



**City of Saint John
Common Council Meeting
AGENDA**

Monday, March 25, 2019

6:00 pm

8th Floor Common Council Chamber (Ludlow Room), City Hall

Si vous avez besoin des services en français pour une réunion de Conseil communal, veuillez contacter le bureau du greffier communal au 658-2862.

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- 18. Adjournment



**City of Saint John
Common Council Meeting
Monday, March 25, 2019**

Committee of the Whole

1. Call to Order

Si vous avez besoin des services en français pour une réunion de Conseil communal, veuillez contacter le bureau du greffier communal au 658-2862.

Each of the following items, either in whole or in part, is able to be discussed in private pursuant to the provisions of subsection 68(1) of the Local Governance Act and Council / Committee will make a decision(s) in that respect in Open Session:

4:00 p.m., 8th Floor Boardroom, City Hall

- 1.1 Approval of Minutes 68(1)
- 1.2 Land Matter 68(1)(d)
- 1.3 Financial Matter 68(1)(c)
- 1.4 Financial Matter 68(1)(c)
- 1.5 Financial Matter 68(1)(c,f,j)
- 1.6 Nominating Committee 68(1)(b)
- 1.7 Financial Matter 68(1)(c)
- 1.8 Financial Matter 68(1)(c)
- 1.9 Financial Matter 68(1)(c)
- 1.10 Financial Matter 68(1)(c)



Ville de Saint John
Séance du conseil communal
Lundi 25 mars 2019
18 h

Salle du conseil communal (salle Ludlow), au 8^e étage de l'hôtel de ville

Comité plénier

1. Ouverture de la séance

Si vous souhaitez obtenir des services en français pour une séance du conseil communal, veuillez communiquer avec le bureau du greffier communal au 658-2862.

Chacun des points suivants, en totalité ou en partie, peut faire l'objet d'une discussion en privé en vertu des dispositions prévues au paragraphe 68(1) de la *Loi sur la gouvernance locale*. Le conseil/comité prendra une ou des décisions à cet égard au cours de la séance publique :

16 h, Salle de conférence, 8^e étage, hôtel de ville

- 1.1 Approbation du procès-verbal – paragraphe 68(1)
- 1.2 Question relative aux biens-fonds – alinéa 68(1)d)
- 1.3 Question financière – alinéa 68(1)c)
- 1.4 Question financière – alinéa 68(1)c)
- 1.5 Question financière – alinéas 68(1)c), f) et j)
- 1.6 Comité des candidatures – alinéa 68(1)b)
- 1.7 Question financière – alinéa 68(1)c)
- 1.8 Question financière – alinéa 68(1)c)
- 1.9 Question financière – alinéa 68(1)c)
- 1.10 Question financière – alinéa 68(1)c)

Séance ordinaire

1. Ouverture de la séance

2. Approbation du procès-verbal

- 2.1 Procès-verbal du 11 mars 2019

3. Adoption de l'ordre du jour

4. Divulgations de conflits d'intérêts

5. Questions soumises à l'approbation du conseil

- 5.1 Commission sur le stationnement de Saint John relativement à la nomination de Richard Patterson, membre du Corps canadien des commissaires, en tant qu'agent d'exécution des arrêtés municipaux (recommandation figurant au rapport)
- 5.2 Adoption des dispositions mises à jour régissant la gouvernance des procédures et du mandat du Comité d'appel sur les résidences non conformes aux normes de Saint John (recommandation figurant au rapport)
- 5.3 Séance informative publique : carré sud King (de la rue Charlotte au numéro de voirie 12) et carré nord Queen (de la rue Charlotte à la rue Sydney) (recommandation : accepter à titre informatif)
- 5.4 Séance informative publique : Rue Ellerdale (de la rue Valley à la rue Margaret) – conduite principale d'eau de 200 mm (recommandation : accepter à titre informatif)
- 5.5 Services d'inspection d'ingénierie 2019 (recommandation figurant au rapport)
- 5.6 Contrat 2019-09 : Renouvellement de la conduite de refoulement M-R-G – Phase 1 (recommandation figurant au rapport)

6. Commentaires présentés par les membres

7. Proclamation

- 7.1 Journée pourpre – 26 mars 2019

8. Délégations et présentations

- 8.1 Centre des arts de Saint John – Projet de murale
- 8.2 Découvrez Saint John – Projet de murale de Sean Yoro
 - 8.2.1 Contrat de licence avec Découvrez Saint John pour la murale de marées

9. Audiences publiques – 18 h 30

10. Étude des arrêtés municipaux

- 10.1 Modification proposée à l'Arrêté de zonage concernant le 348, chemin Rockland et le 21, rue Canon (troisième lecture) conformément aux conditions imposées par l'article 59
- 10.2 Modification proposée à l'Arrêté de zonage concernant le 97-99, rue Exmouth (troisième lecture) conformément aux conditions imposées par l'article 59

- 10.3 Modification proposée au plan d'aménagement du 179-185, chemin Golden Grove (troisième lecture)

- 10.3.1 Modification proposée à l'Arrêté de zonage concernant le 179-185, chemin Golden Grove (troisième lecture) conformément aux conditions imposées par l'article 59

11. Interventions des membres du conseil

- 11.1 Carré ouest Queen : Proposition de jardin pluvial (conseillère Reardon)

12. Affaires municipales évoquées par les fonctionnaires municipaux

- 12.1 Mise à jour sur la stratégie régionale relative aux patinoires – Présentation du personnel
- 12.2 Simulateur budgétaire – Mobilisation du public – Présentation du personnel
- 12.3 Services d'ingénierie – Mise à niveau du poste de pompage de l'eau de Musquash
- 12.4 Amélioration du service à la clientèle du Guichet unique pour l'aménagement – Présentation du personnel
- 12.5 Entretien de la chaussée asphaltée en hiver – Présentation du personnel

13. Rapports déposés par les comités

14. Étude des sujets écartés des questions soumises à l'approbation du Bureau

15. Correspondance générale

- 15.1 Tournoi de golf pour la santé mentale – Coup de départ par le Service de police de Saint John – Lettre d'invitation du commanditaire

16. Ordre du jour supplémentaire

17. Comité plénier

- 17.1 Don d'un terrain de jeu de la Fondation Bon départ de Canadian Tire
- 17.2 Acquisition de servitude à la Fundamental Baptist Church de Lancaster Civic # 1170, chemin Sand Cove
- 17.3 Contrat de location de arène d'été
- 17.4 Nomination de comité - Développer Saint John
- 17.5 Projet d'eau potable saine et salubre - Règlement global

18. Levée de la séance



The City of Saint John

MINUTES – REGULAR MEETING
COMMON COUNCIL OF THE CITY OF SAINT JOHN
MARCH 11, 2019 AT 6:00 PM
IN THE COUNCIL CHAMBER

Present: Mayor Don Darling
Deputy Mayor Shirley McAlary
Councillor-at-Large Gary Sullivan
Councillor Ward 1 Greg Norton
Councillor Ward 2 Sean Casey
Councillor Ward 2 John MacKenzie
Councillor Ward 3 Donna Reardon
Councillor Ward 4 David Merrithew

Absent: Councillor Ward 1 Blake Armstrong
Councillor Ward 4 Ray Strowbridge

Also Present: City Manager J. Collin
Deputy City Manager N. Jacobsen
City Solicitor J. Nugent
Fire Chief K. Clifford
Deputy Commissioner Growth and Community Development P. Ouellette
Commissioner of Finance and Treasurer K. Fudge
Commissioner of Transportation and Environment M. Hugenholtz
Commissioner of Saint John Water B. McGovern
Common Clerk J. Taylor
Deputy Common Clerk P. Anglin

1. Call to Order

2. Approval of Minutes

2.1 Minutes of February 25, 2019

Moved by Deputy Mayor McAlary, seconded by Councillor MacKenzie:

RESOLVED that the minutes of the meeting of Common Council, held on February 25, 2019, be approved.

MOTION CARRIED.

3. Approval of Agenda

Moved by Deputy Mayor McAlary, seconded by Councillor Norton:

RESOLVED that the agenda of this meeting be approved.

MOTION CARRIED.

4. Disclosures of Conflict of Interest

5. Consent Agenda

5.1 That the Communities in Bloom Letter re: 25th Edition of Communities in Bloom be referred to the City Manager.

5.2 That Saint John Board of Police Commissioners Letter re: Public Safety Committee/ Transportation and Environment Services be received for information.

5.3 That the Fundy Regional Service Commission – Request to Present “The Coastal Link Trail” be referred to the Clerk to Schedule

5.4 That as recommended by the City Manager in the submitted report *M&C 2019-45: Contract 2019-03: Metcalf Street (Main Street to Lansdowne Avenue) – Water Main, Sanitary and Storm Sewer Installation and Street Reconstruction*, the contract be awarded to the low Tenderer, Galbraith Construction Ltd., at the tendered price of \$1,015,900.80 (including HST) as calculated based upon estimated quantities, and further that the Mayor and Common Clerk be authorized to execute the necessary contract documents.

5.5 That as recommended by the City Manager in the submitted report *M&C 2019-42: Contract 2019-07: Chipman Hill (Union Street to King Street – Water, Sanitary and Storm Sewer Renewal and Street Reconstruction*, the contract be awarded to the low Tenderer, TerraEx Inc., at the tendered price of \$968,581.75 (including HST) as

calculated based upon estimated quantities, and further that the Mayor and Common Clerk be authorized to execute the necessary contract documents.

5.6 That as recommended by the City Manager in the submitted report *M&C 2019-44: Rockwood Golf Course Irrigation Pump Station Purchase*, notwithstanding the City's Purchasing Policy, Common Council purchase (supply and install) from Irriplus Ltd. a replacement irrigation pump station for the Rockwood Park Golf Course as per the quote attached to M&C 2019-44.

5.7 That as recommended by the City Manager in the submitted report *M&C 2019-41: Spring 2019 Debenture Refinance Application*, Common Council approve the following:

RESOLVED that occasion having arisen in the public interest for the following Public Civic Works and needed Civic Improvements that the City of Saint John proposes issue of the following debentures to be dated on or after February 27th, 2019:

REFINANCE DEBENTURES

Debenture No. BA 9- 2009 (General Fund – 5 years)	\$	4,670,000
Debenture No. BA 10 -2009 (Water & Sewerage – 10 years)	\$	750,000
Debenture No. BA 11 -2009 (Transit – 5 years)	\$	<u>500,000</u>
TOTAL		<u>\$ 5,920,000</u>

1. Therefore resolved that debentures be issued under provisions of the Acts of Assembly 52, Victoria, Chapter 27, Section 29 and amendments thereto to the amount of five million, nine hundred and twenty thousand dollars (\$5,920,000).
2. Commissioner of Finance be authorized to issue and to sell to the New Brunswick Municipal Finance Corporation (the "Corporation") a City of Saint John bond or debentures in the principal amount of five million, nine hundred and twenty thousand dollars, (\$5,920,000) at such terms and conditions as are recommended by the Corporation.
3. And further that the City of Saint John agrees to issue post-dated cheques to the Corporation, or other such arrangements as the Corporation may from time to time accept, in payment of principal and interest charges on the above bond or debenture as and when they are required by the Corporation.
4. And further that the Commissioner of Finance be hereby authorized to receive an offer in connection with the foregoing debentures at a price not less than \$98 per

\$100 of debenture, at interest rates not to exceed an average of 4.50% and a term not to exceed 5 years for the General Fund and Transit Commission and a term not to exceed 10 years for the Water and Sewerage Utility.

5. And further that the Commissioner of Finance report to Common Council the exact values for price per \$100 of debenture, interest rate and term in years, together with the date of the issue.

5.8 That the Discover Saint John – Request to Present re: Tidal Mural be referred to the Clerk to schedule.

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan:

RESOLVED that the recommendation set out in each consent agenda item respectively be adopted.

MOTION CARRIED UNANIMOUSLY.

6. Members Comments

Council members commented on various community events.

7. Proclamations

8. Delegations/Presentations

8.1 New Brunswick International Student Program

Debbie Thomas, District Manager NB International Student Program showed a video entitled *First Time* created by Gary Jiang a Chinese International Student documenting his many positive experiences in Saint John. The program offers a diversity of student backgrounds and enhances global competencies. The program encourages the students to continue to live in Saint John and enroll in university and community college after high school. The program brings economic benefits to the province and the city.

Moved by Deputy Mayor McAlary, seconded by Councillor Norton:

RESOLVED that the New Brunswick International Student Program Presentation be received for information.

MOTION CARRIED.

9. Public Hearings 6:30 PM

9.1 Proposed Zoning By-Law Amendment 97-99 Exmouth Street with Planning Advisory Committee report recommending Rezoning

9.1.1 Proposed Zoning ByLaw Amendment (1st and 2nd Reading)

The Common Clerk advised that the necessary advertising was completed with regard to amending Schedule A, the Zoning Map of The City of Saint John, by re-zoning a parcel of land having an area of approximately 862 square metres, located at 97-99 Exmouth Street, also identified as PID Number 00015834 from Urban Centre Residential (RC) to General Commercial (CG) to permit the construction of a new medical clinic (family counseling), with no letters of objection or support being received.

Consideration was also given to a report from the Planning Advisory Committee submitting a copy of Planning staff's report considered at its February 20, 2019 meeting at which the Committee recommended the rezoning of a parcel of land located at 97-99 Exmouth Street as described above, with Section 59 conditions.

The Mayor called for members of the public to speak against the re-zoning with no one presenting.

The Mayor called for members of the public to speak in favour of the re-zoning with no one presenting.

Responding to a question, staff K. Melanson advised that the facility will be a city wide commercial operation referring health care calls. The location is unsettled in terms of land uses. Residential use remains possible for the area in the future.

Moved by Deputy Mayor McAlary, seconded by Councillor MacKenzie:

RESOLVED that the by-law entitled, "A Law to Amend the Zoning By-Law of The City of Saint John" amending Schedule A, the Zoning Map of The City of Saint John, by re-zoning a parcel of land having an area of approximately 862 square metres, located at 97-99 Exmouth Street, also identified as PID Number 00015834 from Urban Centre Residential (RC) to General Commercial (CG), be read a first time.

MOTION CARRIED with Councillor Reardon voting nay stating the area is intended to be residential and that the more commercial uses are introduced the less likely the area will develop into a residential neighbourhood.

Read a first time by title, the by-law entitled, "A Law to Amend the Zoning By-Law of The City of Saint John."

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan:

RESOLVED that the by-law entitled, "A Law to Amend the Zoning By-Law of The City of Saint John" amending Schedule A, the Zoning Map of The City of Saint John, by re-zoning a parcel of land having an area of approximately 862 square metres, located at 97-99 Exmouth Street, also identified as PID Number 00015834 from Urban Centre Residential (RC) to General Commercial (CG), be read a second time.

MOTION CARRIED with Councillor Reardon voting nay.

Read a second time by title, the by-law entitled, "A Law to Amend the Zoning By-Law of The City of Saint John."

9.2 Proposed Zoning By-Amendment 348 Rockland Road and 21 Canon Street with Planning Advisory Committee report recommending Rezoning

9.2.1 Proposed Zoning ByLaw Amendment (1st and 2nd Reading)

The Common Clerk advised that the necessary advertising was completed with regard to amending Schedule A, the Zoning Map of The City of Saint John, by re-zoning two parcels of land having a combined area of approximately 2,847 square metres, located at 348 Rockland Road and 21 Canon Street, also identified as PID Numbers 00025791 and 55086128 from Neighbourhood Community Facility (CFN) to General Commercial (CG), to permit the operation of a banquet hall and event venue, with no letters of objection or support received.

Consideration was also given to a report from the Planning Advisory Committee submitting a copy of Planning staff's report considered at its February 20, 2019 meeting at which the Committee recommended the rezoning of a parcel of land located 348 Rockland Road and 21 Canon Street as described above, with Section 59 conditions.

The Mayor called for members of the public to speak against the re-zoning with no one presenting.

The Mayor called for members of the public to speak in favour of the re-zoning with Natasha Tobias presenting.

Question: Councillor Reardon asked what is the difference between a Neighbourhood Community Facility (CFN) and a Community Center.

The City Manager advised that a clarification on the classification will be provided.

