as he or she may properly incur on behalf of the Company.
- 5.20 Meetings of the Board of Directors of the Company may be held by telephone conference call and Directors of the Company may be present at any meeting of the Board of Directors of the Company by telephone speaker or such similar device, so long as the Director attending the meeting of the Board of Directors by way of speaker phone or such similar device is able to hear and participate in the meeting.

5.21 The Board of Directors of the Company shall be tasked with having the following corporate records available for inspection by the Council of the Cape Breton Regional Municipality at any time:

- (a) copies of the annual financial statements, for a period of six years after the end of the fiscal year to which they relate;
- (b) copy of every document received by it in the last six years notifying it of the appointment or cessation of office of a director;
- (c) copy of the constating instruments of each of its wholly-owned subsidiaries
- (d) Records relating to the traffic and general use of the Port of Sydney;

5.22 The Board of Directors of the Company shall be required to report to the Council of the Cape Breton Regional Municipality the following business within forty eight (48) hours of the business being approved at a meeting of the Board of Directors.

- (a) filling a vacancy in the office of CEO;
- (b) approving the annual financial statements,
- (c) approving a borrowing of more than Fifty Thousand Dollars (\$50,000.00);
- (d) adopting a land use plan or business plan; or
- (e) authorizing or ratifying any activity carried on or to be carried on, or any power exercised or to be exercised, by a subsidiary of the port authority;

5.23 The Board of Directors of the Company shall requisition a risk assessment, relating to the Port of Sydney, by a competent risk assessor every five (5) years with respect to:

- (a) risk, risk management, property value, risk transfer and probable maximum loss; and
- (b) insurance coverage, limits and deductibles.

5.24 Notwithstanding the foregoing regulatory framework concerning the Board of Directors of the Company contained in this Article 5, immediately upon incorporation, the Initial Member shall appoint as the first Directors of the Company:

- (a) the Mayor of the Cape Breton Regional Municipality; and
- (b) six (6) councilors of the Cape Breton Regional Municipality.

(collectively known as the "Interim Directors")

The Interim Directors shall hold office from the date of incorporation until such time as the requisite Directors have been established in accordance with Article 5.05 herein, and on staggered terms as enumerated in Article 5.06. As the requisite Directors are appointed in accordance with Article 5.05 herein, the Interim Directors shall proportionately resign.

ARTICLE 6: OFFICERS: CHAIRPERSON, VICE-CHAIRPERSON, SECRETARY AND TREASURER

- 6.01 The officers of the Company shall be the Chairperson (as appointed pursuant to Article 5.02(a)), a Vice-Chairperson, a Secretary, and a Treasurer, and such other officers as the Board of Directors of the Company may from time to time appoint.
- 6.02 The officers, except the Chairperson, shall be elected from amongst and by the Board of Directors of the Company and where a vacancy exists in any office of the Company, such vacancy shall be filled at the next meeting of the Board of Directors of the Company following the Annual General Meeting of the Members of the Company, which meeting of the Board of Directors of the Company shall be held no later than thirty (30) days after the Annual General Meeting.
- 6.03 The Board of Directors shall have the authority to elect any Director to serve as an interim officer of the Company, except the Chairperson, should a vacancy occur during the Company's business year until the next Annual General Meeting.
- 6.04 Excepting the Chairperson, any officer of the Company shall hold office for one (1) year from the date of his or her election pursuant to Article 6.02 of the Articles of Association, provided such person continues to be a Director of the Company.
- 6.05 No officer shall be paid any salary or remuneration for the execution of his or her duties other than such out-of-pocket expenses as he or she may properly incur on behalf of the Company.
- 6.06 Notwithstanding anything to the contrary contained herein, with the consent of the Board of Directors, the offices of Secretary and Treasurer may be combined into the one office of Secretary-Treasurer.

ARTICLE 7. EXECUTIVE COMMITTEE

- 7.01 The "Executive Committee" of the Board of Directors of the Company shall consist of the following individuals:
- (a) the officers of the Company, from time to time;
 - (b) the Chief Executive Officer of the Company, if any, who shall be a non-voting Member of the Executive Committee.
- 7.02 The Executive Committee shall serve as a standing committee of the Board of Directors of the Company and shall oversee the effective execution of the day-to-day operations of the Company, approve all major budgeted expense items, act as the strategic planning committee of the Company, evaluate the performance of the Chief Executive Officer, and be responsible for issuing public statements on major policy/media issues. The Executive Committee shall have the authority to transact such business as may properly be required of the Company between meetings of the Board of Directors of the Company and shall carry on its activities in accordance with such directions and limitations as the Board of Directors of the Company may from time to time prescribe. The Executive Committee shall meet no less than once a month during the Company's business year.

ARTICLE 8: DUTIES OF THE CHAIRPERSON AND VICE-CHAIRPERSON

8.01 The Chairperson shall:

- (a) Provides leadership to the Board that will result in attaining the objectives of the Company and adheres to its Articles of Association;
- (b) The Chairperson shall preside at meetings of the Members of the Company, the Board of Directors and the Executive Committee and shall have an extra or deciding vote when votes are evenly divided;
- (c) Encourages Directors to participate in meetings and activities;
- (d) Keeps the Board's discussion on topic by summarizing issues;
- (e) Keeps the board's activities focused on the Companies' issues;
- (f) Evaluates the effectiveness of the Board's decision-making process;
- (g) Makes sure that committee chairs are appointed;
- (h) Orients Directors and committee Chairs to the Board;
- (i) Makes sure there is a process to evaluate the effectiveness of Directors, using measurable criteria;
- (j) Recognizes Directors' contributions to the Board's work;
- (k) Acts as one of the signing officers for cheques and other documents, such as contracts and grant applications. Unless otherwise determined by the Board of Directors of the Company, the Chairperson, together with the Secretary, shall sign all documents requiring the seal of the Company and perform such other duties as are usual for such an officer;
- (l) Promotes the Companies' purpose in the community and to the media or to delegate such responsibility to another Director;
- (m) Be an ex officio member of all committees; and
- (n) Vets all reports for the Annual General Meeting.

8.02 In the event of the absence, illness, or incapacity of the Chairperson, the Vice-Chairperson shall act in his or her place and stead for all purposes. The Vice-Chairperson shall learn the duties of the Chairperson and keep informed on key issues. The Vice-Chairperson shall perform such duties as may be directed by the Chairperson or Board.

ARTICLE 9: DUTIES OF THE SECRETARY

9.01 The responsibilities of the Secretary are as follows:

- (a) Ensure notices of meetings have been prepared and posted;

- (b) Ensure minutes of meetings of the Members of the Company, the Board of Directors of the Company and the Executive Committee are kept;
- (c) Ensure all correspondence has been read and answered as directed by the Officers and Board of Directors;
- (d) Serves on the Executive Committee;
- (e) Keeps copies of the Companies' Articles and the Board's policies and plans;
- (f) Keeps list of officers, Directors, committees and general membership;
- (g) Cares for official minute book;
- (h) Keeps record of Board attendance;
- (i) Makes sure that there is a quorum at Board meetings;
- (j) Distribute copies of minutes to Directors;
- (k) Signs official documents of the Company as required;
- (l) Files with the registrar, with its annual financial statement, a list of its Directors with their addresses, occupations, and dates of appointment or election, and, within fourteen days of a change of Directors, notify the registrar of the change;
- (m) Files with the registrar a copy in duplicate of every special resolution within fourteen days after the resolution is passed;
- (n) In the absence of the Chair and vice-chair, chairs Board meetings until the election of an alternate Chair; and
- (o) such other duties as may be designated from time to time by the Board of Directors of the Company are carried out.

ARTICLE 10: DUTIES OF THE TREASURER

10.01 The responsibilities of the Treasurer are as follows:

- (a) Ensure the financial affairs of the Company are monitored;
- (b) Serves on the Executive Committee;
- (c) Gives regular reports to the Board on the financial state of the Company;
- (d) Present the records to designated accountant for review and preparation of a certified statement for the Annual General Meeting. Prepare the annual financial statements required by law;
- (e) Receive and deposit all funds of the Company in the bank designated by the Board;

- (f) Monitor the budget as approved by the Board;
- (g) Acts as signing officer, with another officer or Coordinator for cheques and other documents; and
- (h) such other duties as may be designated from time to time by the Board of Directors of the Company are carried out.

ARTICLE 11: ARTICLES OF ASSOCIATION

11.01 The Articles of Association of the Company shall be amended or repealed only in accordance with the provisions of the *Companies Act*, Chapter 81, Revised Statutes of Nova Scotia, 1989, as amended from time to time.

ARTICLE 12: ACTIVITIES OF THE COMPANY NECESSARY TO SUPPORT PORT OPERATIONS

12.01 To operate the Port of Sydney, the Company may undertake the activities which are necessary to support port operations, including, but not limited to:

- (a) Subject to Article 5.22(c), the borrowing of money. The borrowing powers of the Company shall be exercised in accordance with the provisions of the *Companies Act*, Chapter 81, Revised Statutes of Nova Scotia, 1989, as amended from time to time;
- (b) Acquisition or disposition of real property;
- (c) Granting over real property, road allowances or easements, rights-of-way or licenses for utilities, service or access;
- (d) Renting equipment;
- (e) Developing, leasing or licensing real property;
- (f) Acquisition, disposition, holding, leasing or licensing of personal property;
- (g) Participating as a partner, or a co-venturer in connection with the activities enumerated herein;
- (h) The management of harbour dues;
- (i) The operation of freight forwarding, consolidating, trading or brokerage facilities or services and warehousing, storage and handling of cargo, freight and goods;
- (j) Operation of dry dock facilities;
- (k) Operation of restaurants, bars, retail, office, display, tradeshow, and carry-on entertainment activities, travel or tour operations and similar tourism-related activities;
- (l) Operation of an industrial or business park for activities compatible with port operations and the land use plan for the Port of Sydney;

- (m) Consulting services relating to the operation of the Port of Sydney; and
- (n) Building, design, maintenance, engineering, repair and operation of vessels.

12.02 The Company shall carry out the following activities in relation to the operation of the Port of Sydney:

- (a) Environmental risk mitigation and maintenance;
- (b) Navigational services and aids;
- (c) Emergency planning and response;
- (d) Dispatching services;
- (e) Security;
- (f) Vehicle parking, control or marshalling facilities;
- (g) Dredging and channel maintenance, including deposit, disposal, and sale of waste and dredgeate;
- (h) Stevedoring services; and
- (i) General facility maintenance.

12.03 The CEO shall deliver to the members of the Company an operational report describing the activities undertaken in that month in reference to those items enumerated in Article 12.01 and Article 12.02.

ARTICLE 13: GENERAL PROVISIONS

13.01 The books and accounts of the Company shall be reviewed each year and certified by a Licensed Public Accountant appointed at the Annual General Meeting of the Members of the Company.

13.02 The Company shall maintain a registered office on Cape Breton Island, Nova Scotia, at a place determined by resolution of the Members of the Company from time to time, and shall give notice of the same to the Registry of Joint Stock Companies.

13.03 Unless otherwise directed by the Board of Directors of the Company, at such registered office shall be kept:

- (a) the corporate seal of the Company;
- (b) the official list of Members of the Company;
- (c) the minutes of all meetings of the Members of the Company;
- (d) the minutes of all meetings of the Board of Directors of the Company; and

(e) records and books of account of the Company.

13.04 The fiscal year of the Company shall be April 1 to March 31.

13.05 The Company shall adopt a seal which may be affixed to any documents signed for or on behalf of the Company. Such seal shall be authenticated by the signatures of the Chairperson and the Secretary or such other person or persons so designated and authorized by the Board of Directors of the Company. The seal is to be given into the custody of the Secretary or as designated by the Board of Directors of the Company.

13.06 Any Member of the Company may inspect the books of account or records of the Company at the registered office of the Company upon giving reasonable notice thereof to the Secretary of the Company.

DATED at Sydney, Nova Scotia, this _____ day of _____, 2015

DRAFT

CONSENT TO ACT AS FIRST DIRECTORS

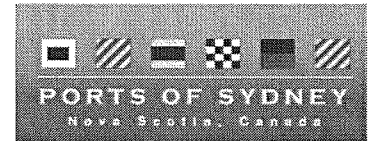
All of the individuals noted below hereby consent to act as Directors on the first Board of Directors of Port of Sydney Development Corporation.

DATED at Sydney, Nova Scotia, this ____ day of _____, 2015.