Moved by Deputy Mayor McAlary, seconded by Councillor MacKenzie:

RESOLVED that the by-law entitled, "A Law to Amend the Zoning By-Law of The City of Saint John" amending Schedule A, the Zoning Map of The City of Saint John, by re-zoning two parcels of land having a combined area of approximately 2,847 square metres, located at 348 Rockland Road and 21 Canon Street, also identified as PID Numbers 00025791 and 55086128 from Neighbourhood Community Facility (CFN) to General Commercial (CG), be read a first time.

MOTION CARRIED.

Read a first time by title, the by-law entitled, "A Law to Amend the Zoning By-Law of The City of Saint John."

Moved by Deputy Mayor McAlary, seconded by Councillor MacKenzie:

RESOLVED that the by-law entitled, "A Law to Amend the Zoning By-Law of The City of Saint John" amending Schedule A, the Zoning Map of The City of Saint John, by re-zoning two parcels of land having a combined area of approximately 2,847 square metres, located at 348 Rockland Road and 21 Canon Street, also identified as PID Numbers 00025791 and 55086128 from Neighbourhood Community Facility (CFN) to General Commercial (CG), be read a second time.

MOTION CARRIED.

Read a second time by title, the by-law entitled, "A Law to Amend the Zoning By-Law of The City of Saint John."

9.3 Proposed Municipal Plan and Zoning By-Law Amendment 179-185 Golden Grove Road with Planning Advisory Committee report recommending Amendments

9.3.1 Proposed Municipal Plan Amendment (1st and 2nd Reading)

9.3.2 Proposed Zoning ByLaw Amendment (1st and 2nd Reading)

The Common Clerk advised that the necessary advertising was completed with respect to the proposed Municipal Plan and Zoning ByLaw Amendments for a parcel of land located at 179-185 Golden Grove Road having an area of approximately 0.55 hectares, also identified as being PID Numbers 55057848, 55057855 and 55201750, from Stable Area to Employment Area on Schedule A of the Municipal Development Plan; and redesignate, on Schedule B of the Plan, the same parcels of land, from Stable Residential to Stable Commercial; and by rezoning the same parcels of land from Two-Unit Residential (R2) to a special zone to permit a vehicle body and paint shop in addition to other commercial uses, with no letters of objections or support being received.

Consideration was given to a report from the Planning Advisory Committee submitting a copy of Planning staff's report considered at its February 20, 2019 meeting at which the Committee recommended approval as set out in the staff recommendation, to re-zone a parcel of land located at 179-185 Golden Grove Road as described above with Section 59 conditions.

The Mayor called for members of the public to speak against the amendments with no one presenting.

The Mayor called for members of the public to speak in favour of the amendments with Scott Trites presenting.

Moved by Councillor Merrithew, seconded by Councillor MacKenzie:

RESOLVED that the by-law entitled, “A Law to Amend the Municipal Plan By-Law” amending Schedule A – City Structure, by redesignating a parcel of land with an area of approximately 0.55 hectares, located at 179-185 Golden Grove Road, also identified as PID Numbers 55057848, 55057855 and 55201750, from Stable Area to Employment Area classification; and amending Schedule B – Future Land Use, by redesignating the same parcel of land from Stable Residential to Stable Commercial classification, be read a first time.

MOTION CARRIED.

Read a first time by title, the by-law entitled, “A Law to Amend the Municipal Plan By-Law”.

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan:

RESOLVED that the by-law entitled, “A Law to Amend the Municipal Plan By-Law” amending Schedule A – City Structure, by redesignating a parcel of land with an area of approximately 0.55 hectares, located at 179-185 Golden Grove Road, also identified as PID Numbers 55057848, 55057855 and 55201750, from Stable Area to Employment Area classification; and amending Schedule B – Future Land Use, by redesignating the same parcel of land from Stable Residential to Stable Commercial classification, be read a second time.

MOTION CARRIED.

Read a second time by title, the by-law entitled, “A Law to Amend the Municipal Plan By-Law”.

Moved by Deputy Mayor McAlary, seconded by Councillor Merrithew:

RESOLVED that the by-law entitled, “A Law to Amend the Zoning By-Law of The City of Saint John”, adding Special Zone No.4 to the list of other zones in Section 2.2; adding Section 14.9 Special Zone No. 4 Permitted Uses; adding 14.9(2) Conditions of Use; adding 14.9(3) Zone Standards; and amending Schedule “A”, the Zoning Map of The City of Saint John, by re-zoning a parcel of land having an area of approximately 0.55 hectares, located at 179-185 Golden Grove Road,, also identified as being PID Numbers 55057848, 55057855 and 55201750, from Two-Unit Residential (R2) to Special Zone 4 (SZ4), be read a first time.

MOTION CARRIED.

Read a first time by title, the by-law entitled, “A Law to Amend the Zoning By-Law of The City of Saint John.”

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan:

RESOLVED that the by-law entitled, "A Law to Amend the Zoning By-Law of The City of Saint John", adding Special Zone No.4 to the list of other zones in Section 2.2; adding Section 14.9 Special Zone No. 4 Permitted Uses; adding 14.9(2) Conditions of Use; adding 14.9(3) Zone Standards; and amending Schedule "A", the Zoning Map of The City of Saint John, by re-zoning a parcel of land having an area of approximately 0.55 hectares, located at 179-185 Golden Grove Road,, also identified as being PID Numbers 55057848, 55057855 and 55201750, from Two-Unit Residential (R2) to Special Zone 4 (SZ4), be read a second time.

MOTION CARRIED.

Read a second time by title, the by-law entitled, "A Law to Amend the Zoning By-Law of The City of Saint John."

10. Consideration of By-laws

10.1 Proposed Municipal Plan Amendment – 40 Mountain View Drive

Moved by Councillor MacKenzie, seconded by Deputy Mayor McAlary:

RESOLVED that the proposed Municipal Plan By-Law Amendment regarding 40 Mountain View Drive be referred to the Planning Advisory Committee for a report and recommendation and the necessary advertising be authorized with a Public Hearing to be held on Monday, April 8, 2019 at 6:30pm in the Council Chamber.

MOTION CARRIED.

10.2 By-Law Respecting the Closing of Roads, Streets or Highways in The City of Saint John (3rd Reading)

Moved by Deputy Mayor McAlary, seconded by Councillor MacKenzie:

RESOLVED that a by-law entitled, "A By-Law Respecting the Closing of Roads, Streets or Highways in The City of Saint John", be read.

MOTION CARRIED.

In accordance with the Local Governance Act sub-section 15(3) the by-law entitled, "A By-Law Respecting the Closing of Roads, Streets or Highways in The City of Saint John", instead of being read in its entirety was read in summary as follows:

"The Local Governance Act ("LGA") which repealed and replaced the Municipalities Act does not stipulate the process to be followed prior to a Council closing a public street. The LGA simply enables a council to adopt a by-law respecting: "(p) subject to the Highway Act, (ii) the temporary and permanent opening and closing of roads, streets, and highways,".

The proposed by-law assures from a legal perspective the legitimacy and effectiveness of any Council decision to close a public street or portion thereof.”

Moved by Deputy Mayor McAlary, seconded by Councillor Mackenzie:

RESOLVED that a by-law entitled, “A By-Law Respecting the Closing of Roads, Streets or Highways in The City of Saint John”, be read a third time, enacted, and the Corporate Common Seal affixed thereto.

MOTION CARRIED.

Read a third time by title, the by-law entitled, “A By-Law Respecting the Closing of Roads, Streets or Highways in The City of Saint John.”

11. Submissions by Council Members

12. Business Matters - Municipal Officers

12.1 Demolition of Vacant, Dilapidated and Dangerous Building at 78-80 Victoria Street (PID 376459)

Deputy Commissioner Ouellette introduced the work of the Growth and Community Development Services team and summarized the statistics over the past year:

- 83 cases of vacant, dilapidated and dangerous buildings in the program
- 33 demolitions
- 50 repairs

Rachel Van Wart advised Council on the file and presented photos of the building condition.

The Mayor read the cautionary statement as follows:

“The information which has been provided in the Council Kit includes the report of the Building Inspector stating that the building located at 78-80 Victoria Street (PID 376459) is a hazard to the safety of the public by virtue of its being, amongst other things, dilapidated or structurally unsound. Is there present an owner, including anyone holding any encumbrance upon this property, who wishes to present evidence to the contrary, i.e. that the building is structurally sound and not dilapidated?”

No one came forward to present evidence that the building is structurally sound and not dilapidated.

Moved by Councillor MacKenzie, seconded by Deputy Mayor McAlary:

RESOLVED that as recommended by the City Manager in the submitted report *M&C 2019-48: Demolition of Vacant, Dilapidated and Dangerous Building at 78-80 Victoria Street (PID 376459)*, Common Council approve the following:

RESOLVED that the building located at 78-80 Victoria Street (PID 376459), is to be demolished as it has become a hazard to the safety of the public by reason of dilapidation; and

BE IT FURTHER RESOLVED, that said building is to be demolished as it has become a hazard to the safety of the public by reason of unsoundness of structural strength; and

BE IT FURTHER RESOLVED, that one or more by-law enforcement officers appointed and designated under the Saint John Unsightly Premises and Dangerous Buildings and Structures By-law are hereby authorized to arrange for the demolition, in accordance with the applicable City purchasing policies.

MOTION CARRIED.

12.2 Response to Yacht Haven Lane Residents Presentation

Referring to the submitted report entitled *Response to Yacht Haven Lane Residents Presentation*, Commissioner Hugenholtz noted that the residents of Yacht Haven Lane presented to Council in December and requested that the private street be made a public street. The Commissioner addressed service implications both direct and indirect.

The City's additional service obligations would include annual \$3500 snow removal, and equivalent amount for sidewalk and road maintenance, long term infrastructure requirements, renewal of underground infrastructure and street and sidewalk infrastructure.

More challenging are the potential indirect implications as there are a number of private streets within the City that currently do not receive service, approximately 75 lane kilometers. The entirety of the service implications if the City takes this on is estimated annually at \$375,000 winter maintenance plus approximately \$700,000+ summer maintenance.

Deputy Commissioner Ouellette stated that at the time Yacht Haven Road was developed, the residents wanted more property space and that is one of the reasons Yacht Haven Lane was developed only one lane in width. The presenters / citizens in December requested that the City take over ownership of the lane. There are a number of stakeholders involved, including the developer and residents. Yacht Haven Lane is owned by trustees, the Moorings of Millidgeville.

Responding to a question, “could the city just plow the lane as a private revenue stream”, the City Manager responded the City could review the matter but normally would not offer a competitive service to the public that is offered by private business.

Responding to a question on solid waste collection, the Commissioner commented several factors are considered. Solid Waste collection is done at the doorstep at Yacht Haven Lane.

Moved by Councillor Reardon, seconded by Councillor Sullivan:

RESOLVED that the submitted report *M&C 2019-35: Response to Yacht Haven Lane Residents Presentation*, be received for information.

MOTION CARRIED.

12.3 Provincial Request for Deer Nuisance Program

Moved by Councillor MacKenzie, seconded by Councillor Sullivan:

RESOLVED that as recommended by the City Manager in the submitted report *M&C 2019-37: Provincial Request for Deer Nuisance Program*, Common Council endorse a request to the provincial Minister of Energy and Resource Development that the Nuisance Deer Management Assistance Program be implemented within the territorial boundaries of The City of Saint John, and further that the Common Clerk be directed to provide the Minister with a copy of this resolution.

MOTION CARRIED.

13. **Committee Reports**

14. **Consideration of Issues Separated from Consent Agenda**

15. **General Correspondence**

15.1 The Vimy Foundation – Consideration of a First World War Gift

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan:

RESOLVED that *The Vimy Foundation – Consideration of a First World War Gift* be referred to the Community Grants Committee for consideration in 2020.

MOTION CARRIED.

16. **Supplemental Agenda**

17. **Committee of the Whole**

18. Adjournment

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan:

RESOLVED that the meeting of Common Council held on March 11, 2019, be adjourned.

MOTION CARRIED.

The Mayor declared the meeting adjourned at 7:57 p.m.



**Saint John
Parking Commission**

**Commission sur le
stationnement de Saint John**

SAINT JOHN TRANSIT



March 11, 2019

Jonathan Taylor
Common Clerk
City of Saint John
8th Floor, City Hall
Saint John, NB

Dear Mr. Taylor,

**RE: Appointment of Richard Patterson, Badge No. 9965
 Canadian Corps of Commissionaires
 as a By-Law Enforcement Officer**

We are requesting that the following resolution be presented to Common Council for approval:

"Resolved that pursuant to Section 14 of the Police Act of the Province of New Brunswick, the Common Council of the City of Saint John does hereby appoint the following member of the Canadian Corps of Commissionaires as By-Law Enforcement Officer with the responsibility and authority to enforce provisions of the Parking Meter By-Law and the provisions of Section 5, Section 5.1, Section 7, Section 8, Section 15 and Section 16 of the Saint John Traffic By-Law, namely: Richard Patterson, Badge No. 9965.

And further that this appointment shall continue until such time as the appointee ceases to be a member of the Canadian Corps of Commissionaires or until the appointment is rescinded by Common Council, whichever comes first."

Yours truly,

Marc Dionne
Director of Operations
Saint John Parking Commission

/KM

COUNCIL REPORT

M&C No.	2019-30
Report Date	March 11, 2019
Meeting Date	March 25, 2019
Service Area	Growth and Community Development Services

His Worship Mayor Don Darling and Members of Common Council

SUBJECT: Adoption of updated Provisions Governing the Procedure and Operation of the Saint John Substandard Properties Appeal Committee

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>Christopher McKiel</i>	<i>J Hamilton / A Poffenroth</i>	<i>John Collin</i>

RECOMMENDATION

Your City Manager recommends that Common Council adopt the updated Provisions Governing the Procedure and Operation of the Saint John Substandard Properties Appeal Committee as submitted.

EXECUTIVE SUMMARY

The purpose of this report is to adopt the updated Provisions Governing the Procedure and Operation of the Saint John Substandard Properties Appeal Committee so that they may be put into practice. The amendments reflect recent changes in the *Local Governance Act*, the *Saint John Minimum Property Standards By-law* and the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-law* and are necessary to meet legislative requirements under the *Local Governance Act*.

PREVIOUS RESOLUTION

N/A

STRATEGIC ALIGNMENT

This report aligns with Council's Vibrant, Safe City priority.

REPORT

The Saint John Substandard Properties Appeal Committee (“the Appeal Committee”) is a committee of Council required by the *Local Governance Act* in order to assist with the administration of Part 13 of the Act, the *Saint John Minimum Property Standards By-Law* and the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law*. The Appeal Committee hears appeals from owners or occupiers of premises, buildings or structures who have been given a Notice to Comply or an Order to Comply and are not satisfied with the terms and conditions set out in the Notice or Order. The Appeal Committee may confirm, modify or rescind the Notice or Order. The decisions of the Appeal Committee are binding on the City. The Appeal Committee consists of a group of three practicing lawyers who have been in active legal practice for at least five years. For the purpose of hearing an appeal, at least one committee member is required to be present to constitute a quorum. The appeal committee would typically hear one to two appeals on average per year.

The purpose of this report is to adopt the updated Provisions Governing the Procedure and Operation of the Saint John Substandard Properties Appeal Committee so that they may be put into practice. The amendments reflect recent changes in the Local Governance Act, the *Saint John Minimum Property Standards By-law* and the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-law* and are necessary to meet legislative requirements under the Local Governance Act.

SERVICE AND FINANCIAL OUTCOMES

The Saint John Substandard Properties Appeals Committee provides a fair and impartial avenue to have concerns heard once a property owner has been issued a Notice to Comply or an Order to Comply.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

Staff of Growth and Community Development Services and the Legal Department jointly drafted the revised Provisions Governing the Procedure and Operation of the Saint John Substandard Properties Appeal Committee.