Witness to all of the above signatures:

WITNESS

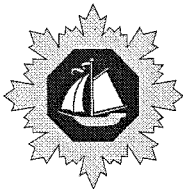
SCHEDULE C: OVERVIEW OF GOVERNANCE STRUCTURE



LEASE

Sydney Ports Corp

CAPE BRETON
REGIONAL MUNICIPALITY
COUNCIL



CBRM Council is first board
of new entity.



CEO

New entity board of directors



Issue Paper

TO: Mayor & Council

RE: Creation of Working Group of Council to guide the transition to the new Port of Sydney Development Corporation

DATE: February 13, 2015

Background

As a follow up to the issue paper presented to Council on February 3rd, 2015 on creating a new Board to provide strategic direction to the Port of Sydney, it was agreed that a Working Group of council will be created to oversee this transition. A framework for the Working Group is required to be put in place as soon as possible and after reviewing a number of options, the following Working Group structure be created based on past precedent for creating committees/groups of this nature that have regional representation, such as the Boundary Review Committee (1998, 2005 and 2010); Economic Development Committee (1998-2001) and the ICSP Committee (2009-2010).

Working Group Structure:

- Mayor Clarke
- Deputy Mayor MacDonald
- Councilor from East Division
- Councilor from Central Division
- Councilor from North Division

The three Divisional councillors will be nominated and approved by the members of council and a vote by ballot will be conducted in the event of more than one councilor is nominated from each Division.

The attached documentation from Breton Law Group shall guide the deliberations of the Working Group including Section III – Transitional Issues:

“III Transitional Issues


What are the Remaining Transitional Issues from the Sydney Ports Corporation to the New Entity?

We have identified nine major transitional issues that must be considered in transferring governance of the port from the Sydney Ports Corporation (SPC) to the new entity. These issues are:

1. The Port of Sydney Development Corporation
2. Dissolution of SPC
3. SPC Current Reserves
4. SPC Real Property
5. SPC Current Material Contracts
6. SPC Supply Accounts
7. CBRM lease
8. SPC Employees
9. Appointment of Transitional/Requisite Board”

Recommendation

Council approve the Working Group Framework as presented.



Michael Merritt
Chief Administrative Officer
attachment

CBRM Civic Addressing Policy – Amendment to Schedule “B”:

Ms. Karen Neville, Planner, provided background information regarding this issue. She explained why the Civic Addressing Policy – Schedule “B” should be amended, stating that in some older more established areas of the CBRM, where there are infill opportunities for lots, there may not be an adequate supply of reserved addresses for newly created lot(s).

Motion:

Moved by Deputy Mayor MacDonald, seconded by Councillor Prince, that a recommendation be made to Council to amend the Civic Addressing Policy to permit the use of an Alpha Suffix, in the following circumstances:

- The lot parcel does not have the potential to be further subdivided;
- Only one driveway intersects with the public street/road; and
- The lot parcel is an irregular shaped lot.

Motion Carried



TO: CBRM General Committee of Council

FROM: Karen Neville

SUBJECT: AMENDMENT TO SCHEDULE B OF THE CBRM CIVIC ADDRESSING POLICY

DATE: January 23rd, 2015

Introduction

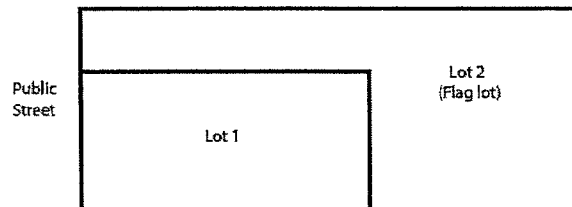
The following policy amendment is initiated by staff i.e. it is not specific to a request from a prospective developer.

Accurate civic addressing is essential to the Municipality not only for proper functioning of the emergency response system (E-911) but also to ensure that tax and water billing, voter registration, building permit administration, and other municipal responsibilities are carried out in a timely, efficient and cost effective manner.

The purpose of the CBRM Civic Addressing Policy is to ensure that civic addressing in the CBRM meets the highest possible standards. Each civic address has three components:

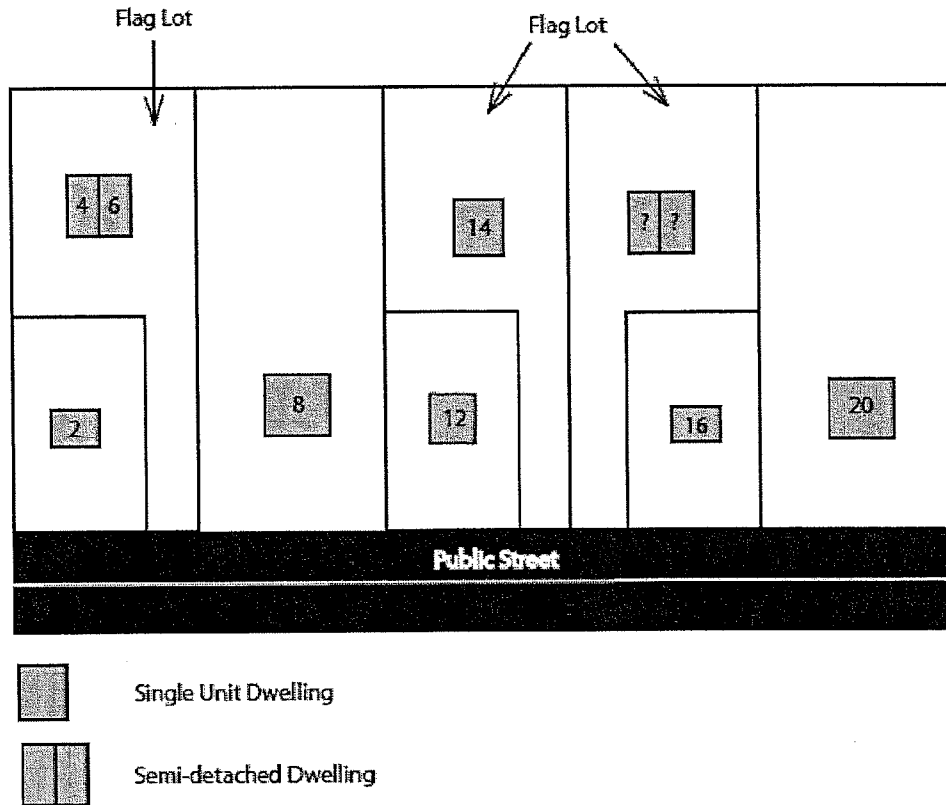
- A unique community name with clearly defined boundaries
- A street name which is unique within the community and which may be part or all of a street within a defined address range
- A unique civic number, within the unique street address range, on the unique street, within the unique community

Infill development means the use of land within a built-up area for further construction. Infill development is an effective way of achieving growth and increasing density while utilizing existing municipal service (water and sewer). Infill development often occurs with the creation of a flag lot. A flag lot is a lot with the majority of its area separated from the street by another lot or lots, which gains access from the street by a narrow corridor of property.



In some older more established areas of the CBRM, where there are infill opportunities for lots, there may not be an adequate supply of reserved addresses for newly created lot(s); this is especially true when this

infill development is in the form of semi-detached dwellings (company house). In such instances, the Civic Addressing Coordinator must institute the renumbering of all or part of a street.



According to Policy 6 of the Civic Addressing Policy, when considering the renumbering of all or part of a street, the Civic Addressing Coordinator shall choose a solution that addresses public safety concerns and minimizes the disruption to the affected residents and property owners. Guideline B7. of Schedule B Civic Numbering Guidelines states that where a new number cannot be assigned within an existing range of civic numbers, the renumbering of all or part of the street shall be required.

Often when the Civic Addressing Coordinator initiates a civic address change individual property owners question why the semi-detached dwelling cannot simply be assigned an Alpha Suffix (an A/B). According Guideline B16. of Schedule B of the Civic Numbering Guidelines, each dwelling unit within a semi-detached having its own external entrance should be assigned its own civic address. In addition to Guideline B16., Guideline B10. does not permit the insurance of alphabetic suffixes as part of a civic number. For those reasons, the option of using an Alpha Suffix has not be utilized in the issuance of civic number.

The CBRM Civic Address Policy is silent on the reason for not using an Alpha Suffix. Nova Scotia Emergency Management Office (EMO) and Canada Post were contacted to get their feedback on the use of an Alpha Suffix in conjunction with civic addresses. Nova Scotia EMO is not against the use of an Alpha Suffix, however they would prefer that this option apply in limited scenarios. Nova Scotia EMO prefers that each unit be given their own civic address minus the use of an Alpha Suffix, their concern is that overtime the Alpha Suffix may get dropped from the civic address. Canada Post also prefers municipalities strictly use numerical civic addresses, but indicates that it is up to each municipality to determine how civic addresses are assigned. Canada Post can facilitate civic addresses with an Alpha Suffix, such as 29A, if that is the only

civic addressing option available. From the perspective of both Nova Scotia EMO and Canada Post, the problem is not with the use of an Alpha Suffix but rather the actually posting of civic addresses and the possibility of the Alpha Suffix being dropped over time.

The option to the use of an Alpha Suffix should be the exception and not the rule. There should be certain circumstances where an Alpha Suffix could be utilized as opposed to instituting a renumbering. In order to achieve this option the Civic Addressing Policy Guidelines would need to be amended. This amendment would result in the newly created lot will be assigned the same address with an Alpha Suffix for each unit (e.g., 123A Any Road; 123B Any Road). The proposed criteria would be the only case in which an Alpha Suffix would be assigned to a civic address.

Recommendation

I recommend that Council pass a Motion to amend the Civic Addressing Policy during its February 17th meeting to permit the use of an Alpha Suffix, but only in the following specified circumstances.

- The lot parcel does not have the potential to be further subdivided;
- Only one driveway intersects with the public street/road; and
- The lot parcel is an irregular shaped lot.

A draft of the recommended amendment can be found in Attachment A.

Submitted by:

Karen Neville

**Karen Neville
Planning and Development Department**

Policy
of the Cape Breton Regional Municipality

amending the

**Cape Breton Regional Municipality's
Civic Addressing Policy**

Pursuant to Section 48 of the Municipal Government Act of Nova Scotia, the Council of the Cape Breton Regional Municipality hereby amends the Cape Breton Regional Municipality's Civic Addressing Policy in the following manner:

THAT: CBRM Civic Addressing Policy, Schedule B Civic Numbering Guidelines Section B7. is hereby repealed and replaced with the following:

Where a new number cannot be assigned within an existing range of civic numbers, the renumbering of all or part of the street shall be the preferred option, however, an alpha suffix may be assigned and all properties sharing the same number shall be assigned a different sequential suffix to a maximum of four subject to the following:

- The lot parcel does not have the potential to be further subdivided;
- Only one driveway intersects with the public street/road; and
- The lot parcel is an irregular shaped lot.

CBRM Civic Addressing Policy, Schedule B Civic Numbering Guidelines Section B10. is hereby repealed and replace with the following:

Only the first four characters of the alphabet shall be permitted as part of a civic number.

CBRM Civic Addressing Policy, Schedule B Civic Numbering Guidelines Section B16. is hereby repealed and replace with the following

Each dwelling unit in a semi-detached, duplex, triplex, or townhouse building and each anchor establishment within a commercial/industrial building having its own external entrance shall be assigned its own civic number unless the provisions of B7. And B10. can be met. In structures where individual units use a common entrance (such as apartment buildings) the structure will be assigned one civic number in accordance with this policy but individual units may have unit numbers.

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 Civic Addressing Policy omdement. Amending Policy of the Cape Breton Regional Municipality adopted by Regional Council during a meeting held on _____ to amend the Cape Breton Regional Municipality's Civic Addressing Policy.

Deborah Campbell, CLERK

Schedule B

Civic Numbering Guidelines

General Principles

Sequentiality - numbering should generally start from the lowest numbered intersection and numbers should be assigned in ascending order.

Uniformity - numbers should be proportionately spaced along the entire length of a street to help in finding the general location of structures.

Uniqueness - each individual dwelling unit or commercial\industrial establishment having its own external entrance should have its own whole civic number.