ATTACHMENTS

Provisions Governing the Procedure and Operation of the Saint John Substandard Properties Appeal Committee

Règlement intérieur du Comité des appels sur les résidences non conformes aux normes de Saint John

Provisions Governing the Procedure and Operation of the Saint John Substandard Properties Appeal Committee

Current to: February 5, 2019

RECITALS

WHEREAS, paragraph 10(1)(d) of the *Local Governance Act*, S.N.B. 2017, c. 18, provides that a local government may make by-laws for municipal purposes respecting dangerous or unsightly premises and property;

AND WHEREAS, subsection 7(1) of the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law* provides that if a condition referred to in subsection 6(1), (2) or (3) exists, a by-law enforcement officer may notify the owner or occupier of the premises, building or other structure;

AND WHEREAS, subsection 9(1) of the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law* provides that an owner or occupier of premises or a building or other structure who has been given a notice under section 7, other than a notice prepared and signed under subsection 14(1), and who is not satisfied with the terms or conditions set out in the notice may appeal to the appropriate committee of Common Council by sending a notice of appeal by registered mail to the clerk of the City within 14 days after having been given the notice;

AND WHEREAS, paragraph 10(1)(e) of the *Local Governance Act*, S.N.B. 2017, c. 18, provides that a local government may make by-laws for municipal purposes respecting the maintenance and occupancy standards for buildings and premises;

AND WHEREAS, subsection 25(1) of the *Saint John Minimum Property Standards By-Law* provides that where the condition of the premises, dwelling, dwelling unit or structure does not comply with this by-law, a by-law enforcement officer may notify the owner or occupier of the premises, dwelling, dwelling unit or structure by issuing an Order;

AND WHEREAS, subsection 27(1) of the *Saint John Minimum Property Standards By-Law* provides that an owner or occupier of the premises, dwelling, dwelling unit or structure who has been given an Order under subsection 25(2) and who is not satisfied with the terms or conditions set out in the Order may appeal to the appropriate committee of Common Council by sending a notice of appeal by registered mail to the clerk of the City within 14 days after having been given the Order.

NOW THEREFORE BE IT RESOLVED that the *Saint John Substandard Properties Appeal Committee* is hereby created;

AND BE IT FURTHER RESOLVED that the Provisions herein shall apply to the order and dispatch of business of the *Saint John Substandard Properties Appeal Committee*.

A. **Definitions**

1. Wherever a word is used in these Provisions with its first letter capitalized, the term is being used as it is defined in this Section A. Where any word appears in ordinary case, its regularly applied meaning in the English language is intended.

“Appeal Committee” means the Saint John Substandard Properties Appeal Committee.

“Architect” means a professional architect registered in the Province of New Brunswick.

“By-law Enforcement Officer” means a by-law enforcement officer, inspection officer or standards officer appointed under the *Saint John Unsightly Premises and Dangerous Buildings or Structures By-law* or the *Saint John Minimum Property Standards By-law* and designated by resolution of Common Council.

“Business Day” means a day other than a Saturday, Sunday or statutory holiday in the Province of New Brunswick.

“Business Hours” means 8:30 a.m. to 4:30 p.m. of any Business Day.

“Chairperson” means the Chairperson of the Appeal Committee.

“Common Clerk” means the Common Clerk of the City of Saint John or the Assistant Common Clerk.

“Common Council” means the elected municipal council of the City of Saint John.

“Engineer” means a professional engineer or a consulting engineering firm who is currently licensed to practice within the Province of New Brunswick to carry out engineering services.

“Notice” means a Notice to Comply issued under section 7 of the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law*.

“Notice of Appeal” means a Notice of Appeal in the form prescribed in Schedule “A” of these Provisions.

“Official Languages” means the two official languages of New Brunswick within the meaning of the *Official Languages Act*, S.N.B. 2002, c. O-0.5, and amendments thereto.

“**Order**” means an Order to Comply issued under section 25 of the *Saint John Minimum Property Standards By-law*.

“**Property**” means the property for which a Notice of Appeal has been sent to and received by the Common Clerk.

“**Vice-Chairperson**” means a Vice-Chairperson of the Appeal Committee.

B. Interpretation

1. Headings: The captions, article and section names and numbers appearing in these Provisions are for convenience of reference only and have no effect on its interpretation.
2. Gender, Number: These Provisions are to be read with all changes of gender or number required by the context.
3. Legislation References: Each reference to legislation in these Provisions is printed in Italic font. The reference is intended to include all applicable amendments to the legislation, including successor legislation and regulations. Where these Provisions reference other by-laws of the City of Saint John, the term is intended to include all applicable amendments to that by-law, including successor by-laws.
4. Severability: If any section, clause or provision of these Provisions, is for any reason declared by a court or tribunal of competent jurisdiction to be invalid, the ruling shall not affect the validity of the Provisions as a whole, nor any other part of it.

C. Composition of the Saint John Substandard Properties Appeal Committee and Vacancies

1. There shall be an Appeal Committee composed of three members being one Chairperson and two Vice-Chairpersons.
2. All Appeal Committee members shall be:
 - (a) members in good standing of the Law Society of New Brunswick;
and
 - (b) have been in active legal practice for at least five years.
3. At least one Appeal Committee member shall be fluent in both Official Languages.

4. Common Council shall appoint all members who serve on the Appeal Committee.
5. Should a member of the Appeal Committee die, resign, become ineligible to be a member or be removed from office, Common Council shall, as soon as reasonably possible, appoint another person to replace such member, and such newly appointed member shall hold office for the remainder of the term of the member he replaces.

D. Terms of Office

1. Common Council shall determine the length of time that a member will be appointed to the Appeal Committee.
2. The Chairperson shall be appointed by Common Council for a term determined by Common Council, or until he ceases to be a member of the Appeal Committee, whichever comes first.
3. Vice-Chairpersons shall be appointed by Common Council for a term determined by Common Council, or until he ceases to be a member of the Appeal Committee, whichever comes first.
4. Should a hearing of appeal be scheduled for multiple days or should an appeal regarding the same or common premises, structure, or building be heard in succession, Common Council can extend a term of a member of the Appeal Committee who has heard some or all of the appeal or appeals until all hearings have been completed and decisions rendered. This will occur on a case by case basis.

E. Duties of Chairperson/Vice-Chairperson

1. The Chairperson shall determine the time, date and place of hearings of the Appeal Committee.
2. A Vice-Chairperson is authorized to act as Chairperson in the event of the Chairperson's absence or his inability to act, or in the case of a vacancy in the chairmanship and, when so authorized, the Vice-Chairperson shall have all the powers and duties of the Chairperson.
3. All references in the Provisions Governing the Procedure and Operation of the Saint John Substandard Properties Appeal Committee referring to Chairperson shall include Vice-Chairperson when a Vice-Chairperson is authorized to act as the Chairperson.

F. Revocation of Appointment

1. Any appointment to the Appeal Committee may be revoked by Common Council at any time.
2. A member may resign at any time by submitting his resignation in writing to Common Council.
3. In the event that the membership of the Appeal Committee is increased, Common Council shall appoint such additional member(s) and amend the Provisions Governing the Procedure and Operation of the Appeal Committee accordingly.
4. In the event that the membership of the Appeal Committee is decreased, Common Council shall remove the necessary number of member(s) and amend the Provisions Governing the Procedure and Operation of the Appeal Committee accordingly.

G. Rules of Procedure

1. After receipt of a Notice of Appeal as required under subsection 9(1) of the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law* or subsection 27(1) of the *Saint John Minimum Property Standards By-Law*, the Common Clerk shall:
 - (a) obtain from the Growth and Community Development Services Department a copy of the Notice or Order to which the Notice of Appeal relates;
 - (b) promptly notify the Chairperson of the Appeal Committee;
 - (c) enface the original copy of the Notice of Appeal and all documents submitted by the Appellant with the date upon which it was received;
 - (d) assign and enface the Notice of Appeal and all documents submitted by the Appellant with a file number;
 - (e) retain and file the original Notice of Appeal and all documents submitted by the Appellant;
 - (f) forward a copy of the Notice of Appeal and all documents submitted by the Appellant, including the Notice or Order, to the Chairperson of the Appeal Committee;
 - (g) forward a copy of the Notice of Appeal and all documents submitted by the Appellant to a By-law Enforcement Officer; and

- (h) attempt to ascertain the Appellant's Official Language of choice.
2. The Appeal Committee shall hold a hearing during normal Business Hours within sixty calendar days after being advised by the Common Clerk that a Notice of Appeal has been sent to, and received by the Common Clerk, in accordance with subsection 9(3) of the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law* or subsection 27(3) of the *Saint John Minimum Property Standards*, with respect to:
- (a) premises which are allegedly unsightly;
 - (b) buildings or structures which have allegedly become a hazard to the safety of the public by reason of dilapidation or unsoundness of structural strength; or
 - (c) premises, dwellings, dwelling units or structures that allegedly do not meet the minimum property standards set out in the *Saint John Minimum Property Standards By-law* or the Residential Properties Maintenance and Occupancy Code which was adopted and incorporated by reference in said by-law.
3. The Common Clerk shall, at least ten calendar days before a scheduled hearing:
- (a) Advise a By-law Enforcement Officer of the date, time and place of the hearing.
 - (b) Notify the Appellant of the date, time and place of the hearing by causing the original or copy thereof of the Notice of Hearing to be given:
 - (i) if the Appellant is an individual, by personal service on the individual or by posting the Notice of Hearing in a conspicuous place on the premises, building or structure;
 - (ii) if the Appellant is a corporation, by personal service on an officer, director or agent of the corporation or on a manager or person who appears to be in control of any office or other place of business where the corporation carries on business in New Brunswick or by posting the Notice of Hearing in a conspicuous place on the premises, building or structure; or
 - (iii) if the Appellant is represented by counsel and his counsel is authorized to accept service, by service on his counsel.

4. Prior to hearing the submissions of the parties, the Chairperson shall ask the Appellant:
 - (a) to review the Notice or Order received from the Common Clerk; and
 - (b) confirm that the Notice or Order received from the Common Clerk is the Notice or Order that the Appellant is appealing.
5. The following order shall be followed by the Appeal Committee when hearing any representations and evidence:
 - (a) First, hear the representations and evidence presented by the Appellant in support of his Notice of Appeal.
 - (b) Second, hear the representations and evidence from the By-law Enforcement Officer in support of the Notice or Order.
 - (c) Third, offer the Appellant a chance to rebut the representations of and evidence from the By-law Enforcement Officer.
6. Should the Appellant wish to abandon his appeal, he shall file with the Common Clerk a Notice of Abandonment or provide written confirmation to the Common Clerk stating that he abandons his appeal.
7. A Notice of Appeal is deemed to have been abandoned when the Appellant or his counsel does not appear at the time, place and date set out in the Notice of Hearing.

H. Duties and Powers

1. The hearing of an appeal shall be heard by one member of the Appeal Committee, selected by the Chairperson, who shall have all the powers and duties of the Chairperson in regards to said appeal.
2. A quorum of the Appeal Committee shall consist of one member.
3. The Appeal Committee shall, when making its decision in an appeal involving premises which are allegedly unsightly, give due consideration to the following:
 - (a) whether the items involved are enumerated in subsection 6(1) of the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law*;
 - (b) the location from which the items involved are visible;

- (c) the location and use of the Property;
 - (d) any representations and evidence presented in support of the Notice that is being appealed; and
 - (e) any representations and evidence presented by the Appellant or his counsel.
4. The Appeal Committee shall, when making its decision in an appeal involving buildings or structures which have allegedly become a hazard to the safety of the public by reason of dilapidation or unsoundness of structural strength, give due consideration to the following:
- (a) section 13 of the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law*, which provides that a report from an Architect, an Engineer, a Building Inspector or the Fire Marshall stating that a building or structure is dilapidated or structurally unsound is proof in the absence of evidence to the contrary that a building or structure is dilapidated or structurally unsound;
 - (b) any representations and evidence presented in support of the Notice that is being appealed; and
 - (c) any representations and evidence presented by the Appellant or his counsel.
5. The Appeal Committee shall, when making its decision in an appeal involving premises, dwellings, dwelling units or structures which allegedly do not meet minimum property standards, give due consideration to the following:
- (a) the provisions of the *Saint John Minimum Property Standards By-law* and the Residential Properties Maintenance and Occupancy Code which was adopted and incorporated by reference in said by-law;
 - (b) any representations and evidence presented in support of the Order that is being appealed; and
 - (c) any representations and evidence presented by the Appellant or his counsel.

6. If the Appellant abandons his appeal or if neither the Appellant nor his counsel appears at the date, time and place fixed for hearing of the appeal or at a rescheduled date, the Appeal Committee shall:
 - (a) upon proof of service of the Notice of Hearing on the Appellant or his counsel, or upon proof that the Notice of Hearing was posted in a conspicuous place on the premises, building or structure in relation to the proceedings, carry out the following:
 - (i) return the Notice of Appeal and all documents submitted by the Appellant to the address shown on the Notice of Appeal; and
 - (ii) notify the Appellant in writing at the address shown on his Notice of Appeal of the decision of the Appeal Committee.

I. Hearings to be Public

1. All hearings before the Appeal Committee shall be open to the public.

J. Language of Proceedings

1. Prior to the commencement of an appeal hearing, the Chairperson shall confirm the Appellant's choice of Official Language for the hearing.
2. The "language of the Appellant" for the purposes of the appeal hearing, is the Official Language chosen by the Appellant. It does not have to be the Appellant's dominant language.
3. Where the Appellant does not indicate to the Chairperson his language of choice, the Appellant shall be deemed to have chosen the Official Language chosen by the Chairperson and the Chairperson shall ask if the Appellant objects to the hearing being conducted in that language.
4. Simultaneous interpretation shall be made available in circumstances where the language of the Appellant differs from the Official Language with which the members of the Appeal Committee are familiar.

K. Right to Counsel

1. A person who brings an appeal shall be heard by the Appeal Committee and may be represented by counsel.

L. Records of the Proceedings

1. The Appeal Committee shall keep records of its proceedings and shall use audio recording technology to record its appeal hearings.
2. The audio recording of a hearing may be destroyed one (1) calendar year after the hearing of the appeal if the Appellant did not exercise his right under subsection 9(8) of the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law* to appeal the Appeal Committee's decision to The Court of Queen's Bench of New Brunswick.

M. Decisions

1. The Appeal Committee shall provide a copy of its decision to the Appellant within fourteen (14) days after making its decision. The decision may confirm, modify or rescind the Notice or Order, or extend the time for complying with the Notice or Order.
2. The Appeal Committee's decision shall be dated and such date shall be the date of the decision.
3. All decisions of the Appeal Committee shall be written by the Appeal Committee member who acted as the Chairperson.

N. Conflict of Interest

1. Any member must excuse himself from participating in a hearing in circumstances where he has a conflict of interest.

O. Remuneration and Expenses

1. Members of the Appeal Committee will be remunerated as follows:
 - (a) \$600.00 per day of hearing.
2. Members of the Appeal Committee will be reimbursed for necessary expenses, reasonably and actually incurred by virtue of their participation in an Appeal Committee hearing.

P. Funding

1. The City of Saint John shall provide funding for the Appeal Committee's activities through its normal budgeting procedure.
2. The City of Saint John shall provide the following to the Appeal Committee:
 - (a) a venue where the hearings shall take place;

- (b) audio recording equipment which is sufficient to record the hearing;
- (c) secretarial services, as required;
- (d) official stationery, as required; and
- (e) such other incidental services or resources that are necessary for the proper functioning of the Appeal Committee.

Q. Office of the Appeal Committee

1. The address of the Appeal Committee shall be as follows:

Saint John Substandard Properties Appeal Committee
c/o The City of Saint John
Common Clerk
8th Floor, City Hall Building
P. O. Box 1971
Saint John, New Brunswick
E2L 4L1

R. Matters Not Provided For

1. Any matter of procedure or practice not expressly provided for in the Provisions Governing the Procedure and Operation of the Appeal Committee shall be left to the members of the Appeal Committee to decide.

**Règlement intérieur du
Comité des appels sur
les résidences non conformes
aux normes de Saint John**

En date du : 5 février 2019

PRÉAMBULE :

ATTENDU QUE, le paragraphe 10(1)(d) de la *Loi sur la gouvernance locale*, L.N.-B. 2017, ch. 18, prévoit que les gouvernements locaux peuvent, relativement à quelque fin municipale que ce soit, prendre des arrêtés concernant les lieux et les biens dangereux ou inesthétiques ; et

ATTENDU QUE, le paragraphe 7(1) de l'*Arrêté relatif aux lieux inesthétiques et aux bâtiments et constructions dangereux dans The City of Saint John* prévoit que lorsqu'existe une des situations mentionnées aux paragraphes 6(1), (2) ou (3), un AGENT CHARGÉ DE L'EXÉCUTION DES ARRÊTÉS peut aviser le propriétaire ou l'occupant des lieux ou du bâtiment ou d'une autre construction; et

ATTENDU QUE, le paragraphe 9(1) de l'*Arrêté relatif aux lieux inesthétiques et aux bâtiments et constructions dangereux dans The City of Saint John* prévoit que le propriétaire ou l'occupant des lieux, du bâtiment ou d'une autre construction à qui a été donné l'AVIS tel que le prévoit l'article 7, exception faite de l'AVIS écrit et signé en vertu du paragraphe 14(1), et qui n'accepte ni les modalités ni les conditions y énoncées peut interjeter appel au comité du CONSEIL COMMUNAL compétent en envoyant un AVIS D'APPEL par courrier recommandé au secrétaire de la municipalité dans les quatorze jours qui suivent la notification de l'AVIS; et

ATTENDU QUE, l'alinéa 10(1)e) de la *Loi sur la gouvernance locale*, L.N.-B. 2017, ch. 18, prévoit que les gouvernements locaux peuvent, relativement à quelque fin municipale que ce soit, prendre des arrêtés concernant les normes d'entretien et d'occupation des bâtiments et des locaux; et

ATTENDU QUE, le paragraphe 25(1) de l'*Arrêté concernant les normes minimales régissant les résidences de Saint John* prévoit que lorsque l'état des lieux, de l'habitation, du logement ou de la construction ne se conforme pas à cet arrêté, un AGENT CHARGÉ DE L'EXÉCUTION DES ARRÊTÉS peut aviser le propriétaire ou l'occupant des lieux, de l'habitation, du logement ou de la construction en délivrant une ORDONNANCE; et

ATTENDU QUE, le paragraphe 27(1) de l'*Arrêté concernant les normes minimales régissant les résidences de Saint John* prévoit que le propriétaire ou l'occupant des lieux, de l'habitation, du logement ou de la construction à qui une ORDONNANCE a été notifiée aux termes du paragraphe 25(2) et qui n'accepte pas les modalités ou les conditions qui y sont énoncées peut interjeter appel devant le comité du CONSEIL COMMUNAL compétent en envoyant un AVIS D'APPEL par courrier recommandé au secrétaire de la municipalité dans les quatorze jours qui suivent la notification de l'ORDONNANCE.

À CES CAUSES :

Est créé le *Comité des appels sur les résidences non conformes aux normes de Saint John*.

Le présent règlement intérieur régit le déroulement des travaux du *Comité des appels sur les résidences non conformes aux normes de Saint John*.

A. Définitions

1. Les mots écrits en petites capitales dans le présent document sont employés au sens des définitions qui suivent, sinon les mots ont le sens ordinaire en français.

« **ARCHITECTE** » Architecte professionnel autorisé à exercer au Nouveau-Brunswick.

« **AGENT CHARGÉ DE L'EXÉCUTION DES ARRÊTÉS** » Un AGENT CHARGÉ DE L'EXÉCUTION DES ARRÊTÉS, un agent des inspections ou agent des normes nommé conformément à l'*Arrêté relatif aux lieux inesthétiques et aux bâtiments et constructions dangereux dans The City of Saint John*, et désigné par résolution du CONSEIL COMMUNAL.

« **AVIS** » Avis de conformité émis en vertu de l'article 7 de l'*Arrêté relatif aux lieux inesthétiques et aux bâtiments et constructions dangereux dans The City of Saint John*.

« **AVIS D'APPEL** » Avis d'appel selon la forme prescrite à l'annexe « A » de ce document.

« **COMITÉ D'APPEL** » Le Comité des appels sur les résidences non conformes aux normes de Saint John.

« **CONSEIL COMMUNAL** » Le conseil élu de la municipalité.

« **GREFFIER COMMUNAL** » Le GREFFIER COMMUNAL ou le greffier communal adjoint de la municipalité.

« **HEURES D'OUVERTURE** » Entre 8 h 30 et 16 h 30 d'un JOUR OUVRABLE.

« **INGÉNIEUR** » Ingénieur ou cabinet de conseil en ingénierie qui est autorisé à exercer la profession d'ingénieur au Nouveau-Brunswick.

« **JOUR OUVRABLE** » Toute journée autre que le samedi, le dimanche ou un jour férié au Nouveau-Brunswick.

« **LANGUES OFFICIELLES** » Les deux langues officielles du Nouveau-Brunswick au sens de la *Loi sur les langues officielles*, L.N.-B. 2002, ch. O-0.5, ensemble ses modifications.

« **ORDONNANCE** » ORDONNANCE de conformité émise en vertu de l'article 25 de l'*Arrêté concernant les normes minimales régissant les résidences de Saint John*.

« **PRÉSIDENT** » Le président du COMITÉ D'APPEL.

« **RÉSIDENCE** » Résidence au sujet de laquelle un AVIS D'APPEL a été communiqué au GREFFIER COMMUNAL.

« **VICE-PRÉSIDENT** » Un vice-président du COMITÉ D'APPEL.

B. Interprétation

1. Intertitres : Les en-têtes, les intertitres et la numérotation du présent document sont donnés pour la commodité du lecteur uniquement et n'ont aucune incidence sur l'interprétation du document.
2. Genre et nombre : Le pluriel et le singulier s'appliquent indifféremment à l'unité et à la pluralité, et le masculin et le féminin s'appliquent indifféremment, suivant le contexte, aux personnes physiques de l'un ou l'autre sexe ou aux personnes morales.
3. Sources législatives : Toute source législative apparaît en italique dans le présent document. Dans chaque cas, la source vise également toutes les modifications apportées à la loi, y compris les lois de remplacement, ainsi que les règlements d'application. Dans le cas de références à d'autres arrêtés de la municipalité, la source vise également leurs modifications, y compris les arrêtés de remplacement.
4. Divisibilité : Le fait pour un tribunal judiciaire ou administratif compétent de déclarer nul un article, une clause ou une disposition du présent document n'a aucune incidence sur la validité de tout ou partie du document.

C. Composition du Comité des appels sur les résidences non conformes aux normes de Saint John et remplacements

1. Le COMITÉ D'APPEL est composé de trois membres, savoir le PRÉSIDENT et deux VICE-PRÉSIDENTS.
2. Tous les membres du COMITÉ D'APPEL doivent posséder les qualifications suivantes :

- a) être membre en règle du Barreau du Nouveau-Brunswick; et
 - b) avoir exercé activement le droit pendant au moins cinq ans.
- 3. En outre, au moins un membre du COMITÉ D'APPEL doit maîtriser les deux LANGUES OFFICIELLES.
 - 4. Le CONSEIL COMMUNAL nomme tous les membres qui siègent au COMITÉ D'APPEL.
 - 5. Le CONSEIL COMMUNAL procède diligemment au remplacement, pour le reste de son mandat, de tout membre du COMITÉ D'APPEL qui décède, démissionne, n'a plus les qualifications requises ou est destitué.

D. Durée des mandats

- 1. Le CONSEIL COMMUNAL fixe la durée du mandat de chaque membre du COMITÉ D'APPEL.
- 2. Le PRÉSIDENT demeure en fonction pendant la durée qu'a fixée le CONSEIL COMMUNAL, aussi longtemps qu'il reste membre du COMITÉ D'APPEL.
- 3. Les VICE-PRÉSIDENTS demeurent en fonction pendant la durée qu'a fixée le CONSEIL COMMUNAL, aussi longtemps qu'ils restent membres du COMITÉ D'APPEL.
- 4. Dans le cas où l'audition d'un appel doit s'étendre sur plusieurs jours ou que des appels concernant des lieux, une construction ou un bâtiment identiques ou communs doivent être entendus successivement, le CONSEIL COMMUNAL peut, en procédant au cas par cas, prolonger la durée du mandat d'un membre du COMITÉ D'APPEL qui a entendu tout ou partie de l'appel ou des appels jusqu'à la fin des audiences et du prononcé des décisions.

E. Fonctions du président et du vice-président

- 1. Le PRÉSIDENT fixe les date, heure et lieu des audiences du COMITÉ D'APPEL.
- 2. En cas d'absence ou d'empêchement du PRÉSIDENT ou de vacance à la présidence, un VICE-PRÉSIDENT peut assumer la présidence et exercer toutes les attributions de la charge.
- 3. Toute référence au PRÉSIDENT dans le présent document s'applique également au VICE-PRÉSIDENT autorisé à assumer la présidence.

F. Révocations

1. Toute nomination au COMITÉ D'APPEL est révocable au gré du CONSEIL COMMUNAL.
2. Un membre peut démissionner en présentant sa démission par écrit au CONSEIL COMMUNAL.
3. S'il faut accroître le nombre des membres du COMITÉ D'APPEL, le CONSEIL COMMUNAL nomme les membres additionnels et modifie le présent document en conséquence.
4. S'il faut diminuer le nombre des membres du COMITÉ D'APPEL, le CONSEIL COMMUNAL supprime les postes en trop et modifie le présent document en conséquence.

G. Règles de procédure

1. Saisi d'un AVIS D'APPEL déposé conformément au paragraphe 9(1) de l'*Arrêté relatif aux lieux inesthétiques et aux bâtiments et constructions dangereux dans The City of Saint John* ou du paragraphe 27(1) de l'*Arrêté concernant les normes minimales régissant les résidences de Saint John*, le GREFFIER COMMUNAL :
 - a) obtient du Service de la croissance et du développement communautaire une copie de l'AVIS auquel ou de l'ORDONNANCE à laquelle se rapporte l'AVIS D'APPEL;
 - b) en avise aussitôt le PRÉSIDENT du COMITÉ D'APPEL;
 - c) inscrit la date de réception au recto des originaux de l'AVIS D'APPEL et de tous les documents présentés par l'appelant;
 - d) inscrit un numéro de dossier au recto de l'AVIS D'APPEL et de tous les documents présentés par l'appelant;
 - e) conserve et classe les originaux de l'AVIS D'APPEL et de tous les documents présentés par l'appelant;
 - f) transmet une copie de l'AVIS D'APPEL et de tous les documents présentés par l'appelant, dont l'AVIS ou l'ORDONNANCE, au PRÉSIDENT du COMITÉ D'APPEL;

- g) transmet une copie de l'AVIS D'APPEL et de tous les documents présentés par l'appelant à un AGENT CHARGÉ DE L'EXÉCUTION DES ARRÊTÉS;
 - h) s'efforce d'identifier la LANGUE OFFICIELLE de prédilection de l'appelant.
2. Mis au courant par le GREFFIER COMMUNAL d'un AVIS D'APPEL déposé conformément au paragraphe 9(3) de l'*Arrêté relatif aux lieux inesthétiques et aux bâtiments et constructions dangereux dans The City of Saint John* ou du paragraphe 27(3) de l'*Arrêté concernant les normes minimales régissant les résidences de Saint John*, le COMITÉ D'APPEL tient dans les soixante jours civils qui suivent, pendant les HEURES D'OUVERTURE normales, une audience au sujet, selon le cas :
- a) des lieux qui seraient inesthétiques;
 - b) des bâtiments ou des constructions qui seraient devenus dangereux pour la sécurité du public du fait de leur délabrement ou de leur manque de solidité;
 - c) des lieux, des habitations, des logements ou des constructions qui ne répondraient pas aux normes minimales énoncées dans l'*Arrêté concernant les normes minimales régissant les résidences de Saint John* ou le *Règlement portant approbation du code d'entretien et d'occupation des résidences* qui a été adopté et intégré par renvoi dans ledit arrêté.
3. Au moins dix jours civils avant l'audience, le GREFFIER COMMUNAL :
- a) informe un AGENT CHARGÉ DE L'EXÉCUTION DES ARRÊTÉS des date, heure et lieu de l'audience.
 - b) avise l'appelant des date, heure et lieu de l'audience en lui communiquant l'original ou une copie de l'avis d'audience de la façon suivante :
 - (i) dans le cas où l'appelant est un particulier, par signification en main propre ou par son affichage en un endroit bien visible des lieux, du bâtiment ou de la construction,
 - (ii) dans le cas où l'appelant est une personne morale, par signification en main propre à un de ses dirigeants, administrateurs ou représentants ou à un gestionnaire ou une personne qui paraît être responsable d'un bureau ou de quelque autre établissement de la personne morale au

Nouveau-Brunswick ou par son affichage en un endroit bien visible des lieux, du bâtiment ou de la construction,

- (iii) dans le cas où l'appelant est représenté par un avocat autorisé à accepter la signification, par signification à l'avocat.

4. Avant d'entendre les parties, le PRÉSIDENT demande à l'appelant :
 - a) d'examiner l'AVIS ou l'ORDONNANCE reçue du GREFFIER COMMUNAL;
 - b) de confirmer que cet AVIS ou cette ORDONNANCE est bien l'AVIS ou l'ORDONNANCE dont il interjette appel.
5. L'audition des observations et de la preuve par le COMITÉ D'APPEL se déroule dans l'ordre suivant :
 - a) premièrement, il entend les observations et la preuve présentées par l'appelant à l'appui de son AVIS D'APPEL;
 - b) deuxièmement, il entend les observations et la preuve d'un AGENT CHARGÉ DE L'EXÉCUTION DES ARRÊTÉS à l'appui de l'AVIS ou de l'ORDONNANCE;
 - c) troisièmement, il donne la chance à l'appelant de réfuter les observations et la preuve de l'AGENT CHARGÉ DE L'EXÉCUTION DES ARRÊTÉS.
6. L'appelant qui désire abandonner son appel dépose un avis d'abandon auprès du GREFFIER COMMUNAL ou lui confirme par écrit qu'il abandonne son appel.
7. L'AVIS D'APPEL est réputé être abandonné si l'appelant ou son avocat ne se présente pas aux date, heure et lieu énoncés dans l'avis d'audience.

H. Exercice des attributions

1. Chaque appel est entendu par un membre du COMITÉ D'APPEL que choisit le PRÉSIDENT et qui a tous les pouvoirs et toutes les fonctions du PRÉSIDENT à l'égard de l'appel.
2. Le quorum du COMITÉ D'APPEL est d'un membre.
3. En prenant sa décision à l'issue d'un appel relatif à des lieux qui seraient inesthétiques, le COMITÉ D'APPEL doit tenir compte de ce qui suit :

- a) le fait que les choses en question sont énumérées ou non au paragraphe 6(1) de l'*Arrêté relatif aux lieux inesthétiques et aux bâtiments et constructions dangereux dans The City of Saint John*;
 - b) l'endroit à partir duquel les choses en question sont faciles à voir;
 - c) l'emplacement et l'utilisation de la RÉSIDENCE;
 - d) toute observation ou preuve présentée à l'appui de l'AVIS objet de l'appel;
 - e) toute observation ou preuve présentée par l'appelant ou son avocat.
4. En prenant sa décision à l'issue d'un appel relatif à des bâtiments ou à des constructions qui seraient devenus dangereux pour la sécurité du public du fait de leur délabrement ou de leur manque de solidité, le COMITÉ D'APPEL doit tenir compte de ce qui suit :
- a) l'article 13 de l'*Arrêté relatif aux lieux inesthétiques et aux bâtiments et constructions dangereux dans The City of Saint John*, qui dispose qu'un rapport émanant d'un ARCHITECTE, d'un INGÉNIEUR, d'un inspecteur des constructions ou du prévôt des incendies établissant qu'un bâtiment ou une construction est délabré ou manque de solidité fait foi, en l'absence d'une preuve contraire, du délabrement ou du manque de solidité de ce bâtiment ou de cette construction;
 - b) toute observation ou preuve présentée à l'appui de l'AVIS objet de l'appel;
 - c) toute observation ou preuve présentée par l'appelant ou son avocat.
5. En prenant sa décision à l'issue d'un appel relatif à des lieux, des habitations, des logements ou des constructions qui ne répondraient pas aux normes minimales régissant les résidences, le COMITÉ D'APPEL doit tenir compte de ce qui suit :
- a) les dispositions de l'*Arrêté concernant les normes minimales régissant les résidences de Saint John* et du *Règlement portant approbation du code d'entretien et d'occupation des résidences* qui a été adopté et intégré par renvoi dans ledit arrêté;
 - b) toute observation ou preuve présentée à l'appui de l'ORDONNANCE objet de l'appel;

- c) toute observation ou preuve présentée par l'appelant ou son avocat.
- 6. Si l'appelant abandonne son appel ou si l'appelant ou son avocat omet de se présenter aux date, heure et lieu fixés pour l'audition de l'appel ou à une date de remplacement, le COMITÉ D'APPEL :
 - a) constatant, preuve à l'appui, que l'avis d'audience a été signifié à l'appelant ou à son avocat ou que l'avis d'audience a été affiché en un endroit bien visible des lieux, du bâtiment ou de la construction visés :
 - (i) retourne l'AVIS D'APPEL et tous les documents présentés par l'appelant à l'adresse indiquée dans l'AVIS D'APPEL;
 - (ii) avise l'appelant par écrit, à l'adresse indiquée dans son AVIS D'APPEL, de la décision du COMITÉ D'APPEL.