Guidelines

General

- B1. Civic numbers shall be assigned every twenty (20) feet of frontage along new public streets and private roads. Along existing streets where a civic addressing scheme is already in place a higher interval between numbers may be used providing the interval is no greater than thirty (30) feet. In areas where structures are located unusually close together the interval may be reduced to less than 20 ft. if necessary.
- B2. Even numbers shall be on the right hand side and odd numbers on the left hand side of street in ascending order from the numbering origin including on culs-de-sac and other dead end streets.
- B3. Where lot frontage is more than twenty (20) feet, a number shall in most cases be assigned to correspond with the approximate centre of the front main wall of the structure.
- B4. A structure on a corner lot or other lot having more than one frontage may be assigned a number on either street, based on the location of the front entrance.
- B5. When the entrance to a structure is obscured or if the structure is best reached for emergency purposes by the driveway, the civic number may be assigned to the driveway.
- B6. All principal buildings shall be assigned a civic number. Numbers may also be assigned to other structures (such as telephone booths, trailhead signs, and recreational sites) by the Civic Addressing Coordinator if deemed advisable from an emergency response perspective.
- B7. Where a new number cannot be assigned within an existing range of civic numbers, the renumbering of all or part of the street shall be required.

- B8. Where a new number is assigned within an existing range of civic numbers, the number shall be applied to maintain consistency in the existing numbering sequence.
- B9. Fractions shall not be used as part of a civic number.
- B10. Alphabetic suffixes shall not be used as part of a civic number.

Water Access

- B11. Where access to a property is by water only, the street name shall be deemed to be the name of the island or waterbody as listed in the Nova Scotia Gazetteer.
- B12. Where access to a property on an island or waterbody is by water only, the numbers shall be assigned along the entire waterfront and the numbering origin shall be the most southerly point.
- B13. Odd numbers shall be on the east side and even numbers on the west side of the island or waterbody in ascending order from the numbering origin.
- B14. Civic numbers shall be assigned every 20 feet of frontage around an island or waterbody

More Than One Building or Unit On A Lot

- B15. Every principal building or structure on a lot shall have its own civic number.
- B16. Each dwelling unit in a semi-detached, duplex, triplex, or townhouse building and each anchor establishment within a commercial/industrial building having its own external entrance shall be assigned its own civic number. In structures where individual units use a common entrance (such as apartment buildings) the structure will be assigned one civic number in accordance with this policy but individual units may have unit numbers.

Posting of Numbers required by bylaw

- B17. Owners of structures shall be required to post civic numbers that have been assigned to their structures, as specified in the Civic Addressing Bylaw.

Proposed Amendments to Resolution RF3 – Signing Officers:

Motion:

Moved by Councillor Saccary, seconded by Councillor Paruch, that a recommendation be made to Council to approve the proposed Amendments to Resolution RF3 – Signing Officers, as outlined in the staff report dated January 23rd, 2015.

Motion Carried



Solicitor's Office

M·E·M·O

320 Esplanade

Sydney, Nova Scotia, B1P 7B9

902-563-5045

To: General Committee

From: Demetri Kachafanas, Regional Solicitor

Date: January 23, 2015

Subject: Proposed Amendments to Resolution RF3 – Signing Officers

In July of 1995, Council approved Resolution RF3 regarding the required signatures on cheques issued by the Municipality, in accordance with the former *Cape Breton Regional Municipality Act* (see current policy attached).

Staff is proposing that reference to the “Director of Finance” in the Policy be amended to “Chief Financial Officer” to properly reflect the change in this job position.

In addition to the foregoing, staff is recommending that a new clause be added to this Policy concerning the execution of Deeds and other documentation as per Section 13(3) of the *Municipal Government Act*. The new clause authorizes the Mayor or Deputy Mayor and the Clerk or Chief Administrative Officer to sign deeds or other documents, to which the Municipality is a party, on behalf of the Municipality. The main reason for this amendment is to identify an alternative signatory when the Clerk is not available to sign the documentation.

The proposed amended Policy is also attached.



Demetri Kachafanas

Attachments

CAPE BRETON REGIONAL MUNICIPALITY

Resolution RF3

SIGNING OFFICERS

1. The signatures of the Mayor and Deputy Mayor and the signatures of the Chief Administrative Officer and Director of Finance, and of any other signing officer of the Regional Municipality, may be printed, lithographed or otherwise mechanically reproduced on any cheque issued by the Regional Municipality.

Cape Breton Regional Municipality Act, s. 54.

Approved by Council: July 19, 1995

CAPE BRETON REGIONAL MUNICIPALITY

Resolution RF3

SIGNING OFFICERS

1. CBRM Cheques:

The signatures of the Mayor or Deputy Mayor and the signatures of the Chief Administrative Officer or Chief Financial Officer, may be printed, lithographed or otherwise mechanically reproduced on any cheque issued by the Municipality.

2. Deeds and other Documentation:

The Mayor or Deputy Mayor and the Clerk or the Chief Administrative Officer may sign deeds or other documents, to which the Municipality is a party, on behalf of the Municipality.

Municipal Government Act, Section 13(3)

Approved by Council: July 19, 1995

Amended: _____ 2015

Request to Purchase Property from Joseph Lambert MacIntosh Location: 221 Hospital Road, Edwardsville, NS PID# 15210420:

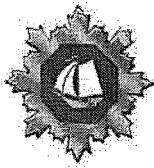
The Regional Solicitor provided background information regarding this issue. He stated that Mr. Joseph Lambert MacIntosh contacted CBRM, to present CBRM with the first offer to purchase his property, which is located at 221 Hospital Road, Edwardsville.

It was noted that the property lies adjacent to the Greenfield property in Point Edward which could be utilized for future development.

Motion:

Moved by Councillor Detheridge, seconded by Councillor Rowe, that a recommendation be made to Council to approve the purchase of the property located at 221 Hospital Road, Edwardsville, PID#15210420, for the consideration of \$14,000.00.

Motion Carried



CBRM

A Community of Communities

Demetri Kachafanas
Solicitor
563-5047

ISSUE PAPER

TO: General Committee

FROM: Demetri Kachafanas
Regional Solicitor

SUBJECT: Request to Purchase Property from Joseph Lambert MacIntosh
Location: 221 Hospital Road, Edwardsville, NS (PID 15210420)
My File No. 07084

DATE: February 3rd, 2015

CBRM has been contacted by Joseph Lambert MacIntosh of Sydney, Cape Breton Regional Municipality, Nova Scotia with regard to the sale of his property at 221 Hospital Road, Edwardsville. Mr. MacIntosh has presented CBRM with the first offer to purchase his property for a consideration of \$14,000.00.

It should be noted that this property lies adjacent to the Greenfield property in Point Edward and could be utilized for future development. It contains approximately 1.15 acres. It is presently assessed at \$13,500.00. The property contains two old barns.

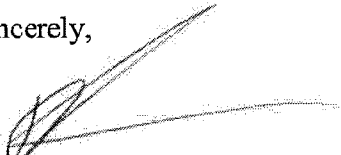
Attached please find the following:

- (a) A copy of map from Parcel Finder showing the property in issue.
- (b) A copy of Property Online Graphics.
- (c) A copy of Property Online details.

Mr. MacIntosh is looking for an immediate sale for his property. It is the recommendation of the Legal Department to proceed with the purchase of 221 Hospital Road, Edwardsville for the consideration of \$14,000.00 and request a Motion recommending approval.

Thank you.

Sincerely,



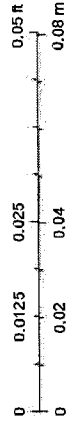
DEMETRI KACHAFANAS
Regional Solicitor

DK/spk
Attachments(2)

Cape Breton Regional Municipality



1:1,000



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Created by: Cape Breton Regional Municipality

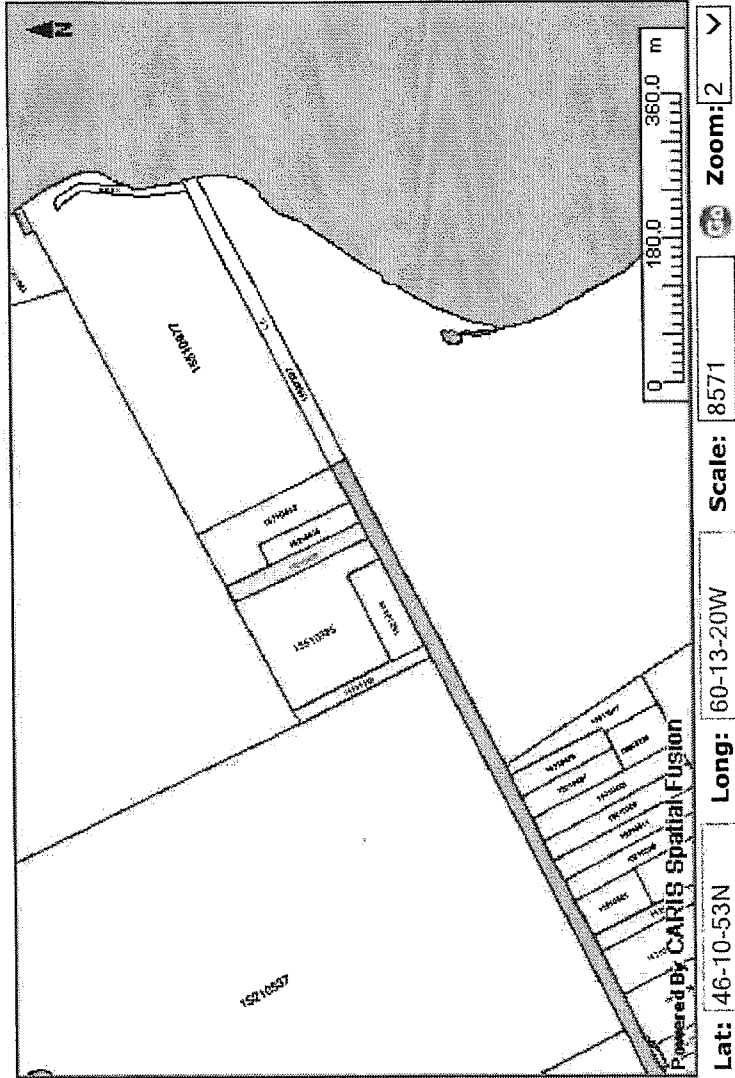
January 20, 2015

PROPERTY Online NOVA SCOTIA

Search Provincial Map Bulletin Board Help



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 - Pan
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 - Monument Select
 - Clear Selection
 - Center Selection
- Map Layers
 - Properties
 - LR Parcel Shading
 - Topo
 - Monuments
 - Place Names
- Refresh Map
- Map Controls
 - NS Overview
 - Locator Map
 - Print Map



Location: Search

1 Property found

PID: **15210420** Details

AAN: **02783576**

Value: \$13,500 (2015)

Address: RESIDENTIAL TAXABLE:
221 HOSPITAL ROAD
EDWARDSVILLE

County: CAPE BRETON COUNTY

Owner: JOSEPH LAMBERT
MACINTOSH

LR: NOT LAND
REGISTRATION

The Provincial mapping is a graphical representation of property boundaries which approximate the size, configuration and location of parcels. Care has been taken to ensure the best possible quality, however, this map is not a land survey and is not intended to be used for legal descriptions or to calculate exact dimensions or area. The Provincial mapping is not conclusive as to the location, boundaries or extent of a parcel [Land Registration Act subsection 21(2)]. THIS IS NOT AN OFFICIAL RECORD.



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Property Details

PID	15210420	Parcel Type	STANDARD PARCEL	Status	ACTIVE
Area	1.15 ACRE(S)	Parcel Access		Manag. Unit	MU0309
Lot		Created	Feb 04, 1981 12:00:00AM		
PDCA Status	No Description	Municipal Unit	CAPE BRETON REGIONAL MUNICIPALITY	Manner of Tenure	NOT APPLICABLE

Location	County	Primary Location	Source
221 HOSPITAL ROAD EDWARDSVILLE	CAPE BRETON COUNTY	Yes	Not Assigned by Municipality

Comments

Assessment Account	Value	Tax District	Tax Ward	Tax Sub
02783576	\$13,500 (2015 RESIDENTIAL TAXABLE)	120	000	

Owner Name	Interest Holder Type	Qualifier	Province	Country
JOSEPH LAMBERT MACINTOSH	FEE SIMPLE			

Inst Type	Inst No	Year	Type	Book/Page	Registration System	Registration Date
	104963013					
Document	<input type="checkbox"/> View Form	2014	DEED		REGISTRY OF DEEDS	Apr 28, 2014
	<input type="checkbox"/> View Doc					
	9102					
Document	<input type="checkbox"/> View Doc	2001	DEED	Book 2234 Page 245	REGISTRY OF DEEDS	Nov 23, 2001
	4651					
Document	<input type="checkbox"/> View Doc	1998	DEED UNDER POWER OF SALE	Book 2058 Page 563	REGISTRY OF DEEDS	Jun 29, 1998
	5670					
Document	<input type="checkbox"/> View Doc	1997	NOTICE OF TAX SALE	Book 2005 Page 82	REGISTRY OF DEEDS	Jun 02, 1997
	5124					
Document	<input type="checkbox"/> View Doc	1980	DEED	Book 1238 Page 394	REGISTRY OF DEEDS	Jan 01, 1980

12889

Document  View Doc 1974 DEED

Book 988 Page 164 REGISTRY OF DEEDS Jan 01, 1974

Inst Type	Inst No	Year Type	Plan Name	Drawer Number	Registration Date
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No Plans Found

Inst Type	Inst No	Year Type	Plan Name	Filing Reference	Instrument Date
-----------	---------	-----------	-----------	------------------	-----------------

No Non-Registered Instruments Found

Parcel Relationships

Related PID
15210412

Type of Relationship
PARENT PARCEL NUMBER

[View All Related PIDs History](#)
[Back to Results](#)
[Map View](#)

Non-Land Registration parcels ARE NOT REGISTERED PURSUANT TO THE *Land Registration Act*. As such, ownership and all information in this report is believed to be an accurate reflection of registered documents affecting the parcel of land to which it relates, however, it is not intended to be relied upon by the reader as advice on the current state of any title to land. A search of the records at the appropriate Registry of Deeds office may be required to determine the current owner (s) of the parcel of land under consideration. THESE ARE NOT OFFICIAL RECORDS.

Land Registration parcels ARE REGISTERED PURSUANT TO THE *Land Registration Act*. The registered owner of the registered interest owns the interest defined in this register in respect of the parcel described in the register, subject to any discrepancy in the location, boundaries or extent of the parcel and subject to the overriding interests [*Land Registration Act* subsection 20(1)].

No representations whatsoever are made as to the validity or effect of recorded documents listed in this parcel register. The description of the parcel is not conclusive as to the location, boundaries or extent of the parcel [*Land Registration Act* subsection 21(1)].

[Boundary/Area Problem](#)
[Owner Problem](#)
[General Problem](#)
[Municipal Tax Query](#)

Property Online version 2.0

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If you have comments regarding our site please direct them to: propertyonline@gov.ns.ca

Please feel free to [Submit Problems](#) you find with the Property Online web site.

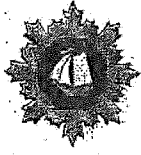
Compression: Off

Request by Martin MacFarlane to amend the North End Sydney Secondary Planning Strategy and Land Use By-law:

Motion:

Moved by Councillor Eldon MacDonald, seconded by Councillor Paruch, approval to advertise notice of a Public Hearing to be held at the February 2015 meeting of Council to consider amending the North End Sydney Secondary Planning Strategy and Land Use By-law to allow the owner to convert 43 Esplanade Sydney, to a maximum of four dwelling units.

Motion Carried.



CBRM

A Community of Communities

Cape Breton Regional Municipality

Rick McCready
Planning Department

320 Esplanade
Sydney, Nova Scotia
B1P 7B9
Tel: 902-563-5072
Fax: 902-539-9419

email: rgmccready@region.cape-breton.ns.ca

December 22, 2014

ISSUE PAPER

TO: General Committee of Council

FROM: Rick McCready, MCIP, Senior Planner

RE: Request by Martin MacFarlane to amend the North End Sydney Secondary Planning Strategy and Land Use Bylaw to allow four units on his property located at 43 Esplanade, Sydney – report on public participation program.

Background Information

When the public consultations took place in 2005 regarding the proposal to develop a Secondary Planning Strategy for the North End of Sydney, many residents expressed concern about the number of homes originally built as single detached dwellings that had been converted into apartments. In particular, residents were unhappy with the fact that in some cases the conversions had resulted in exterior changes to the buildings that were inconsistent with the original architectural style or in a loss of green space to parking. Some residents were in fact asking that the Municipality impose a ban on new apartments in the area.

When the Secondary Planning Strategy was approved by Council in 2006, an effort was made to accommodate the residents' concerns. Although a complete ban on apartments was not imposed, new apartment buildings were restricted to undeveloped areas and to areas closest to the downtown core. Within the built-up residential areas, all existing apartments were "grandfathered", but conversions of single detached dwellings were limited to a maximum of two units. The new Planning Strategy also recommended that a Heritage Conservation District be established in the oldest part of the North End. (The Heritage District was put in place in 2008)

Although the new Strategy limited conversions of old homes into apartments, the rules adopted in 2006 did open up opportunities for other types of development in the neighbourhood. Unlike other residential areas in CBRM, the NER (North End Residential) zoning allows the conversion of old homes into professional offices or into

inns catering to the tourist industry. A dining room open to the public within an inn is even permitted, subject to certain conditions. Unfortunately, there appears to be very little interest in developing tourism related businesses in the North End residential area. As far as I know, there has only been one proposal to do so since 2006. (That proposal was abandoned for several different reasons)

Mr. MacFarlane owns an unusually large house, with over 6,000 square feet of living area on three floors. He also owns more land than most North End residents (about 8400 square feet). Unlike most North End homes, a good argument can be made that turning his home into three or four units could be carried out without having a negative impact on the architecture of the building or on the ambience of the neighbourhood. In fact, it could be argued that the best chance to save this building from future deterioration would be to enhance its financial viability by allowing four units to be created.

Council's Decision to conduct a PPP (Public Participation Program)

The first step in amending a planning strategy is for Council to adopt a public participation program (PPP) to make the public aware of the proposed changes and to provide input. The results of the PPP are brought back to Council before any decision is made to actually amend a bylaw. **On September 23rd, 2014, Council passed a resolution to adopt a public participation program, the purpose of which was to get public input into the possibility of amending the Secondary Planning Strategy for the North End of Sydney so as to provide more flexibility for owners of unusually large properties in the North End Residential (NER) Zone who wish to convert their properties into alternative uses.**

Results of Public Participation Program

The public participation program took the form of two informal public meetings, both held at the Lyceum on George Street in the North End of Sydney. The meetings took place on the evenings of November 17th and December 11th and were advertised by means of a flyer distributed to all mailing addresses in the North End planning area.

The first meeting was attended by approximately 35 residents. At the meeting staff explained the rationale for the existing policy which limits apartment conversions in the neighbourhood, and noted that the policy is consistent with the vision for the future of the North End which was approved as part of the consultations that lead to the adoption of the North End Secondary Planning Strategy in 2006. In general, meeting participants strongly opposed any changes to the current policies. It was felt that changes that would open the door to more conversions of existing homes into apartments would be undesirable and would jeopardize the recent improvements to the area. The view was expressed that some of the apartment buildings now existing in the North End were not well maintained or well managed. At the end of the meeting, however, it was agreed that a second meeting would be held, providing that the discussion at the second meeting be limited to amendments that would affect 43 Esplanade only, rather than policy changes that might affect the entire neighbourhood.

The second meeting was also attended by approximately 35 residents, many of whom were present at the first session. Staff presented a proposed policy amendment that recognized 43 Esplanade as a unique property (it is in fact the largest building in the North End that is not a commercial, institutional or multiple residential use). The proposed policy change would affect 43 Esplanade only and would allow a maximum of four units on that property, subject to several conditions designed to ensure that if the conversion takes place, the character of the building itself and the surrounding area would be protected. After a lengthy discussion, several individuals expressed support for the amendment, but some of those in attendance continued to express concerns that a precedent was being set and that this amendment could lead to future amendments of a similar nature. Others indicated that they were supportive in principle, but were seeking some assurance that the conversion of this building into apartments would be undertaken by a developer interested in enhancing the neighbourhood. The meeting ended without a consensus being reached among those in attendance.

Recommendation

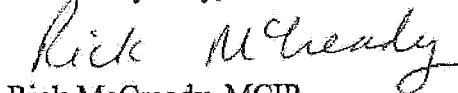
Although staff recognizes that many residents would prefer to leave the current policies unchanged, staff is of the opinion that the situation at 43 Esplanade is unique and that an amendment to accommodate a greater range of uses on that property is warranted.

Although the bylaw now allows such uses, there is no evidence that a strong demand exists to develop inns or professional offices in the North End. On the other hand, there is interest in developing 43 Esplanade into apartments, but limiting the total number of units to two is going to discourage the redevelopment of the property due to its unusually large size....each unit would exceed 3,000 square feet in floor area.

On balance, staff feels that an amendment that would affect 43 Esplanade only, in recognition of its unusual size, with conditions attached designed to address the concerns that have been raised, would be appropriate and consistent with the vision and goals of the Secondary Planning Strategy. The proposed amendment would facilitate the redevelopment of the property and has the potential to attract an investor who would undertake major upgrades to the building. There is a risk that without this amendment the likelihood of an investor acquiring and upgrading the property would be greatly reduced.

Based on the foregoing, staff recommends that Council grant approval to advertise the attached amendments.

Yours very truly,



Rick McCready, MCIP
Senior Planner

By-law

of the Cape Breton Regional Municipality

amending the

North End Sydney Secondary Planning Strategy and Land Use By-law

Pursuant to Section 210 of the Municipal Government Act of Nova Scotia, the Council of the Cape Breton Regional Municipality hereby amends the North End Sydney Secondary Planning Strategy and Land Use By-law in the following manner:

Add the following wording to Section 2 of the Secondary Planning Strategy, "Residential Development" just prior to Policy 2:

The intent of the policies of this Secondary Planning Strategy is to discourage conversions of existing homes in the North End Residential (NER) designation into more than two dwelling units. However, in 2014, eight years after the Strategy was adopted, Council received a request to amend the policy with respect to a home located at 43 Esplanade. This home is unique in that it contains more than 6,000 square feet of useable floor area, and is the largest single detached home in the NER designation. Policy 3 was amended by adding a Policy 3 (c) which allows a maximum of four dwelling units to be created on the property, subject to restrictions designed to ensure that the character of the home is preserved and that the visual impact on the surrounding properties is minimized.

Add a new clause (c) to Policy 3 in Section 2 of the Secondary Planning Strategy, "Residential Development" to read as follows:

(c) It shall be the policy of Council to allow the conversion of the dwelling located at 43 Esplanade (PID numbers 15053895 and 15053903), due to its unusual size, to be converted into a maximum of four dwelling units, providing that:

- A certificate of appropriateness has been issued for any exterior renovations to the structure pursuant to the Heritage Conservation District Bylaw*
- There is no increase in the building footprint as it existed on January 20, 2015*
- PID numbers 15053895 and 15053903 have been consolidated into one property*
- A minimum of six paved parking spaces are created to the north of the dwelling, in accordance with the parking requirements in the Land Use Bylaw, and the parking area has been screened from adjacent properties and from the street by a combination of wooden fencing, hedges, and other planting materials*
- All areas of the property not covered by buildings, paved parking and paved driveway areas shall be landscaped with trees, shrubs, grass, flowers or a combination thereof*
- All existing mature trees on the property shall be maintained.*

- *There is compliance with all other applicable requirements of the Land Use Bylaw.*

Add to the list of permitted uses in Part 4 of the North End Sydney Secondary Land Use Bylaw the following words:

- *A dwelling containing a maximum of four dwelling units on PID #15053895 and PID #15053903 , subject to the restrictions contained in Section 9 of this Part*

Add a new Section 9 to Part 4 of the North End Sydney Secondary Land Use Bylaw, to read as follows:

Section 9 PID # 15053895 and PID # 15053903

- *A certificate of appropriateness has been issued for any exterior renovations to the structure pursuant to the Heritage Conservation District Bylaw*
- *There is no increase in the building footprint as it existed on January 20, 2015*
- *PID numbers 15053895 and 15053903 have been consolidated into one property*
- *A minimum of six paved parking spaces are created to the north of the dwelling, in accordance with the parking requirements in the Land Use Bylaw, and the parking area has been screened from adjacent properties and from the street by a combination of wooden fencing, hedges, and other planting materials*
- *All areas of the property not covered by buildings, paved parking and paved driveway areas shall be landscaped with trees, shrubs, grass, flowers or a combination thereof*
- *All existing mature trees on the property shall be maintained.*
- *There is compliance with all other applicable requirements of the Land Use Bylaw.*