I. Publicité des audiences

- 1. Toutes les audiences du COMITÉ D'APPEL sont ouvertes au public.

J. Langue des procédures

- 1. Avant l'audition d'un appel, le PRÉSIDENT vérifie quelle est la LANGUE OFFICIELLE de prédilection de l'appelant pour le déroulement de l'audience.
- 2. La « langue de l'appelant » pour l'audition de l'appel est la LANGUE OFFICIELLE choisie par l'appelant, quelle que soit sa langue principale.
- 3. L'appelant qui omet de dire au PRÉSIDENT quelle est sa langue de prédilection est réputé avoir choisi la LANGUE OFFICIELLE choisie par le PRÉSIDENT, lequel demande alors à l'appelant s'il s'oppose à ce que l'audience se déroule dans cette langue.
- 4. La traduction simultanée est utilisée dans les cas où la langue de l'appelant diffère de la LANGUE OFFICIELLE connue des membres du COMITÉ D'APPEL.

K. Droit aux services d'un avocat

- 1. La personne qui interjette appel est entendue par le COMITÉ D'APPEL et peut être représentée par un avocat.

L. Enregistrement des actes du comité

1. Le COMITÉ D'APPEL consigne ses actes dans des dossiers et fait des enregistrements sonores de ses audiences.
2. L'enregistrement sonore d'une audience peut être détruit douze mois après l'audition de l'appel, si l'appelant n'a pas exercé son droit d'appeler de la décision du COMITÉ D'APPEL devant la Cour du Banc de la Reine du Nouveau-Brunswick en vertu du paragraphe 9(8) de l'*Arrêté relatif aux lieux inesthétiques et aux bâtiments et constructions dangereux dans The City of Saint John*.

M. Décisions

1. Le COMITÉ D'APPEL doit fournir une copie de sa décision à l'appelant dans les quatorze jours suivant la date à laquelle il a rendu sa décision. La décision peut confirmer, modifier ou annuler l'AVIS ou l'ORDONNANCE ou proroger le délai pour s'y conformer.
2. Les décisions du COMITÉ D'APPEL sont datées, la date étant celle de la décision.
3. Toutes les décisions du COMITÉ D'APPEL sont rédigées par le membre qui exerçait la présidence.

N. Conflit d'intérêts

1. Un membre doit s'abstenir de participer à une audience s'il est en conflit d'intérêts.

O. Rémunération et dépenses

1. Les membres du COMITÉ D'APPEL reçoivent la rémunération suivante :
 - a) 600 \$ par journée d'audience.
2. Les membres du COMITÉ D'APPEL sont indemnisés des dépenses nécessaires engagées raisonnablement et effectivement à l'occasion de leur participation à une audience du COMITÉ D'APPEL.

P. Financement

1. La municipalité finance les activités du COMITÉ D'APPEL dans le cadre de son processus budgétaire habituel.
2. La municipalité fournit ce qui suit au COMITÉ D'APPEL :
 - a) le lieu d'audience;

- b) le matériel audio nécessaire pour enregistrer l'audience;
- c) les services de secrétariat, au besoin;
- d) le papier à lettres officiel, au besoin;
- e) les autres services ou ressources connexes qui sont nécessaires au bon fonctionnement du COMITÉ D'APPEL.

Q. Siège du COMITÉ D'APPEL

1. L'adresse du COMITÉ D'APPEL est la suivante :

Comité des appels sur les résidences non conformes aux normes de
Saint John
a/s The City of Saint John
Greffier communal
8^e étage, Édifice de l'hôtel de ville
C.P. 1971
Saint John (Nouveau-Brunswick)
E2L 4L1

R. Questions non prévues

1. Le COMITÉ D'APPEL est habilité à trancher toute question de procédure non réglée expressément dans le présent document.

Schedule "A"

**FORM 1
NOTICE OF APPEAL**

File No.: _____

BETWEEN :

_____,
Appellant(s),

- and -

THE CITY OF SAINT JOHN,

Respondent.

Parcel Identifier : PID #

Parcel Address: _____

Owner(s) or Occupier(s):

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

The above named appellant(s) is (are) not satisfied
with the terms and conditions set out in:

Annexe « A »

**FORMULE 1
AVIS D'APPEL**

N° du dossier : _____

ENTRE :

_____,
Appellant(s),

- et -

THE CITY OF SAINT JOHN,

Intimée.

Numéro d'identification de la parcelle : # NID

Adresse de la parcelle : _____

Propriétaire(s) ou occupant(s) :

Nom : _____

Adresse : _____

Téléphone: _____

Nom : _____

Adresse : _____

Téléphone: _____

L'appelant ou les appelants susnommé(s) n'accepte(nt)
pas les modalités ou les conditions qui sont énoncés

dans :

(a) a Notice that was given under section 7 of the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law*; or

(b) an Order that was issued under section 25 of the *Saint John Minimum Property Standards By-Law*;

and therefore appeals to the *Saint John Substandard Properties Appeal Committee*.

The appellant's grounds for this appeal are as follows
(*set out the grounds clearly but briefly*):

(a) un AVIS qui a été donné en vertu de l'article 7 de l'*Arrêté relatif aux lieux inesthétiques et aux bâtiments et constructions dangereux dans The City of Saint John*; ou

(b) une ORDONNANCE qui a été émise en vertu de l'article 25 de l'*Arrêté concernant les normes minimales régissant les résidences de Saint John*

et fait ainsi appel devant le *Comité des appels sur les résidences non conformes aux normes de Saint John*.

Les motifs d'appel de l'appelant(s) dans le présent appel sont les suivants (*énoncer les motifs de façon claire et concise*) :

Dated at _____ the _____ day of _____, 20____.

Fait à _____ le _____ 20____.

Signature of owner or occupier

Signature du propriétaire ou de l'occupant

The appellant(s) intends to proceed in the English [] or French [] language (*Please check the appropriate box*).

L'appelant a ou les appelants ont l'intention d'utiliser la langue française [] ou anglaise [] (*Veuillez cocher la case appropriée*).

*Please forward your Notice of Appeal by registered mail to the Common Clerk within **fourteen (14) days** after having been given the Notice or Order at the following address:*

*Veuillez faire parvenir votre AVIS D'APPEL par courrier recommandé au greffier communal dans les **quatorze (14) jours** qui suivent la notification de l'AVIS ou de l'ORDONNANCE à l'adresse suivante :*

Common Clerk's Office
15 Market Square, City Hall Building, 8th Floor
P. O. Box 1971

Bureau du greffier communal
15 Market Square, Édifice de l'hôtel de ville, 8^e étage
Case postale 1971

Saint John, New Brunswick
E2L 4L1

Telephone: 506-658-2862
Facsimile: 506-674-4214

Notes:

1. A Notice or Order that is not appealed within ***fourteen (14) days*** after having been given or issued shall be deemed to be confirmed.

2. On an appeal, the *Saint John Substandard Properties Appeal Committee* shall hold a hearing into the matter at which the owner(s) or occupier(s) bringing the appeal has (have) a right to be heard and may be represented by counsel.

3. On an appeal, the *Saint John Substandard Properties Appeal Committee* may confirm, modify or rescind the Notice or Order, or extend the time for complying with the Notice or Order.

4. The *Saint John Substandard Properties Appeal Committee* shall provide a copy of its decision to the owner(s) or occupier(s) of the premises, building or structure who brought the appeal within ***fourteen (14) days*** after making its decision.

5. The owner(s) or occupier(s) who is provided with a copy of a decision from the *Saint John Substandard Properties Appeal Committee* regarding a Notice, may appeal the decision to a judge of The Court of Queen's Bench of New Brunswick within ***fourteen (14) days*** after the copy of the decision was provided to the owner(s) or occupier(s) on the grounds that (a) the procedure required to be followed by the by-law was not followed, or (b) the decision is unreasonable.

Saint John (Nouveau-Brunswick)
E2L 4L1

Téléphone : 506-658-2862
Facsimilé : 506-674-4214

Notes :

1. Un AVIS ou une ORDONNANCE dont il n'est pas interjeté appel dans les ***quatorze (14) jours*** qui suivent la notification de l'AVIS ou l'émission de l'ORDONNANCE est réputé confirmé.

2. Lors d'un appel, le *Comité des appels sur les résidences non conformes aux normes de Saint John* doit tenir, sur le point en litige, une audience au cours de laquelle le(s) propriétaire(s) ou l'occupant ou les occupants qui interjette(nt) appel a (ont) le droit d'être entendu(s) et peut (peuvent) se faire représenter par un avocat.

3. Lors d'un appel, le *Comité des appels sur les résidences non conformes aux normes de Saint John* peut confirmer, modifier ou annuler l'AVIS ou l'ORDONNANCE ou proroger le délai pour s'y conformer.

4. Le *Comité des appels sur les résidences non conformes aux normes de Saint John* doit fournir une copie de sa décision au(x) propriétaire(s) ou à l'occupant ou aux occupants des lieux, du bâtiment ou de la construction qui lui a (ont) interjeté appel dans les ***quatorze (14) jours*** suivant la date à laquelle il a rendu sa décision.

5. Le(s) propriétaire(s) ou l'occupant ou les occupants à qui une copie d'une décision a été fournie par le *Comité des appels sur les résidences non conformes aux normes de Saint John* concernant un AVIS peut (peuvent), dans les ***quatorze (14) jours*** qui suivent, interjeter appel de la décision devant un juge de la Cour du Banc de la Reine du Nouveau-Brunswick au motif que (a) la démarche à suivre en vertu de l'arrêté n'a pas été suivie, ou (b) la décision est déraisonnable.

COUNCIL REPORT

M&C No.	2019-54
Report Date	March 19, 2019
Meeting Date	March 25, 2019
Service Area	Saint John Water

His Worship Mayor Don Darling and Members of Common Council

SUBJECT: Public Information Session: King Square South (Charlotte Street to Civic #12) & Queen Square North (Charlotte Street to Sydney Street)

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>Kevin O'Brien/Joel Landers</i>	<i>Brent McGovern / Brian Keenan</i>	<i>John Collin</i>

RECOMMENDATION

It is recommended that this report be received and filed.

EXECUTIVE SUMMARY

The purpose of this report is to inform Council of a Public Information Session that will be held in relation to the King Square South (Charlotte Street to Civic #12) – Watermain Renewal and Storm Sewer Installation and Queen Square North (Charlotte Street to Sydney Street) – Water main, Sanitary and Storm Sewer Installation and Street Reconstruction projects, and to update Council on the status of the projects.

PREVIOUS RESOLUTION

February 11, 2019; Contract 2019-08: King Square South (Charlotte Street to Civic #12) – Watermain Renewal and Storm Sewer Installation Awarded.

February 11, 2019; Contract 2019-04: Queen Square North (Charlotte Street to Sydney Street) – Water main, Sanitary and Storm Sewer Installation and Street Reconstruction Awarded.

REPORT

The approved Water & Sewerage Utility Fund and General Fund Capital Programs include projects for the design and renewal of the watermain and the installation of a new storm sewer on King Square South from Charlotte Street to civic #12 and for the design and reconstruction of Queen Square North from Charlotte Street to Sydney Street.

The tender for King Square South has closed and the contract was awarded to Fairville Construction Ltd. at the February 11, 2019 Council meeting. Construction is expected to begin in late April, 2019 and continue until late May, 2019. This is a significant project that will impact the local area during construction.

The tender for Queen Square North has closed and the contract was awarded to Galbraith Construction Ltd. at the February 11, 2019 Council meeting. Construction is expected to begin in late April, 2019 and continue until July, 2019. This is a major project that will impact the local area during construction.

It is for these reasons that staff have decided to hold a Public Information Session to allow local residents and business owners an opportunity to view each of the project design drawings, ask questions and give their feedback. The Public Information Session will be held at the Trinity Church (Bennett Room) at 115 Charlotte Street on Wednesday, April 3, 2019, from 2-4 p.m. and 6-8 p.m. This report is being provided for the information of Council and to extend an invitation to any Councillors who may wish to attend the Public Information Session.

The Public Information Session will be advertised on the City's website and copies of the attached notices will be delivered door to door in each of the respective project areas.

STRATEGIC ALIGNMENT

This report aligns with Council's Priority for Valued Service Delivery, specifically as it relates to investing in sustainable City services and municipal infrastructure.

SERVICE AND FINANCIAL OUTCOMES

The municipal infrastructure on these streets is in poor condition and requires replacement. The renewal of the infrastructure will reduce the likelihood of future service disruptions to the local residents due to infrastructure failures. The storm water and sanitary sewer flows will also be separated on both streets.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

N/A

ATTACHMENTS

King Square South Public Information Session Notice
Queen Square North Public Information Session Notice



The City of Saint John

PUBLIC INFORMATION SESSION

KING SQUARE SOUTH (CHARLOTTE STREET TO CIVIC #12) – WATERMAIN RENEWAL AND STORM SEWER INSTALLATION

The City of Saint John will be installing new infrastructure on King Square South from Charlotte Street to Civic #12. There will be a new water main and storm sewer installed, including renewal of existing services up to the property line. Following this work, new granite curb and brick median will be installed on the south side of King Square South from Charlotte Street to Civic #12 and the street from Charlotte Street to Sydney Street will be resurfaced as part of the 2019 Asphalt Resurfacing Program.

The underground portion of this work is planned to begin in late April and is expected to continue into May 2019. Prior to construction, another notice will be distributed to inform residents and business owners of the actual construction schedule. Although there will be water interruptions and delays in traffic, it is our intent to keep these inconveniences to a minimum.

This project is part of the City's ongoing commitment to continually improve its infrastructure.

This project is part of the 2018 City of Saint John Water & Sewerage Utility Fund Capital Program and the General Fund Capital Program.

Representatives from the City of Saint John will be available to answer questions related to the project. The public is invited to attend an information session on this project on the following date and times:

Date: Wednesday, April 3, 2019

Time: 2:00 – 4:00 pm and 6:00 – 8:00 pm

**Location: Trinity Church (Bennett Room)
115 Charlotte Street**

For further information about this project contact the City of Saint John Transportation and Environment Services at (506) 658-4455.



The City of Saint John

PUBLIC INFORMATION SESSION

QUEEN SQUARE NORTH (CHARLOTTE STREET TO SYDNEY STREET) **– WATER, SANITARY AND STORM SEWER INSTALLATION AND STREET RECONSTRUCTION**

The City of Saint John will be installing new infrastructure on Queen Square North from Charlotte Street to Sydney Street. There will be new water main, sanitary sewer, and storm sewer installed, including renewal of existing services to each residence up to the property line. New curb and sidewalk will be installed and full road reconstruction will be undertaken including the addition of a grass median on one side of the street.

Construction is planned to begin in late April and is expected to continue into July 2019. Prior to construction, another notice will be distributed to inform residents and business owners of the actual construction schedule. Although there will be water interruptions and delays in traffic, it is our intent to keep these inconveniences to a minimum.

This project is part of the City's ongoing commitment to continually improve its infrastructure.

This project is part of the 2019 City of Saint John Water & Sewerage Utility Fund Capital Program and the General Fund Capital Program.

Representatives from the City of Saint John will be available to answer questions related to the project. The public is invited to attend an information session on this project on the following date and times:

Date: Wednesday, April 3, 2019

Time: 2:00 – 4:00 pm and 6:00 – 8:00 pm

**Location: Trinity Church (Bennett Room)
115 Charlotte Street**

For further information about this project contact the City of Saint John Transportation and Environment Services at (506) 658-4455.

COUNCIL REPORT

M&C No.	2019-53
Report Date	March 18, 2019
Meeting Date	March 25, 2019
Service Area	Saint John Water

His Worship Mayor Don Darling and Members of Common Council

SUBJECT: Public Information Session: Ellerdale Street (Valley Street to Margaret Street) – 200mm Water Main

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>John Campbell</i>	<i>Brent McGovern / Brian Keenan</i>	<i>John Collin</i>

RECOMMENDATION

It is recommended that this report be received and filed.