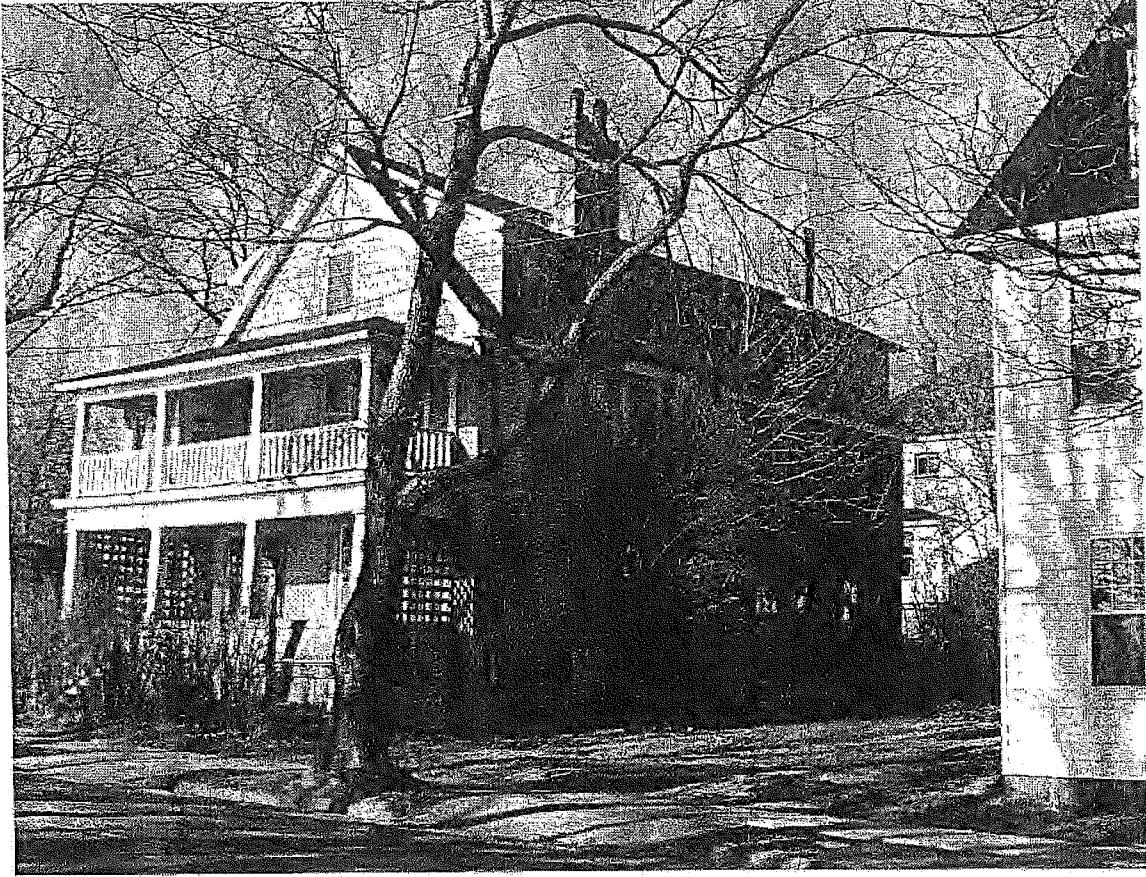
PASSED AND ADOPTED: by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on _____.

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 Land Use By-law.

DEBORAH CAMPBELL, CLERK



June 5, 2014

Dear Mr. Rick McCready;

On June 12, 2014 we discussed a matter of great importance to me personally. I would very much like to convert my building on 43 Esplanade to four apartments. After researching the existing by-laws, I came to the realization that I am only permitted two apartments. However, my building is quite large and very spacious. I think its size could easily accommodate four apartments. I think an amendment to the existing by-law to allow four apartments is a more than reasonable request.

Mr McCready, I would like to thank you for your time, attention and assistance with this personal matter.

Respectfully,
Martin W. Mac Farlane

Martin W. MacFarlane

539 -8848

Request by Bruce Kennedy to amend the CBRM Land Use Bylaw:

Motion:

Moved by Councillor Detheridge, seconded by Councillor MacLeod, approval to advertise notice of a Public Hearing to be held at the February 2015 meeting of Council to consider amending the CBRM Land Use By-Law that will allow the property owner to subdivide his property located at 48 O'Neil Lane, Glace Bay, along the interior center wall of an existing free-standing garage.

Motion Carried.



TO: CBRM Council

FROM: Karen Neville

**SUBJECT: AMENDMENT TO THE TEXT OF PART 2,
SECTION 1 AND SECTION 19 OF THE CBRM
LAND USE BY-LAW**

DATE: February 9, 2015

Introduction

The Planning and Development Department has received a land use By-law amendment application submitted by Mr. Bruce Kennedy, of 48 O'Neil Lane in Glace Bay. Mr. Kennedy is requesting a text amendment to the CBRM's Land Use By-law that will allow him to subdivide his property located at 48 O'Neil Lane (PID 15697279) along an interior center wall of an existing free standing garage (Attachment B).

Currently there is a house and a four bay garage on the property in question. The property is zoned Residential Urban C (RUC) and has an area of 68,658ft² (6378m²). The proposed subdivision would result in the creation of two lot parcels (Attachment A). Proposed Lot 7 would have an area of 42,158ft² (3916m²) and would contain the existing single detached dwelling and a portion of the existing accessory building. Proposed Lot 6 would have an area 25,500ft² (2369m²) and contain a portion of the existing accessory building. Approval of the proposed text amendment would enable the Development Officer to approve a final subdivision plan where the common property line runs through the centre of the garage. It is the applicant's intention that upon receiving final approval of the subdivision plan to construct a single detached dwelling on Lot 6.

In order to permit Mr. Kennedy's request there would need to be text amendments to Part 2 General Provisions for All Zones of the Land Use By-law. More specifically, Section 1 Accessory Buildings and Section 19 Lot Parcel Development would need to be amended. At this time Section 1 c. sets the minimum setback from a lot parcel boundary for an accessory building. As a result, a provision would need to be added to Section 1 to waive the setback yard requirements for accessory buildings that share a common wall on adjacent lots.

According to Section 19, the minimum setback from any other lot parcel boundary is 4 feet. However, Section 19 also states that:

For a semi-detached dwelling, townhouse, apartments, 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 By-law and the provisions of the Provincial Building Code are met.

This exception to lot boundary setbacks applies to a select number of main buildings, but does not reference to accessory buildings. 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. On the other hand, over the last several years the number of dwelling units constructed as one of two dwelling units in a semi-detached dwelling is now approaching the number of single detached dwellings being constructed each calendar year here in the CBRM. This is the first such request for a residential accessory building. The text in Section 19 would need to be amended to include accessory buildings in order to allow an accessory building to be constructed, or in this case subdivided, on a common lot parcel boundary. A copy of the draft amendment to the CBRM Land Use By-law has been included as Attachment C for Council's consideration.

The applicant is aware that he needs to comply with all other applicable provisions of CBRM Land Use By-law as well as the CBRM Subdivision and Building By-laws and the Provincial Building Code related to his proposal. It is important to note, that while these text amendments will permit Mr. Kennedy's request, these amendments would also apply to every zone throughout the CBRM due to the fact that both Section 1 and Section 19 are found in Part 2 General Provision for All Zones.

In the Issue Paper presented at the January 20th Council Meeting, it was expressed that it was the intention of Planning Department staff to conduct a survey of Nova Scotia municipalities to learn which have implemented such a provision and which have not and to learn the reasons different municipalities have taken this approach or have chosen not to.

Forty-two Nova Scotia Land Use By-laws were reviewed to determine how other municipalities address development along an adjacent property line for buildings with common walls. Provisions related to this type of development varies amongst the Land Use By-laws surveyed. When it comes to provisions related to buildings with common walls along a mutual property lines Land Use By-laws either:

- do not include provisions
- include provisions specific to main buildings (semi-detached or townhouse)
- include provisions specific to accessory buildings
- include for provisions for specific to both main and accessory buildings; or
- include a provisions for buildings without making a distinction between main or accessory buildings.

Of the forty-two Land Use By-laws surveyed, the Town of Springhill was the only Land Use By-law which does not include a provision to waive the side yard requirements for development along a common property boundary. Twelve Land Use By-laws included provisions reducing the side yard requirement to zero specific only to accessory buildings along a shared property boundary. Five Land Use By-laws did not distinguish between main or accessory buildings, they simply included a provision waving applicable side yard requirements for any buildings sharing a common wall on adjacent lot.

The Land Use By-laws for the Town of Amherst, Town of Kentville and Halifax Peninsula took a similar approach to that of CBRM, in other words, they only included provisions for specific main buildings to be permitted to share a common wall on adjacent lots. Twenty-one Land Use By-laws included provisions specific to accessory building as well as ones specific to main buildings for development along a common lot parcel boundary. The complete list of the Land Use By-laws reviewed and their applicable provisions can be found in Attachment D.

Of the municipalities contacted, those that responded to inquiry for the reasons for why the By-law chose to deal with this type of development varied. In many cases such provisions were included, or in some cases not included, as the result of development pressures. Those areas that experience higher development pressure were more likely to include such provisions. In more rural area the demand for semi-detached dwellings and townhouse is low and therefore the inclusion of a provision to allow for development of such buildings and their accompanying accessory buildings along a shared boundary was not often considered. Some responses stated that the inclusion of provisions for main buildings and not accessory buildings was simply an oversight. Others indicated that at the time of their Land Use By-law was adopted this type of development was not common and therefore the inclusion of such provision was not included; however upon the review of the Land Use By-law it would likely be added.

Based on the research conducted, the main concern when dealing with a building, either main or accessory, on adjacent properties with a common wall is the ability for the common wall to meet the Municipal Building By-law and the Provincial Building Code. The inclusion of reference to compliance with the Municipal Building By-law and the Provincial Building Code in the proposed text amendment is essential.

Recommendation

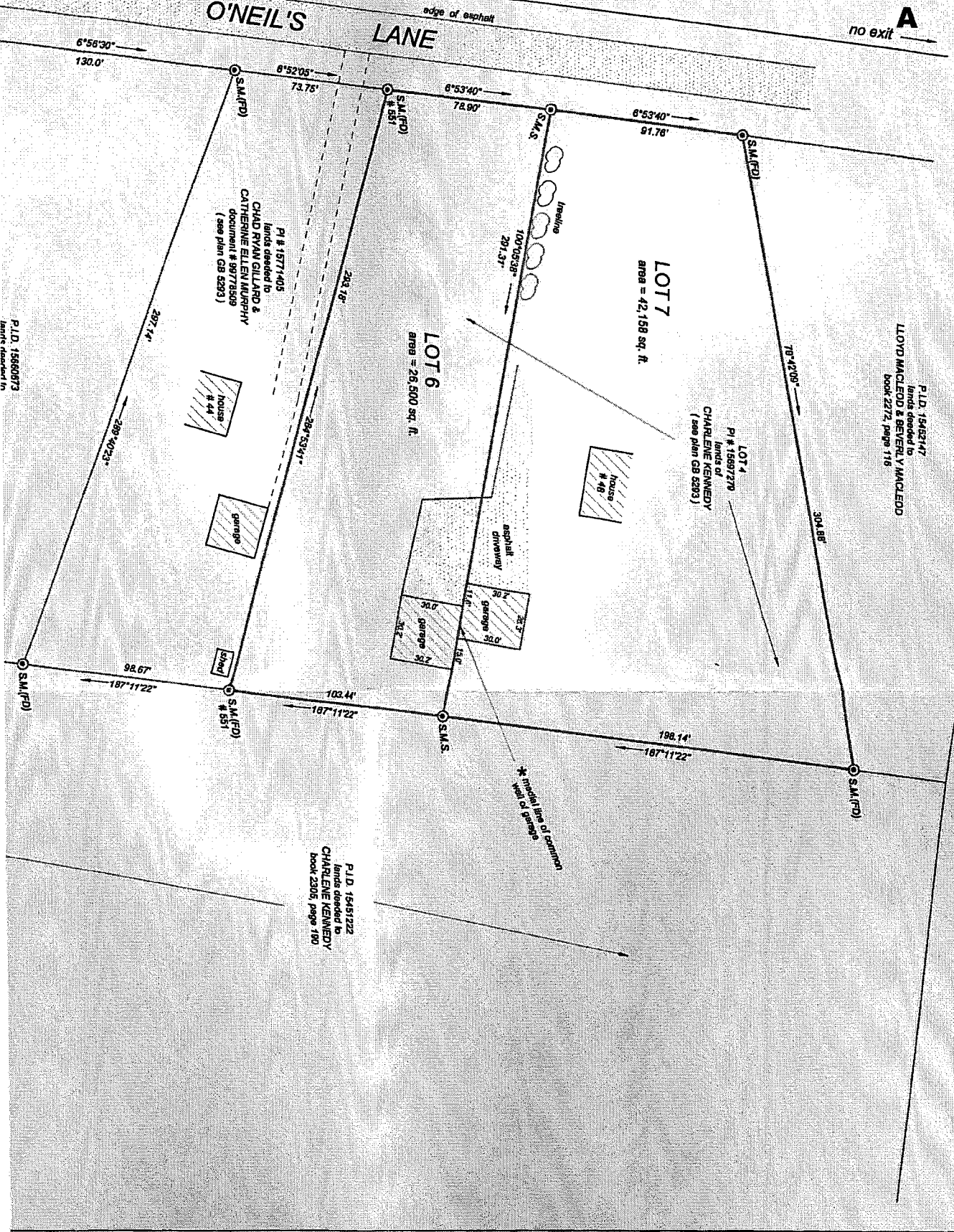
I recommend that Section 1 Accessory Buildings and Section 19 Lot Parcel Development of the CBRM's Land Use By-law be amended to waive the applicable side yard requirement for accessory buildings with a common wall.