EXECUTIVE SUMMARY

The purpose of this report is to inform Council of a Public Information Session that will be held in relation to the Ellerdale Street (Valley Street to Margaret Street) – 200mm Water Main project, and to update Council on the status of the project.

PREVIOUS RESOLUTION

July 30, 2018; (M&C 2018-219) 2019 Water & Sewerage Utility Fund Capital Program Approved.

February 25, 2019; (M&C 2019-34) Contract 2019-12 Ellerdale Street – 200mm Water Main Awarded.

REPORT

The approved Water & Sewerage Utility Fund Program includes funding for the installation of a new 200mm water main on Ellerdale Street, between Valley Street and Margaret Street, to facilitate the removal of water services from the 400mm Concrete Pressure Pipe (CPP) and to repair the holes where the services were removed.

Tenders for this work were closed on February 14, 2019 and the contract was awarded to the low-bidder, Galbraith Construction Ltd.

This is a significant project that will have an impact on the traffic flow through the local area during construction.

It is for this reason that staff have decided to hold a Public Information Session to allow local residents and business owners an opportunity to view the project design drawings, ask questions and give their feedback. The Public Information Session will be held at the Simonds Lions Auditorium at 185 Loch Lomond Road (Loch Lomond Villa) on Wednesday, March 27, from 5-8 p.m. This report is being provided for the information of Council and to extend an invitation to any Councillors who may wish to attend the Public Information Session.

The Public Information Session will be advertised on the City's website and copies of the attached notice will be delivered door to door in project area.

STRATEGIC ALIGNMENT

This report aligns with Council's Priority for Valued Service Delivery, specifically as it relates to investing in sustainable City services and municipal infrastructure.

SERVICE AND FINANCIAL OUTCOMES

The installation of new the infrastructure will reduce the likelihood of future service disruptions to the local residents due to infrastructure failures.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

N/A

ATTACHMENTS

Ellerdale Street Public Information Session Notice



The City of Saint John

PUBLIC INFORMATION SESSION

ELLERDALE STREET – 200MM WATER MAIN

The City of Saint John will be installing new infrastructure on Ellerdale Street between Valley Street and Margaret Street. There will be new water main, valves and hydrants including renewal of existing water services up to the property line.

Construction is planned to begin in mid-April and is expected to continue into July 2019. Prior to construction, another notice will be distributed to inform residents and business owners of the actual construction schedule. Although there will be water interruptions and changes/delays in traffic flow, it is our intent to keep these inconveniences to a minimum.

This project is part of the City's ongoing commitment to continually improve its infrastructure.

This project is part of the 2019 City of Saint John Water & Sewerage Utility Fund Capital Program.

Representatives from the City of Saint John will be available to answer questions related to the project. The public is invited to attend an information session on this project on the following date and time:

Date: Wednesday, March 27, 2019

Time: 5:00 – 8:00 pm

**Location: Simonds Lions Auditorium (Loch Lomond Villa)
185 Loch Lomond Road**

For further information about this project contact the City of Saint John Transportation and Environment Services at (506) 658-4455.

COUNCIL REPORT

M&C No.	2019-52
Report Date	March 08, 2019
Meeting Date	March 25, 2019
Service Area	Saint John Water

His Worship Mayor Don Darling and Members of Common Council

SUBJECT: 2019 Engineering Inspection Services

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>Joel Landers</i>	<i>Brent McGovern/Brian Keenan</i>	<i>John Collin</i>

RECOMMENDATION

It is recommended that Common Council authorize staff to establish supply agreements with the seven consulting firms noted below, at the hourly rates provided in this report totaling \$620,000 plus HST for the provision of engineering inspection services for 2019 Capital Program projects.

EXECUTIVE SUMMARY

The purpose of this report is to have Common Council authorize staff to establish supply agreements totaling \$620,000 plus HST for the provision of engineering inspection services.

PREVIOUS RESOLUTION

July 30, 2018; 2019 Water & Sewerage Utility Fund Capital Program approved

July 30, 2018; 2019 General Fund Capital Program approved

REPORT

Common Council has approved the 2019 Water & Sewerage Utility Fund Capital Program consisting of 26 projects totaling \$7,595,500 and the 2019 General Fund (Storm & Transportation) Capital Program consisting of 14 projects totaling \$8,417,000.

A portion of the projects in the 2019 Capital Programs are being designed “in-house” and will require engineering inspection services during construction. There will be a requirement to provide engineering inspection for approximately 14 “in-house” designed projects during the 2019 construction season.

In order to ensure that adequate engineering inspection resources are available to the City for the approved Capital Program projects, staff have issued a Request for Proposal (RFP) for engineering inspection services. The RFP was issued to eight local consulting firms that have the appropriate resources on staff capable of providing engineering inspection services on municipal type projects.

Seven firms have submitted proposals in response to the RFP, providing resumés for inspection resources including hourly rates. The seven firms that replied were:

- Crandall Engineering Ltd.
- CBCL Limited
- Dillon Consulting Limited
- GEMTEC Limited
- WSP Canada Inc.
- Stantec Consulting Ltd.
- EXP Services Inc.

No single firm has the resources in place to provide all the required engineering inspection services. The hourly rates submitted by the consultants with their proposals were similar so staff averaged the rates and established one hourly rate for each of the three levels of inspectors – Junior, Intermediate and Senior – as follows:

Junior Inspector	-	\$74
Intermediate Inspector	-	\$84
Senior Inspector	-	\$96

The hourly rates include all miscellaneous expenses (car, cellular telephone, digital camera, etc.) and do not include H.S.T. All seven engineering firms have confirmed they are in agreement with the above rates.

The City will determine the appropriate level of inspector required for a given project and then request the engineering inspection services from the seven consulting firms on a rotational basis.

STRATEGIC ALIGNMENT

This report aligns with Council’s Priority for Valued Service Delivery, specifically as it relates to investing in sustainable City services and municipal infrastructure.

SERVICE AND FINANCIAL OUTCOMES

The total overall cost for engineering inspection services for 2019 is difficult to predict as there are a number of variables; most significant of which is how many contractors and the number of construction crews that will be working at a given time period. Staff has estimated the overall value of the engineering inspection services for 2019 to be approximately \$620,000 plus 15% H.S.T.

Funds to cover the cost of the engineering inspection service are included in the approved 2019 Capital Program project budgets.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

The Request for Proposal document and this report have been reviewed with the City's Materials Management Department and they support the recommendation being put forth.

ATTACHMENTS

None

COUNCIL REPORT

M&C No.	2019-63
Report Date	March 20, 2019
Meeting Date	March 25, 2019
Service Area	Saint John Water

His Worship Mayor Don Darling and Members of Common Council

SUBJECT: Contract 2019-09: M-R-G Forcemain Renewal – Phase 1

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>John Campbell</i>	<i>Brent McGovern / Brian Keenan</i>	<i>John Collin</i>

RECOMMENDATION

It is recommended that Contract No. 2019-09: M-R-G Forcemain Renewal – Phase 1 be awarded to the low Tenderer, Galbraith Construction Ltd., at the tendered price of \$475,264.99 (including HST) as calculated based upon estimated quantities, and further that the Mayor and Common Clerk be authorized to execute the necessary contract documents.

EXECUTIVE SUMMARY

The purpose of this report is to recommend that Council award Contract 2019-09: M-R-G Forcemain Renewal – Phase 1 to the low Tenderer.

PREVIOUS RESOLUTIONS

December 9, 2013, (M&C 2013-272), 2014 Water & Sewerage Utility Fund Capital Program Approved.

June 9, 2014, (M&C 2014-89), Land Acquisition – Portion of PID# 000405589, 730 Dever Road – Maritime Paper Products GP Limited Adopted.

September 29, 2014, (M&C 2014-168), Consent Agreement for Proposed Encroachment of Brunswick Pipeline KP-23.525 Adopted.

July 9, 2018, (M&C 2018-197), Easement Acquisition – Gifford Road Portions of PIDs # 36657, 55109656, 55109649, 55185755, 55185730, 55185748, &55024343 Adopted.

February 25, 2019, (M&C 2017-236), Emera Reinstatement, Continuation & Amending Agreement Required for 2019-09: M-R-G Forcemain Renewal – Phase 1 Adopted.

REPORT

BACKGROUND

The approved Water and Sewerage Utility Fund Capital Program includes funding for renewal of the sanitary forcemain in the Greenhead Road / Dever Road area between X Station and Y Station. The existing forcemain is deteriorated and requires replacement.

The implementation of this project has spanned several years as a result of the easement acquisitions and agreements required. This Work could not be tendered until all Agreements were in place.

TENDER RESULTS

Tenders closed on March 19, 2019 with the following results, including HST:

- | | |
|---|---------------|
| 1. Galbraith Construction Ltd., Saint John, NB | \$ 475,264.99 |
| 2. Fairville Construction Ltd., Saint John, NB | \$ 492,440.06 |
| 3. Keel Construction Ltd., Grand Bay-Westfield, NB | \$ 499,802.65 |
| 4. TerraEx Inc., Saint John, NB | \$ 607,987.75 |
| 5. Dexter Construction Company Ltd., Saint John, NB | \$ 792,936.50 |

The Engineer's estimate for the work was \$564,035 including HST.

ANALYSIS

The tenders were reviewed by staff and all were found to be formal in all respects. Staff is of the opinion that the low tenderer has the necessary resources and expertise to perform the work, and recommend acceptance of their tender.

FINANCIAL IMPLICATIONS

The Contract includes work that is charged against the Water and Sewerage Utility Fund Capital Program. Assuming award of the Contract to the low tenderer, an analysis has been completed which includes the estimated amount of work that will be performed by the Contractor and Others.

The analysis is as follows:

Budget	\$ 850,000.00
Project net cost	\$ 466,897.00
Variance (Surplus)	\$ 383,103.00

POLICY – TENDERING OF CONSTRUCTION CONTRACTS

The recommendation in this report is made in accordance with the provisions of Council’s policy for the tendering of construction contracts, the City’s General Specifications and the specific project specifications.

STRATEGIC ALIGNMENT

This report aligns with Council’s Priority for Valued Service Delivery, specifically as it relates to investing in sustainable City services and municipal infrastructure.

SERVICE AND FINANCIAL OUTCOMES

The new forcemain is required to reduce the likelihood of future, large-scale service disruptions and environmental impacts due to infrastructure failures.

This project will be completed within the original approved financial budget.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

N/A

ATTACHMENTS


N/A



The City of Saint John

PROCLAMATION

- WHEREAS:*** Purple Day is a global effort dedicated to promoting epilepsy awareness in countries around the world; and
- WHEREAS:*** Purple Day was founded in 2008 by Cassidy Megan, a nine-year-old girl from Nova Scotia, who wanted people to know that if you have epilepsy, you are not alone; and
- WHEREAS:*** epilepsy is one of the most common neurological conditions, estimated to affect more than 50 million people worldwide, and more than 300,000 people in Canada; and
- WHEREAS:*** the public is often unable recognize the common seizure types, or how to respond with appropriate first aid; and
- WHEREAS:*** Purple Day will be celebrated on March 26th annually to increase understanding, reduce stigma and improve the quality of life for people with epilepsy throughout the country and globally.

NOW THEREFORE: I, *Mayor Don Darling*,  of *Saint John* do hereby proclaim the week of March 26th, 2019 as “Purple Day” in the City of Saint John in an effort to raise epilepsy awareness everywhere.

In witness whereof I have set my hand and affixed the official seal of the Mayor of the City of Saint John.





SAINT JOHN ARTS CENTRE

Presentation to
City of Saint John
Common Council
March 25, 2019





SJAC'S **MISSION** **STATEMENT**

The Saint John Arts Centre advances the culture and economy of Saint John, by providing critical infrastructure for the growth and development of the arts.

By incubating and developing talent, the Arts Centre strengthens our community by fostering connections and collaboration, locally and beyond.



SJAC Mural Project

The Saint John Arts Centre is seeking permission from Saint John Common Council to have a bright and exciting mural painted on a portion of the Carnegie Building.



BUILDING EXTERIOR

South Wall

Facing the Police Station





BUILDING EXTERIOR

East Wall

Facing Cooke Aquaculture





BUILDING EXTERIOR

North Wall

Facing the parking lot





BUILDING EXTERIOR

Surface texture

This is a non-heritage material which was used in the building restoration in the mid 1980's



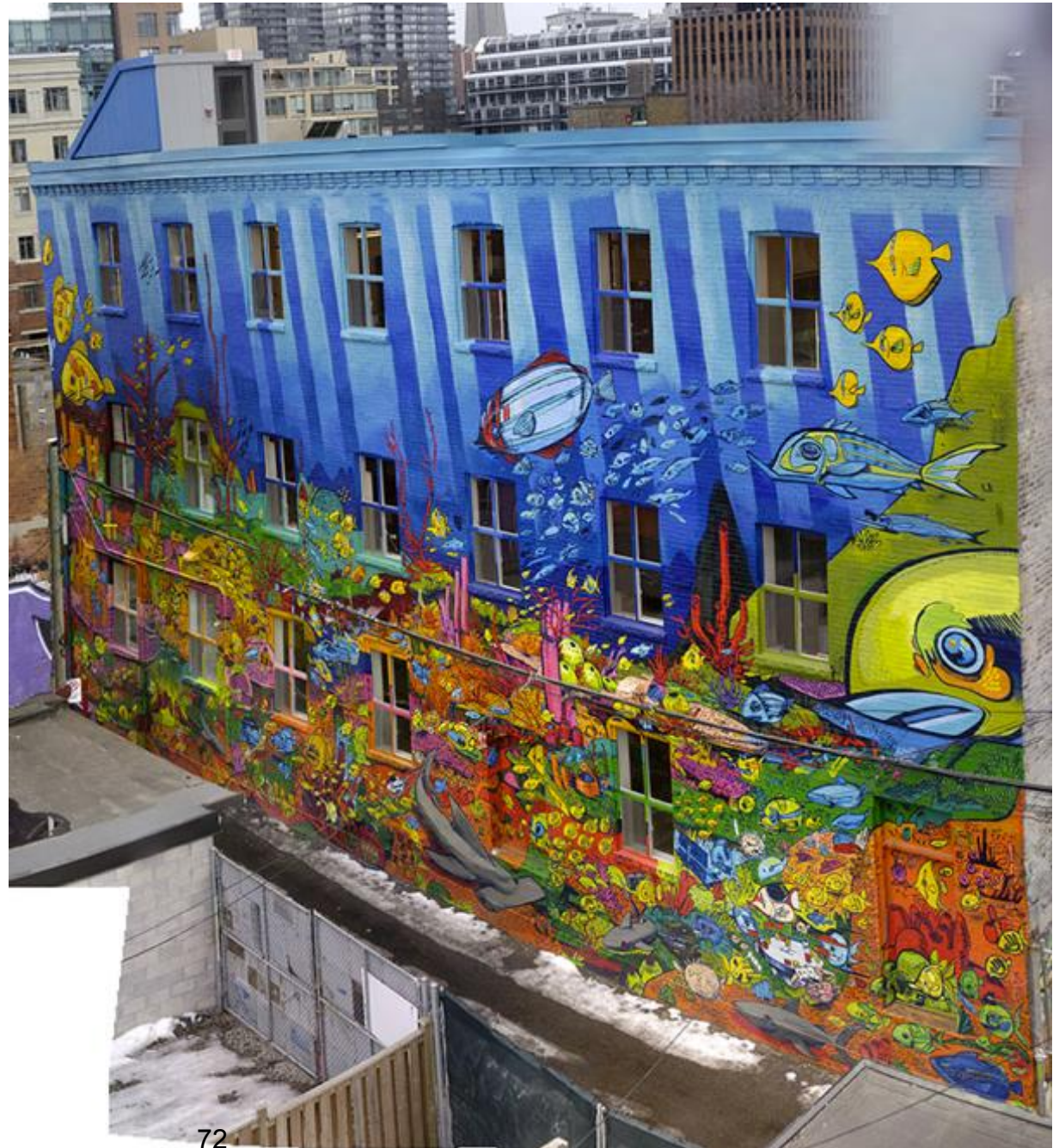


Mural Artist Uber5000





Mural Artist Uber5000





Benefits

- To draw tourists and locals to the Arts Centre/Peel Plaza.
- To create a new Iconic image that will help to brand SJAC & the City.
- To encourage photo opportunities.
- To help identify where the Arts Centre is.
- To make a bold statement about what we do.
- To become a catalyst for arts discussion.