A draft of the recommended amendments can be found in Attachment C.

Submitted by:



Karen Neville
Planning and Development Department



KEY PLAN

LEGEND:

- NOVA SCOTIA CONTROL MONUMENT
- SURVEY MARKER SET
- SURVEY MARKER FOUND
- IRON BARR FOUNDED
- STONE
- STEWAL
- ADJACENT DEED WITH THIS PLAN
- ORIGINAL RIGHT WATER MAIN
- CONCRETE POINT
- THE LINE
- TRUSS
- PROPERTY (ZONING/CITY) MARKER
- WOODEN BRANCH SET

AZIMUTHS:

All azimuths shown hereon are measured from the meridian of the magnetic system (GPS) to the meridian of the true north (N.S.C.M. 1979 equivalent). N.S.C.M. 1979 equivalent.

This survey was executed on _____ to _____ 2017

AZIMUTHS AND DISTANCES
DISTANCES HAVE NOT BEEN SHOWN ARE TO SIDE OTHERWISE NOTED.

SURVEYOR'S CERTIFICATE:

I, **Dorcas Prater**, Nova Scotia Land Surveyor, hereby certify that this survey was conducted under my supervision and that the same is in accordance with the provisions of the Nova Scotia Land Surveyors' Act and Regulations made thereunder. Dated this _____ day of _____, 2017

NOVA SCOTIA LAND SURVEYORS

PRENDERGAST
416 MAIN ST
CAPE BRISTOL NS
PHONE: (902) 848
WEBSITE: www.prendergast.com

PLAN OF SUBDIVISION
LOT 6 & LOT 7

B

Proposed Lot 7

Common Wall

Proposed Lot 6

O'Neils Lane



1:600



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, Section 1 Accessory Buildings of the Land Use Bylaw is hereby amended by adding the following:

- 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,
 3. all other applicable provisions of this Bylaw are met

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

For a semi-detached dwelling, townhouse, apartments, 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.

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

C

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

Land Use By-laws from other Jurisdictions within Nova Scotia**Provisions Specific to Accessory Building****Town of Annapolis Royal (Annapolis District Planning Commission)****4.17 Accessory Buildings**

4.17.1 Accessory uses, buildings and structures shall be permitted in any zone within the Town of Annapolis Royal but shall not:

(d) be built closer than 1 m (3.28 ft.) to a lot line in any zone except that:

- (i) common semi-detached garages may be centered on the mutual side lot line;

http://www.avliu.ca/adpcweb/ann_lub_toc.htm

Town of Bridgetown (Annapolis District Planning Commission)**4.17 Accessory Buildings**

4.17.1 Accessory uses, buildings and structures shall be permitted in any zone within the Town of Bridgetown but shall not:

(d) be built closer than 1 m (3.28 ft.) to a lot line in any zone except that:

- (i) common semi-detached garages may be centered on the mutual side lot line;

http://www.avliu.ca/adpcweb/bri_lub_toc.htm

Town of Middleton (Annapolis District Planning Commission)**4.17 Accessory Buildings**

4.17.1 Accessory uses, buildings and structures shall be permitted in any zone within the Town of Middleton but shall not:

(e) be built closer than 1 m (3.28 ft.) to a lot line in any zone except that:

- (i) common semi-detached garages may be centered on the mutual side lot line;

http://www.avliu.ca/adpcweb/mid_open.htm

Chéticamp Plan Area of the Municipality of the County of Inverness**PART 5 - GENERAL PROVISIONS FOR ALL ZONES*****ACCESSORY BUILDINGS***

1. Accessory uses, buildings and structures shall be permitted in any zone within the Chéticamp Plan Area but shall not:

(d) be built closer than 10 feet to any lot line

- (i) common semi-detached garages may be centered on the mutual side lot line; and

http://www.edpc.ca/plan_docs.htm

Village of Whycomagh

1. (1) Accessory uses, buildings and structures shall be permitted in any zone within the Whycomagh Plan Area but shall not:

(d) be built closer than 10 feet to any lot line with the exception that:

- (i) common garages for semi-detached dwellings may be centered on the mutual side of the lot line;

http://www.edpc.ca/plan_docs.htm

Keppoch Beaver Mountain Planning Area of the Municipality of the County of Antigonish

PART 5 – GENERAL PROVISIONS FOR ALL ZONES

Accessory Buildings

1. Accessory uses, buildings and structures shall be permitted in any zone within the Keppoch Beaver Mountain Planning Area but shall not:
- c. be built closer than 3 metres (10 feet) to any lot line
 - i. common semi-detached garages may be centered on the mutual side lot line

http://www.edpc.ca/plan_docs.htm

Inverness Plan Area of the Municipality of the County of Inverness

PART 6 –GENERAL PROVISIONS FOR ALL ZONES

Accessory Buildings

3. Accessory uses, buildings and structures shall be permitted in any zone within the Inverness Plan Area. Such uses, buildings or structures shall:
- e) not be built closer than 3 metres (9.8 feet) to a lot line in a Residential Rural (R-2) zone and 1.2 metres (4 feet) in any other zone except that:
 - i. common semi-detached garages may be centered on the mutual side lot line;

http://www.edpc.ca/plan_docs.htm

Central Richmond Plan Area of the Municipality of the County of Richmond

PART 6 –GENERAL PROVISIONS FOR ALL ZONES

ACCESSORY BUILDINGS

3. Accessory uses, buildings and structures shall be permitted in any zone within the Central Richmond Plan Area. Such uses, buildings or structures shall:
- e) not be built closer than 2.4 metres (8 feet) to a lot line in any zone except that:
 - i) common semi-detached garages may be centered on the mutual side lot line;

http://www.edpc.ca/plan_docs.htm

Village Baddeck

Accessory Buildings

19. (1) Accessory uses, buildings and structures shall be permitted in any zone within the Planning Area but shall not:
- (d) be built closer than 10 feet to a lot line in a Residential Rural (R-2) Zone and 4 feet in any other zone except that:
 - i) common semi-detached garages may be centered on the mutual side lot line;

http://www.edpc.ca/plan_docs.htm

Port Hastings Plan Area

PART 5 - GENERAL PROVISIONS FOR ALL ZONES

Accessory Buildings

1. (b) common semi-detached garages may be centered on the mutual side lot line;

http://www.edpc.ca/plan_docs.htm

Town Port Hawkesbury

Accessory Buildings

1. a) Accessory uses, buildings and structures shall be permitted in any zone within the Town of Port Hawkesbury. Such uses, buildings or structures shall:
- v) not be built closer than 2.50 m [8.2 ft.] to a lot line in a Residential Rural (R5) Zone and 1.25 m [4.1 ft.] in any other zone except that:
- a) common semi-detached garages may be centered on the mutual side lot line;

http://www.edpc.ca/plan_docs.htm

Lawrencetown (HRM)

4.13 ACCESSORY USES AND STRUCTURES

Accessory uses, buildings and structures shall be permitted in any zone but shall not:

- (b) be built closer to the front lot line than the minimum distance required for the main building or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
- (i) common semi-detached garages may be centred on the mutual side lot line;

<http://www.halifax.ca/planning/LawrencetownPlanArea.php>

Musquodoboit Valley/Dutch Settlement Plan Area (HRM)

4.12 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
- (iii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
1. common semi-detached garages may be centred on the mutual side lot line; and

<http://www.halifax.ca/planning/MusquodoboitValleyDutchSettlementPlanArea.php>

Provisions Specific to a Building (either main or accessory)

Region of Queens Municipality

6.29 Notwithstanding anything else in the Bylaw, where buildings on adjacent lots share a common wall, the applicable side yard requirements shall be waived.

<http://www.regionofqueens.com/bylaws/our-bylaws>

Town of Windsor

Side Yard Waiver

5.35 Notwithstanding anything else in this By-law, where buildings on adjacent lots share a common wall, the applicable side yard requirement will be zero along the common lot line.

<http://www.town.windsor.ns.ca/bylaws-and-policies>

Town of Wolfville

5.10 Side Yard Waiver

Notwithstanding anything else in this Bylaw, where buildings on adjacent lots share a common wall, the applicable side yard requirement will be zero along the common lot line.

<http://www.wolfville.ca/living-in-wolfville/bylawsandpolicies?folder=bylaws>

Antigonish County Planning Area

Side Yard Waiver

(24) Notwithstanding anything else in this By-law, where buildings on adjacent lots share a common wall, the applicable side yard requirements shall be zero.

http://www.edpc.ca/plan_docs.htm

Central Antigonish Planning Area of the Municipality of the County of Antigonish

Side Yard Waiver

6.A.29. Notwithstanding anything else in this By-law, where buildings on adjacent lots share a common wall, the applicable side yard requirements shall be zero.

http://www.edpc.ca/plan_docs.htm

Specific to a Main Building

Town of Amherst

Section 7.2.3 outlines the standards for the issuance of Development Permits for all residential zones. The minimum side yard for can be zero for a townhouse with a common wall.

<http://www.amherst.ca/core-functions.html>

Halifax Peninsula Land Use Bylaw (HRM)

SEMI-DETACHED DWELLING

43 (a) For each unit of a semi-detached dwelling, there shall be at least 25 feet of lot frontage and 2,500 square feet of lot area. A minimum side yard of 5 feet shall be required for a semi-detached dwelling provided however that where a lot containing a semi-detached dwelling is to be or has been subdivided so that each unit is on its own lot, there shall be no setback required from the common lot boundary.

<http://www.halifax.ca/planning/HalifaxPlanArea.php>

Town of Kentville

8-2 Residential Two Unit Dwelling (R-2) Zone Requirements

Minimum Other Side Yard No requirement

11-2 Townhouse (TH) Zone Requirements

Minimum Other Side Yard No requirement

<http://kentville.ca/town-hall/planning-development/>

Provision for both Accessory and Main Buildings

Village of Hebbville (Municipality of the District of Lunenburg)

4.13 Accessory Building and Structures

Accessory structures shall be permitted in any zone but shall not:

4.13.3. be built closer than 1.5 metres (5 ft) to any rear or side lot line except that

a) common semi-detached garages may be centred on the mutual side lot line,

5.3 Permitted Developments in the Two-Unit Residential (TR) zone

The minimum side yard for Semi-detached is zero along common walls.

5.4 Permitted Developments in the High Density Residential (HDR) zone

The minimum side yard for Multi-Unit Dwellings and Attached Detached is zero along common walls.

Special Requirement - Attached Buildings

6.2.6. Notwithstanding the side yard requirements of subsection 6.3.2, adjoining buildings which are structurally attached to each other, may be built to the common side lot line.

Attached Buildings

7.2.6. Notwithstanding the side yard requirements of subsection 7.3.2, adjoining buildings which are structurally attached to each other, may be built to the common side lot line.

http://www.modl.ca/municipal-services/planning/planning-documents/cat_view/95-planning-documents/100-hebville-planning-area

East Hants

Section 4.8 Accessory Buildings

Unless otherwise specified under this By-law, accessory buildings and structures shall be permitted in all zones and subject to the following:

- c. shall not be built closer to the front lot line than the minimum distance required for the main building, or closer than eight (8) *four (4)* feet (2.4 *1.2* m) to any other lot line, with the following exceptions:
 - i. common, semi-detached garages may be centered on the mutual side lot line;

6.3.4 Requirements for Semi-Detached and Link Dwelling Units

The minimum side yard for Semi-detached and Linked Dwellings is zero along common walls.

6.4.2 Requirements for Row Housing (Townhouse/Link Dwelling)

The minimum side yard for Row Housing is zero along common walls.

8.5.6 Requirements for Regional Commercial (C4) Zone

Minimum side yard for a property abutting another C4 Zone is zero.

<http://www.easthants.ca/content/land-use-by-law-1>

Osprey Village of the Municipality of the District of Lunenburg

4.12 ACCESSORY BUILDINGS AND STRUCTURES

4.12.1 An accessory building or structure is permitted in any zone and may be used only as an accessory use to the main building or use, but it shall not:

- (c) subject to Section 4.8, be built closer than 1.2 metres (4 ft) to any rear or side lot line except that:
 - i) common semi-detached garages may be centred on the mutual side lot line,

6.3.2.2 Yard Requirement (General Commercial Zone)

Minimum Side Yard with a Common Wall is zero

http://www.modl.ca/municipal-services/planning/planning-documents/cat_view/95-planning-documents/97-osprey-village-planning-area

Town of Pictou

4. ACCESSORY BUILDINGS, STRUCTURES AND USES

2. Yard Requirements

An accessory building, structure, or use shall not:

- g) be built closer than 4 feet (1.2 metres) to a lot line except that;

i) common semi-detached garages may be centred on the mutual side lot line;

SPECIAL REQUIREMENT: DOUBLE AND DUPLEX DWELLINGS in the Residential (R1) Zone

No double dwelling or duplex dwelling development permit shall be issued except in conformity with the following requirements:

Minimum Side Yard is zero where there is a common wall between units.

ZONE REQUIREMENTS FOR DOUBLE AND DUPLEX DWELLINGS in the Mixed Residential (R3) Zone

No double dwelling or duplex dwelling development permit shall be issued except in conformity with the following requirements:

Minimum Side Yard is zero where there is a common wall between units.

<http://www.newglasgow.ca/lifestyle/planning-building-permits-inspections-recycling-waste-management>

Oakland (of the Municipality of the District of Lunenburg)

4.12.2 Accessory Structures

Accessory structures shall be permitted in any zone, but shall not:

- b) subject to Section 4.8, be built closer than 1.2 metres (4 ft.) to any rear or side lot line except that:
 - i) common semi-detached garages may be centred on the mutual side lot line,

5.1.3 Special Requirement - Attached Buildings

Notwithstanding the side yard requirements of Subsection 5.2.4, adjoining buildings that are structurally attached to each other, may be built to the common side lot line.

8.2.2 TR Zone Standards

Unless otherwise specified in this By-law, no development permit shall be issued except in conformity with the following minimum requirements:

a) Yard Requirements

Common Side is NIL

http://www.modl.ca/municipal-services/planning/planning-documents/cat_view/95-planning-documents/98-oakland-planning-area

Town of New Glasgow

3.4 General Provisions: Accessory Buildings

Where this By-law provides that any land may be used for a building or structure that may be erected or used for a purpose, the purpose includes any use accessory thereof, and the following provisions apply:

1. Notwithstanding the Fence provisions contained in Section 3.2.7, accessory uses, buildings or structures shall:

- (d) not be built closer than four (4) feet to a lot line except that:
 - i) common semi-detached garages may be centered on the mutual side lot line,

6.3.1 Lot Size

The following requirements shall apply to all uses permitted in the Residential Two Unit (R2) Zone:
Semi-detached minimum side yard 0 (Common Wall)

7.3.1 Lot Size

The following requirements shall apply to all uses permitted in the Residential Two Unit (R2) Zone:
Semi-detached minimum side yard 0 (Common Wall)

<http://www.newglasgow.ca/lifestyle/planning-building-permits-inspections-recycling-waste-management>

Town of Berwick

5.3 Accessory Buildings

5.3.1 Accessory uses, buildings and structures shall be permitted in any zone within the Town of Berwick but shall not:

(e) be built closer than .6 meters (2 ft.) to a lot line except that common semi-detached garages may be centered on the mutual side lot line;

6.3.2 General Lot Requirements for Residential Two Unit (R2) Zone

Minimum Side Yard for a Converted Dwelling or Semi-Detached Dwelling along a common lot line is zero.

6.4.3 Zero Lot Line

Notwithstanding Part 6.4.2 the minimum side yard requirement for the common lot line may be reduced to zero (0) for Townhouse dwellings.

<http://www.town.berwick.ns.ca/planning-development.html>

Town of Antigonish

5.19 ACCESSORY BUILDINGS

(1) Accessory uses, buildings and structures shall be permitted in any zone within the Town of Antigonish but shall not:

d) be built closer than 4 feet to any lot line in the case of buildings of 1.5 storeys or less, or 6 feet for buildings over 1.5 storeys, except that:

i) common semi-detached garages may be centred on the mutual side lot line;

8.2 Residential First Density Zone General Requirements

Minimum Side Yard for Semi-Detached is zero.

9.3 Residential Second Density Zone General Requirements

Minimum Side Yard for Semi-Detached is zero.

<http://www.townofantigonish.ca/planning-and-building-services.html>

Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville (HRM)

4.12 Accessory Buildings

(a) Accessory uses, building, and structures shall be permitted in any zone but shall not:

(iii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than eight (8) feet (2.4 m) to any other lot line except that:

1. common semi-detached garages may be centred on the mutual side lot line; and

4.22 Yard Exception

(b) In any zone where two unit dwellings are permitted, the minimum yard from the side being common with another dwelling unit shall be 0.0 feet (0.0 m).

<http://www.halifax.ca/planning/BeaverBankHammondsPlainsUpperSackvillePlanArea.php>

Bedford (HRM)

29. Accessory Buildings

- a) Accessory uses, buildings and structures shall be permitted in any zone within the Town but shall not:
 - iii) be built closer than four (4) feet to any lot line except for common semi-detached garages which may be centred on the mutual side lot line or boat houses and boat docks which may be built to the lot line when the line corresponds to the high water mark of the Bedford Basin;

SUBDIVISION AND BUILDING REQUIREMENTS

Minimum Common Side Yard for Multi-Commercial Buildings.....N/A

<http://www.halifax.ca/planning/BedfordPlanArea.php>

Cole Harbour/Westphal (HRM)

4.11 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
 - (ii) be built closer to the front lot line than the minimum distance required for the main building or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
 - 2. common semi-detached garages may be centred on the mutual side lot line;

Two Unit Dwelling

Minimum Rear or Side Yard is 10 feet (3 m), and the side yard shall be reduced to zero (0) on the side being common with another dwelling unit

<http://www.halifax.ca/planning/ColeHarbourWestphalPlanArea.php>

Eastern Passage/Cow Bay (HRM)

4.11 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
 - (ii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
 - 2. common semi-detached garages may be centred on the mutual side lot line;

Two unit dwelling/Townhouses Minimum Rear or Side Yard is 10 feet (3 m), and the side yard shall be reduced to zero (0) on the side being common with another dwelling unit

<http://www.halifax.ca/planning/EasternPassageCowBayPlanArea.php>

Planning District 5 (Chebucto Peninsula) Plan Area (HRM)

4.7A SUBDIVISION OF SEMI-DETACHED DWELLINGS

- (a) Provided that all other applicable provisions in this By-law are satisfied, where a lot containing a semi-detached dwelling is subdivided so that each dwelling unit is on its own lot, there shall be no setback required from the common lot boundary.

(b) Where a semi-detached dwelling exists on one lot, or is to be constructed on a lot pursuant to Section 4.5 of this By-law, and such lot does not meet the lot area or frontage requirements for subdivision under this By-law, a subdivision may be approved to place each dwelling unit on its own lot, provided that each lot has a minimum frontage of 20 feet.

4.13 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
- (ii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than four (4) feet (1.2 m) to any other lot line except that:
1. common semi-detached garages may be centred on the mutual side lot line;

<http://www.halifax.ca/planning/PlanningDistrict5PlanArea.php>

Eastern Shore (East) (HRM)

4.12 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
- (ii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than four (4) feet (1.2 m) to any other lot line except that:
1. common semi-detached garages may be centered on the mutual side lot line;

4.20 Yard Exceptions

(b) Where two unit dwellings are permitted, the side yard common to both units of a semi-detached dwelling shall not be required.

<http://www.halifax.ca/planning/EasternShoreEastPlanArea.php>

Eastern Shore (West) (HRM)

4.12 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
- (ii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than four (4) feet (1.2 m) to any other lot line except that:
1. common semi-detached garages may be centred on the mutual side lot line;

4.20 Yard Exceptions

(b) Where two unit dwellings are permitted, the side yard common to both units of a semi-detached dwelling shall not be required.

Lake Echo/Porters Lake (Planning Districts 8 &9) (HRM)

4.12 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
- (ii) be built closer to the front lot line than the minimum distance required for the main building or be built closer than four (4) feet (1.2 m) to any other lot line except that:
1. common semi-detached garages may be centred on the mutual side lot line;

4.21 Yard Exceptions

(b) Where two unit dwellings are permitted, the side yard common to both units of a semi-detached dwelling shall not be required.

<http://www.halifax.ca/planning/PlanningDistricts8and9PlanArea.php>

North Preston/Lake Major/Lake Loon/Cherry Brook/East Preston (HRM)

4.2 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
- (i) be used for human habitation except where a dwelling is a permitted accessory use;
 - (ii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
 - 1. in any RA or RS Zone, buildings or structures which are accessory to residential uses shall not be located closer to any side or rear lot line than four (4) feet (1.2 m);
 - 2. common semi-detached garages may be centred on the mutual side lot line; and

Row/Townhouse dwellings 8 feet (2.4 m), or 0.0 from the side being common with another dwelling unit
All other residential uses 8 feet (2.4 m), or 0.0 from the side being common with another dwelling unit

Prospect (District 4) (HRM)

4.12 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
- (iii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
 - 1. common semi-detached garages may be centered on the mutual side lot line; and

Minimum Rear Yard or Side Yard 15 feet (4.6 m) or 0.0 feet from the side being common with another dwelling unit.

<http://www.halifax.ca/planning/PlanningDistrict4PlanArea.php>

Sackville (HRM)

4.11 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
- (ii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
 - 2. common semi-detached garages may be centred on the mutual side lot line;

Minimum Rear or Side Yard 10 feet (3 m) or 0.0 feet (0.0 m) from the side being common with another dwelling unit

<http://www.halifax.ca/planning/SackvillePlanArea.php>

Planning Districts 14 & 17 (Shubenacadie Lakes) (HRM)

4.11 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
- (ii) be built closer to the front lot line than the minimum distance required for the main building or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
 - 2. common semi-detached garages Day be centred on the mutual side lot line;

4.22 ZERO LOT LINE

In any zone where two unit dwellings are permitted, the minimum yard from the side being common with another dwelling unit shall be 0.0 feet (0.0 m).

<http://www.halifax.ca/planning/PlanningDistricts14and17PlanArea.php>

Planning Districts 1 & 3 (St. Margaret's Bay) in the HRM

4.13 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
- (ii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
 1. common semi-detached garages may be centered on the mutual side lot line; and

4.23 YARD EXCEPTION

(b) In any zone where two unit dwellings are permitted the minimum yard from the side being common with another dwelling unit shall be 0.0 feet (0.0 m).

<http://www.halifax.ca/planning/PlanningDistricts1and3PlanArea.php>

Timberlea/Lakeside/Beechville Plan Area in HRM

4.13 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
- (ii) be built closer to the front lot line than the minimum distance required for the main building or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
 2. common semi-detached garages may be centred on the mutual side lot line;

Minimum Rear or Side Yard 8 feet (2.4 m) and 0.0 feet (0.0 m) from the side being common with another dwelling unit

<http://www.halifax.ca/planning/TimberleaLakesideBeechvillePlanArea.php>



TO: CBRM Council

FROM: Malcolm Gillis

**SUBJECT: ZONING AMENDMENT APPLICATION G-998
Warehouse at 1541 Gabarus Highway, Prime
Brook**

DATE: February 10th, 2015

Introduction

CBRM is in receipt of a zoning amendment application from Peter Harris of 1541 Gabarus Highway, Prime Brook to permit him to construct a large warehouse storage building in the rear yard of the above referenced property. The lot parcel is currently occupied by a single detached dwelling and a small residential accessory building. Mr. Harris' wants to demolish the small accessory building and replace it with a 35 ft. by 70 ft. (2,450 sq. ft.) structure to be used to store and maintain a wide array of personal motor vehicles and equipment.