Public Art

Because the mural would be painted on a public building, this painting would be considered to be a piece of public art.

- SJAC would be responsible for any repairs during the life time of the mural.
- It is understood that outdoor murals are not expected to last beyond 7 -10 years.
- At that time, the SJAC would be responsible for finding a solution to cover or replace the mural.



Final thoughts

- SJAC is not seeking funding assistance from the city for this project.
- We are seeking to partner with a number organizations and businesses.
- The preferred dateline is June 2019. However, if funding can not be secured this year then it would proceed in 2020.



Thank you





Saint Awesome



SAINT JOHN









CNN  @CNN · 2017-09-06

This stunning new mural is naturally unveiled, twice every day
cnn.it/2eJWbAn via @CNNStyle



nosjeugdjournaal

St.John's Bay, New Brunswick , C... >



OMG



Liked by mannobuijsrogge and 3,005 others





ifyouhigh • [Follow](#)

ifyouhigh Mural at low tide

by Hula Studios (Youtube)

artist @the_hula

Kisnou - Falling deeper 🎵 @giuse_kisnou

All materials and paint are 100% non-toxic

follow @ifyouhigh

[Load more comments](#)

mamiceej_1 @gucci_meine that's crazy 😊
💕

thicketdesign @thenightowl

slim_shadyyy @richie.xavier2

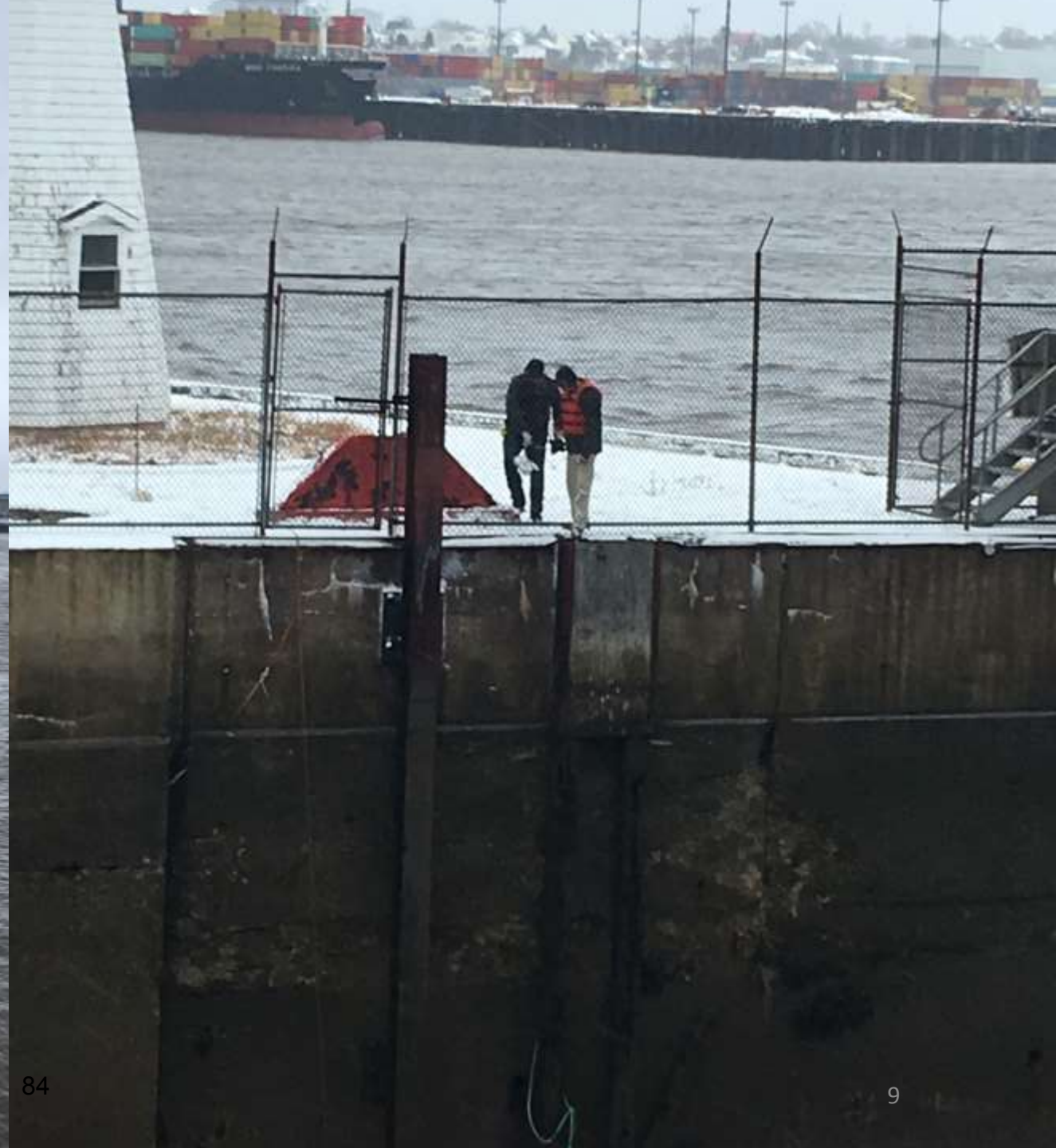
james.dusenbury Wouldn't the water wash it off again



6,031,594 views

DECEMBER 2, 2017

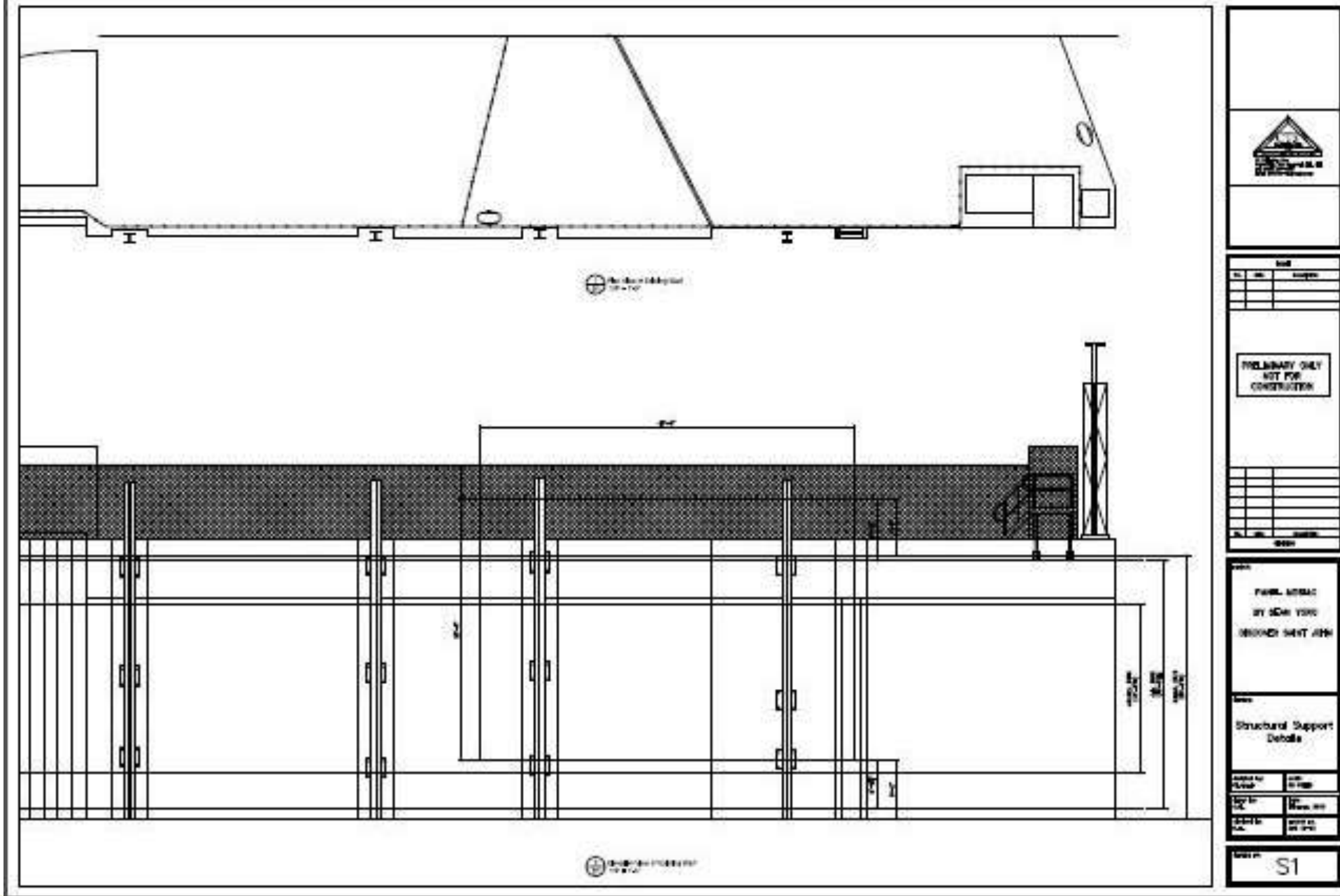




rué Smythe St.

voie Pat Rocca Way

Licenced Area (approx.)





Saint
Awesome



SAINT JOHN

COUNCIL REPORT

M&C No.	2019-50
Report Date	March 15, 2019
Meeting Date	March 25, 2019
Service Area	Finance and Administrative Services

His Worship Mayor Don Darling and Members of Common Council

SUBJECT: Licence Agreement with Discover Saint John for Tidal Mural

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>Curtis Langille</i>	<i>Kevin Fudge/Ian Fogan</i>	<i>John Collin</i>

RECOMMENDATION

1. That the City enter into a Licence agreement with Discover Saint John for \$1.00 to grant its agents, employees, partners and contractors access to and use a portion of the Market Slip seawall, floating dock and staging area being a portion of PID No. 55235113, as identified on an attached Location map, for the steel installation, mural creation and further removal of same, subject to the following terms and conditions:
 - a. the Licence shall commence on July 15, 2019 and conclude at 11:59 pm (local time) on August 15, 2019;
 - b. that Discover Saint John shall, at no expense to the Licensor, obtain and maintain in full force and effect during the entire term of this Licence, a Commercial General Liability Insurance policy with policy limits of not less than five million dollars (\$5,000,000.00) inclusive per occurrence for bodily injury and property damage; which policy shall name the City as an additional insured and shall contain a cross-liability clause;
 - c. all damages, cost, claims, demands, actions, suits or other proceedings by whomsoever claimed, made, brought or prosecuted in any manner and whether in respect of property owned by others or in the Licensee does hereby indemnify and save harmless the Licensor from respect of damage sustained by others based upon or arising out of or in connection with the use of the Licensed Area; and

- d. submission of engineered design plans to be prepared and stamped by a professional engineer (registered in New Brunswick) and submitted to the City of Saint John for review and acceptance by the Chief City Engineer or designate, plans for the securing of steel plates onto the seawall of the subject property and for the subsequent removal of same.
2. That the Mayor and Common Clerk be authorized to execute the Licence Agreement.

EXECUTIVE SUMMARY

Discover Saint John is planning to have a world renowned artist come to the City in mid-July to mid-August of this year to paint a mural. The mural will be painted over submerged sheets of steel (depending on the tides) from dismantled, discharged shipping containers. Discover Saint John is requesting the City grant access to and use a portion of the Market Slip seawall (see location map) measuring approximately 12.2 metres (40 feet) in length, for the steel installation and mural creation for approximately one month. Once completed, the mural will be removed and relocated to a permanent location which has yet to be determined.

The terms and condition contained in the recommendation of this report will be included in a Licence agreement that will provide Discover Saint John and their agents the access they requested and also protect the City against any unforeseen circumstances.

PREVIOUS RESOLUTION

N/A

STRATEGIC ALIGNMENT

Providing for entrepreneur opportunities in the City's Uptown Core aid in creating a livable community that is vibrant and diverse, while providing an integrated approach to economic development.

REPORT

Further to the comments contained in the Executive Summary.

Various City departments and agencies have been advised and are supportive of Discover Saint John's proposal to use a portion of the Market Slip area to facilitate the painting of a tidal mural. The terms and conditions as set out in the recommendation contained in this report will facilitate the proposal and protect the interests of the City of Saint John.

SERVICE AND FINANCIAL OUTCOMES

The various City Departments involved with this proposal are supportive of this project and will coordinate their respective responsibilities for the Market Slip area to ensure this project is a success. There are no financial costs to the City associated with this project, while the tourism benefits to the City highlighting the artist and his works will be immeasurable.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

Facility Management, Risk Management, Transportation and Environment Services, Saint John Parking Commission and Develop Saint John were all advised of this proposal and their input has been provided into this report where applicable. The City Solicitor's office has reviewed this report and is satisfied with the recommendation to Council.

ATTACHMENT

Location Map



SAINT JOHN

Licenced Area for Mural



Printed: 03/14/19 12:41:41 PM

**BY-LAW NUMBER C.P. 111-68
A LAW TO AMEND
THE ZONING BY-LAW
OF THE CITY OF SAINT JOHN**

Be it enacted by The City of Saint John in Common Council convened, as follows:

The Zoning By-law of The City of Saint John enacted on the fifteenth day of December, A.D. 2014, is amended by:

1 Amending Schedule A, the Zoning Map of The City of Saint John, by re-zoning two parcels of land having a combined area of approximately 2,847 square metres, located at 348 Rockland Road and 21 Canon Street, also identified as PID Nos. 00025791 and 55086128 from Neighbourhood Community Facility (CFN) to General Commercial (CG) pursuant to a resolution adopted by Common Council under Section 59 of the Community Planning Act.

- all as shown on the plan attached hereto and forming part of this by-law.

IN WITNESS WHEREOF The City of Saint John has caused the Corporate Common Seal of the said City to be affixed to this by-law the * day of *, A.D. 2019 and signed by:

Mayor/Maire

Common Clerk/Greffier communal

First Reading - March 11, 2019
Second Reading - March 11, 2019
Third Reading -

**ARRÊTÉ N° C.P. 111-68
ARRÊTÉ MODIFIANT L'ARRÊTÉ DE
ZONAGE DE THE CITY OF SAINT
JOHN**

Lors d'une réunion du conseil communal, The City of Saint John a décrété ce qui suit :

L'arrêté de zonage de The City of Saint John, décrété le quinze (15) décembre 2014, est modifié par :

1 La modification de l'annexe A, Carte de zonage de The City of Saint John, permettant de modifier la désignation pour une parcelle de terrain d'une superficie d'environ 2 847 mètres carré, située a 348, chemin Rockland et 21 rue Canon et portant le NIDs 00025791 and 55086128, de zone d'installations communautaires (CFN) à zone commerciale générale (CG) conformément à une résolution adoptée par le conseil municipal en vertu de l'article 59 de la Loi sur l'urbanisme.