Why a zoning amendment is necessary for this development?

CBRM's Land Use Bylaw has a General Provision restricting the size of a residential accessory building to no more than 10% of the area of the lot parcel. Mr. Harris lot parcel is only 21,060 sq. ft. Consequently, his proposed building is significantly larger than the 10% maximum and too large for a variance to be issued in compliance with the Municipal Government Act.

Why should a zoning amendment be considered?

Normally if a proposed residential accessory building can't meet the maximum percentage lot coverage provision it ends there. Either the applicant reduces the size of the building or the Permit application is denied. And I generally would not advocate for a zoning amendment to accommodate such a proposal. This provision has never been challenged with a zoning amendment request. But this site is unique.

Please look at the map with this report. The zoning amendment site is a small lot surrounded by a wide range of business developments. All of these business developments are in a Commercial Industrial Zone where Development Permits for large scale buildings could be, and have been, issued. Mr. Harris' property was not included in that Zone because the only

development on it is a single detached dwelling. Residential developments are not permitted in the above referenced commercial/industrial Zone.

Recommendation

It is unreasonable for a Municipality to prevent someone from attaining a Development Permit to construct a building of the scale proposed by Mr. Harris in the midst of commercial/industrial sites with much larger scale buildings. I recommend that:

- the commercial/industrial Zone practically surrounding Mr. Harris' property be expanded to include his property;
- the text of that Zone be amended to state that a single detached dwelling is permitted only on the lot parcel occupied by Mr. Harris' house; and
- that the General Provision regulating the size residential accessory buildings include a clause stipulating that the 10% maximum percentage lot coverage be waived whenever a residential accessory buildings is to be constructed within a Zone with the word "industrial" in its title. The draft amending Bylaw implementing this is included with this report.

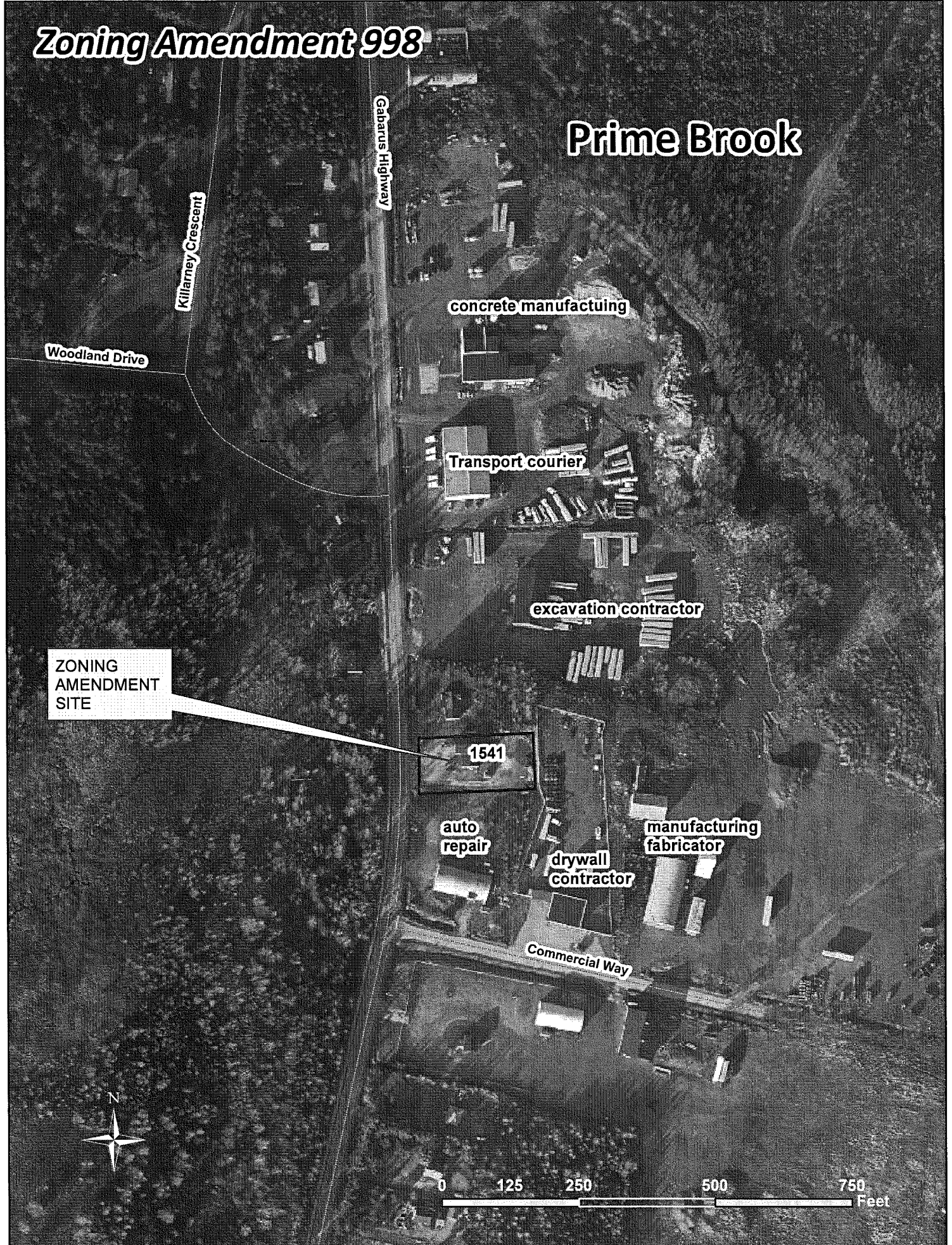
Submitted by:



Malcolm Gillis
Planning and Development Department

Zoning Amendment 998

Prime Brook



ZONING
AMENDMENT
SITE

concrete manufacturing

Transport courier

excavation contractor

1541

auto
repair

drywall
contractor

manufacturing
fabricator

Commercial Way



0 125 250 500 750 Feet

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

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: Council amends the Land Use Bylaw map by deleting the Rural General Store and Service (GSS) Zone in effect for PID# 15031552 by replacing it with the Prime Brook Industrial (IPB) Zone.

THAT: Council amends the text of the Prime Brook Industrial (IPB) Zone by adding the words "residential – only a one or two unit residential dwelling on PID# 15031552" in the list of permitted uses section.

THAT: Council amends the text of the Land Use Bylaw by adding the following to Part 2, Section 1.a.4 ...

“, or a residential accessory building in a Zone with the word “Industrial” in its title.”

With this addition, Part 2, Section 1.a.4 will read as follows:

“The total 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; and “

PASSED AND ADOPTED: by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on March 17th, 2015.

MAYOR

CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the zoning amendment Case File 998 Amending By-law of the Cape Breton Regional Municipality adopted by Regional Council during a meeting held on March 17th, 2015 to amend the Cape Breton Regional Municipality's Land Use By-law.

DEBORAH CAMPBELL, CLERK

	YTD Dec 31, 2014	Estimated Jan-Mar 2015	Projected Operating Results 2014-2015	Annual Budget 2014-2015	Projected Surplus/ (Deficit)
Revenue					
Total Taxes	\$ 74,900,577	\$ 24,985,371	\$ 99,885,948	\$ 99,569,100	\$ 316,848
Total Federal Government	2,061,592	476,571	2,538,163	2,748,790	(210,627)
Total Federal Government Agencies	755,020	285,470	1,040,490	1,006,694	33,796
Total Provincial Government	683,118	561,871	1,244,989	910,824	334,165
Total Provincial Government Agencies	2,078,748	762,650	2,841,398	2,771,664	69,734
Total Services to Other Local Government	256,070	170,006	426,076	341,427	84,649
Total Transit	725,246	214,754	940,000	1,022,000	(82,000)
Total Environmental Development Services	247,216	47,004	294,220	384,500	(90,280)
Total Licenses & Permits	103,731	83,580	187,310	240,500	(53,190)
Total Fines & Fees	1,851,289	600,423	2,451,712	2,446,712	5,000
Total Rentals	414,058	135,942	550,000	576,000	(26,000)
Total Concessions & Franchises	272,793	72,207	345,000	345,000	-
Total Return on Investments/Interest on Taxes	968,919	346,930	1,315,849	1,250,500	65,349
Total Finance Revenue	23,002	7,498	30,500	33,000	(2,500)
Total Solid Waste Revenue	1,892,546	574,454	2,467,000	2,367,000	100,000
Total Recreation & Cultural Service Programs	813,969	962,661	1,776,630	1,985,105	(208,475)
Total Water Utility Charges	3,713,632	1,237,877	4,951,509	4,951,510	(1)
Total Unconditional Transfers	11,948,199	3,982,731	15,930,930	15,935,838	(4,908)
Total Conditional Transfers	2,883,324	961,108	3,844,432	3,844,432	-
Year To Date Assigned	\$ 106,593,050	\$ 36,469,106	\$ 143,062,156	\$ 142,730,596	\$ 331,560
Expenditures					
Legislative	\$ 950,743	\$ 397,791	\$ 1,348,534	\$ 1,395,302	\$ 46,768
Administration	789,412	301,160	1,090,572	1,143,336	52,764
Finance	1,979,601	856,655	2,836,256	3,018,808	182,552
Legal	333,082	197,643	530,726	546,623	15,897
Human Resources	1,129,380	483,640	1,613,020	1,659,150	46,130
Technology & Communications	578,443	572,445	1,150,888	1,215,923	65,035
Municipal Clerk	256,174	156,636	412,810	456,581	43,771
Fiscal Services	28,534,288	4,574,292	33,108,580	33,323,742	215,162
Occupational Health & Safety	124,551	63,057	187,608	204,536	16,928
Facilities: Centre 200 & Arenas	2,188,868	761,660	2,950,528	3,122,653	172,125
Police Services	19,385,157	6,871,167	26,256,324	26,487,767	231,443
Fire Services (Incl EMO)	11,959,564	3,987,064	15,946,628	16,152,559	205,931
Engineering & Public Works	34,353,978	13,566,255	47,920,233	48,350,612	430,379
Planning	1,603,011	665,925	2,268,935	2,678,635	409,700
Recreation	2,456,365	465,191	2,921,557	2,974,369	52,812
Total expended to date	\$ 106,622,617	\$ 33,920,581	\$ 140,543,198	\$ 142,730,596	\$ 2,187,398
Surplus/Deficit	\$ (29,566)	\$ 2,548,524	\$ 2,518,958	\$ (0)	\$ 2,518,958

Resolution

“The Late Lawrence Henry Devison”

- Whereas:** Surviving members of the Second World War commando unit from Canada and the United States were invited to a special ceremony in Washington, D.C. recently where the Congressional Gold Medal was presented to each member of the unit and also to the unit as a whole;
- And Whereas:** The Late Lawrence Devison, formerly of Table Head in Glace Bay, was a member of the famed Devil’s Brigade;
- And Whereas:** Mr. Devison was married to Mary Petrie of Dominion and they had two daughters and four sons;
- And Whereas:** The First Special Service Force, known as the Devil’s Brigade during the Second World War consisted of about 2,500 American and Canadian Soldiers, 477 of whom were killed in action;
- And Whereas:** When Devison was part of the Canadian 5th Division, he was on a ship heading for Italy when it was torpedoed off the coast of Gibraltar on September 6th, 1943;
- And Whereas:** The troops had to hit the water and hang onto the side of the rubber rafts as all the lifeboats were given to the 97 nurses who had also been on board;
- And Whereas:** Devison was injured by shrapnel when he was sent to the Royal Canadian Regiment for the “Morrow Riving Crossing” and when a team came looking for volunteers to make up the Joint Canadian and American Special Service Force Devil’s Brigade, Devison signed up;
- And Whereas:** George Gardiner, a cousin of Devison, stated that there are about 14 family members in Glace Bay and they are all proud that the unit has received due recognition;
- Be It Therefore Resolved:** That CBRM Mayor Cecil P. Clarke and Council go on record in recognizing the heroic service of the Late Lawrence Henry Devison of Glace Bay, who is fondly remembered for his role in the famed Devil’s Brigade, a recipient of the Bronze Star and being honored by the U.S. Government with a Congressional Gold Medal.



Councillor Darrell Flynn – District #10 - CBRM

February 17th, 2015