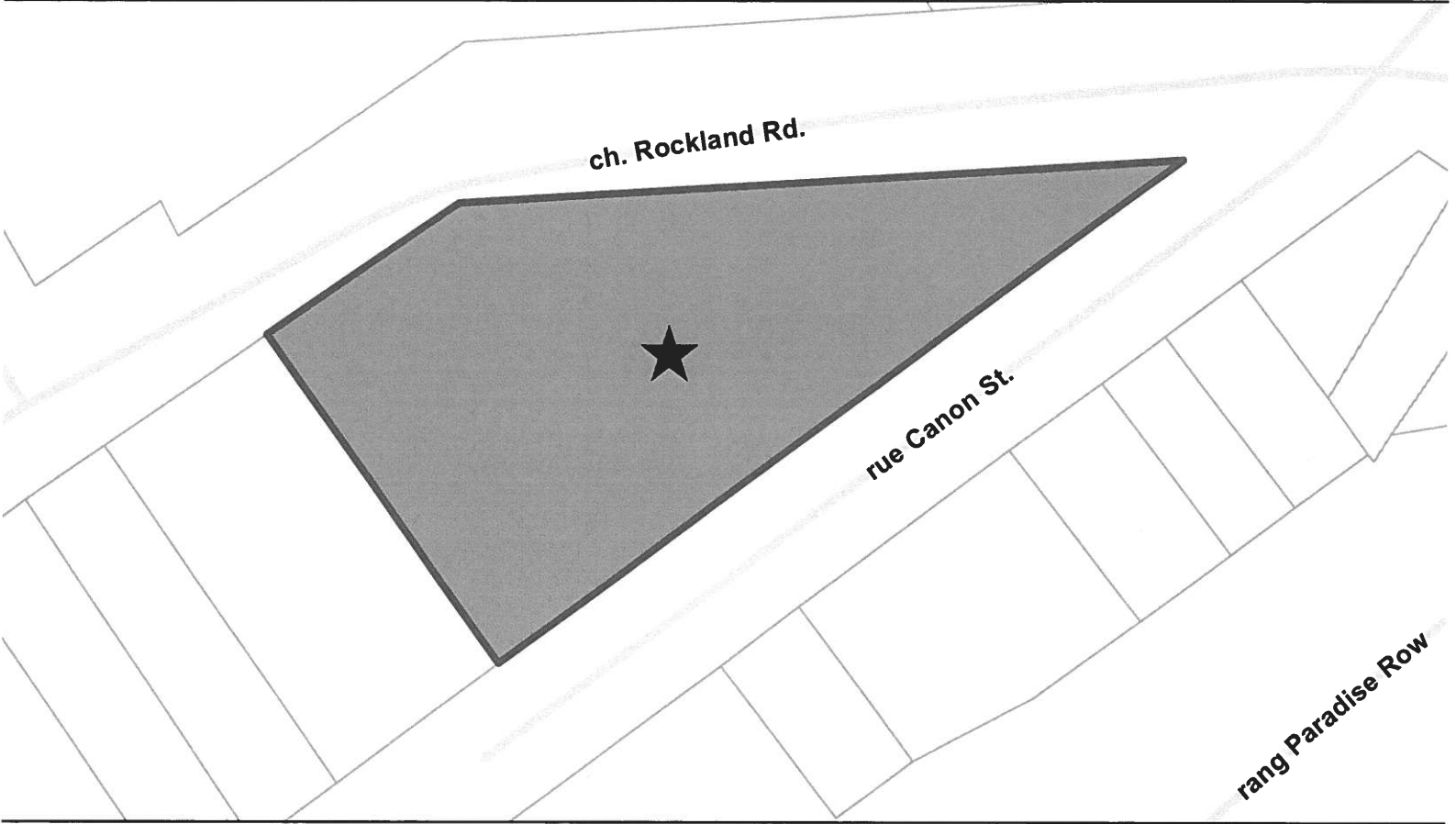
- toutes les modifications sont indiquées sur le plan ci-joint et font partie du présent arrêté.

EN FOI DE QUOI, The City of Saint John a fait apposer son sceau communal sur le présent arrêté le * 2019, avec les signatures suivantes :

Première lecture - le 11 mars 2019
Deuxième lecture - le 11 mars 2019
Troisième lecture -

GROWTH & COMMUNITY DEVELOPMENT SERVICES
SERVICE DE LA CROISSANCE ET DU DÉVELOPPEMENT COMMUNAUTAIRE
REZONING / REZONAGE

Amending Schedule “A” of the Zoning By-Law of The City of Saint John
Modifiant Annexe «A» de l’Arrêté de zonage de The City of Saint John



FROM / DE

Neighbourhood
Community Facility
Zone d’installations
communautaires de
quartier

CFN



CG

TO / À

General Commercial
Zone commerciale
générale



Pursuant to a Resolution under Section 59 of the Community Planning Act
Conformément à une resolution adoptée par le conseil municipal en vertu
de l’article 59 de la Loi sur l’urbanisme

Applicant: Natasha Tobias

Location: 348 Rockland Road and 21 Canon Street

PID(s)/NIP(s): 00025791, 55086128

Considered by P.A.C./considéré par le C.C.U.: February 20 février, 2019

Enacted by Council/Approuvé par le Conseil:

Filed in Registry Office/Enregistré le:

By-Law #/Arrêté #

Section 59 Conditions - 348 Rockland Road and 21 Canon Street

That Common Council hereby imposes pursuant to the provisions of Section 59 of the Community Planning Act (SNB 2017, c.19) the following condition upon the development and use of the parcels of land having a combined area of approximately 2,847 square metres, located at 348 Rockland Road and 21 Canon Street also identified as PID Numbers 00025791 and 55086128, namely that use of the property be restricted to the following purposes identified in the General Commercial (CG) zone of the City's Zoning By-law:

- Accommodation;
- Artist or Craftsperson Studio;
- Bakery;
- Banquet Hall;
- Business Office, subject to paragraph 11.7(3)(b);
- Commercial Group;
- Community Centre;
- Community Policing Office;
- Day Care Centre;
- Dwelling Unit, subject to paragraph 11.7(3)(c);
- Financial Service;
- Funeral Service;
- Garden Suite, subject to section 9.8;
- Grocery Store;
- Health and Fitness Facility;
- Health Services Laboratory;
- Home Occupation, subject to section 9.9;
- Library;
- Medical Clinic;
- Personal Service;
- Pet Grooming;
- Place of Worship;
- Restaurant;
- Retail, General;
- Secondary Suite, subject to section 9.13;
- Service and Repair, Household;
- Supportive Housing, subject to section 9.14
- Veterinary Clinic

**BY-LAW NUMBER C.P. 111-69
A LAW TO AMEND
THE ZONING BY-LAW
OF THE CITY OF SAINT JOHN**

Be it enacted by The City of Saint John in Common Council convened, as follows:

The Zoning By-law of The City of Saint John enacted on the fifteenth day of December, A.D. 2014, is amended by:

1 Amending Schedule A, the Zoning Map of The City of Saint John, by re-zoning a parcel of land having an area of approximately 862 square metres, located at 97-99 Exmouth Street, also identified as PID No. 00015834 from Urban Centre Residential (RC) to General Commercial (CG) pursuant to a resolution adopted by Common Council under Section 59 of the Community Planning Act.

- all as shown on the plan attached hereto and forming part of this by-law.

IN WITNESS WHEREOF The City of Saint John has caused the Corporate Common Seal of the said City to be affixed to this by-law the * day of *, A.D. 2019 and signed by:

Mayor/Maire

Common Clerk/Greffier communal

First Reading - March 11, 2019
Second Reading - March 11, 2019
Third Reading -

**ARRÊTÉ N° C.P. 111-69
ARRÊTÉ MODIFIANT L'ARRÊTÉ DE
ZONAGE DE THE CITY OF SAINT
JOHN**

Lors d'une réunion du conseil communal, The City of Saint John a décrété ce qui suit :

L'arrêté de zonage de The City of Saint John, décrété le quinze (15) décembre 2014, est modifié par :

1 La modification de l'annexe A, Carte de zonage de The City of Saint John, permettant de modifier la désignation pour une parcelle de terrain d'une superficie d'environ 862 mètres carrés, située a 97-99 rue Exmouth et portant le NID 00015834, de zone résidentielle du centre-ville (RC) à zone commerciale générale (CG) conformément à une résolution adoptée par le conseil municipal en vertu de l'article 59 de la Loi sur l'urbanisme.

- toutes les modifications sont indiquées sur le plan ci-joint et font partie du présent arrêté.

EN FOI DE QUOI, The City of Saint John a fait apposer son sceau communal sur le présent arrêté le * 2019, avec les signatures suivantes :

Première lecture - le 11 mars 2019
Deuxième lecture - le 11 mars 2019
Troisième lecture -

GROWTH & COMMUNITY DEVELOPMENT SERVICES
SERVICE DE LA CROISSANCE ET DU DÉVELOPPEMENT COMMUNAUTAIRE
REZONING / REZONAGE

Amending Schedule “A” of the Zoning By-Law of The City of Saint John
Modifiant Annexe «A» de l’Arrêté de zonage de The City of Saint John



FROM / DE

TO / À

Urban Centre Residential
Zone résidentielle
du centre-ville

RC



CG

General Commercial
Zone commerciale
générale



Pursuant to a Resolution under Section 59 of the Community Planning Act
Conformément à une résolution adoptée par le conseil municipal en vertu
de l’article 59 de la Loi sur l’urbanisme

Applicant: Krystal Kindred

Location: 97-99 Exmouth Street

PID(s)/NIP(s): 00015834

Considered by P.A.C./considéré par le C.C.U.: February 20 février, 2019

Enacted by Council/Approuvé par le Conseil:

Filed in Registry Office/Enregistré le:

By-Law #/Arrêté #

Section 59 Conditions – 97-99 Exmouth Street

That Common Council hereby imposes pursuant to the provisions of Section 59 of the Community Planning Act (SNB 2017, c.19) the following condition upon the development and use of the parcel of land having an area of approximately 862 square metres, located at 97-99 Exmouth Street, also identified as PID No. 00015834, be restricted to the following purposes identified in the General Commercial (CG) Zone of the City's Zoning By-law:

a. That the use of the lot be limited to the following uses as defined by the Zoning By-law:

- Accommodation;
- Artist or Craftperson Studio;
- Bakery;
- Banquet Hall;
- Business office, subject to paragraph 11.7(3)(b);
- Commercial Group;
- Community Centre;
- Community Policing Office;
- Day Care Centre;
- Dwelling Unit, subject to paragraph 11.7(3)(c);
- Financial Service;
- Funeral Service;
- Garden Suite, subject to section 9.8;
- Health and Fitness Facility;
- Health Services Laboratory;
- Home Occupation, subject to section 9.9;
- Library;
- Medical Clinic;
- Personal Service;
- Pet Grooming;
- Place of Worship;
- Private Club;
- Restaurant;
- Retail General;
- Secondary Suite, subject to section 9.13;
- Service and Repair, Household;
- Supportive Housing, subject to section 9.14;
- Technical or Vocational School;
- Veterinary Clinic;
- The existing use described in Schedule E: Exceptions, of each lot respectively identified therein as being located in the CG zone.

**BY-LAW NUMBER C.P. 106-16
A LAW TO AMEND THE
MUNICIPAL PLAN BY-LAW**

Be it enacted by The City of Saint John in Common Council convened, as follows:

The Municipal Plan By-law of The City of Saint John enacted on the 30th day of January, A.D. 2012 is amended by:

1 Amending Schedule A – City Structure, by redesignating a parcel of land with an area of approximately 0.55 hectares, located at 179-185 Golden Grove Road, also identified as PID Nos. 55057848, 55057855 and 55201750, from *Stable Area* to *Employment Area* classification;

2 Amending Schedule B – Future Land Use, by redesignating the same parcel of land from *Stable Residential* to *Stable Commercial* classification;

- all as shown on the plans attached hereto and forming part of this by-law.

IN WITNESS WHEREOF The City of Saint John has caused the Corporate Common Seal of the said City to be affixed to this by-law the * day of *, A.D. 2019 and signed by:

Mayor

Common Clerk/Greffier communal

First Reading - March 11, 2019
Second Reading - March 11, 2019
Third Reading -

**ARRÊTÉ N° C.P. 106-16
ARRÊTÉ MODIFIANT L'ARRÊTÉ
RELATIF AU PLAN MUNICIPAL**

Lors d'une réunion du conseil communal, The City of Saint John a édicté ce qui suit :

L'arrêté concernant le plan municipal de The City of Saint John décrété le 30 janvier 2012 est modifié par :

1 la modification de l'annexe A – Structure de la municipalité, afin de faire passer la désignation d'une parcelle de terrain d'une superficie d'environ 0,55 hectares, située au 179-185, chemin Golden Grove, et portant les NID 55057848, 55057855 et 55201750, de *secteur stable* à *secteur d'emploi*;;

2 la modification de l'annexe B – Utilisation future des sols, afin de faire passer la désignation de la parcelle de terrain précitée de *secteur résidentiel* à *secteur commercial stable*;

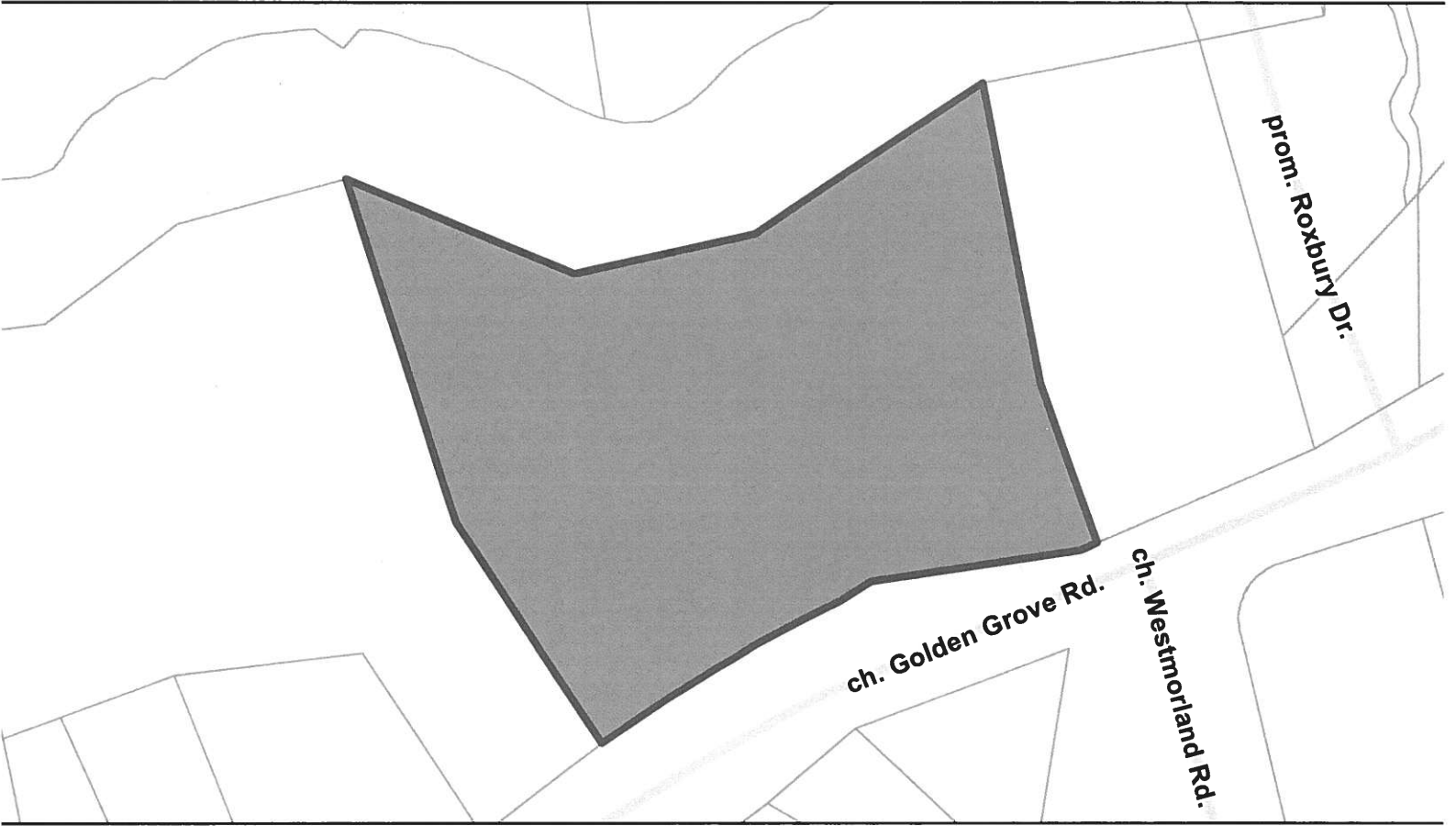
- toutes les modifications sont indiquées sur les plans ci-joints et font partie du présent arrêté.

EN FOI DE QUOI, The City of Saint John a fait apposer son sceau communal sur le présent arrêté le 2019, avec les signatures suivantes :

Première lecture - le 11 mars 2019
Deuxième lecture - le 11 mars 2019
Troisième lecture -

GROWTH & COMMUNITY DEVELOPMENT SERVICES
SERVICE DE LA CROISSANCE ET DU DÉVELOPPEMENT COMMUNAUTAIRE
MUNICIPAL DEVELOPMENT PLAN / PLAN D'AMÉNAGEMENT MUNICIPAL

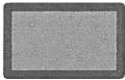
Amending Schedule A
Modifiant annexe A



FROM / DE

TO / À

Stable Area
Secteur stable



Employment Area
Secteur d'emploi

Applicant: Scott's Auto Body & Collision Ltd.

Location: 179-185 Golden Grove Road

PID(s)/NIP(s): 55201750, 55057855, 55057848

Considered by P.A.C./considéré par le C.C.U.: February 20 février, 2019

Enacted by Council/Approuvé par le Conseil:

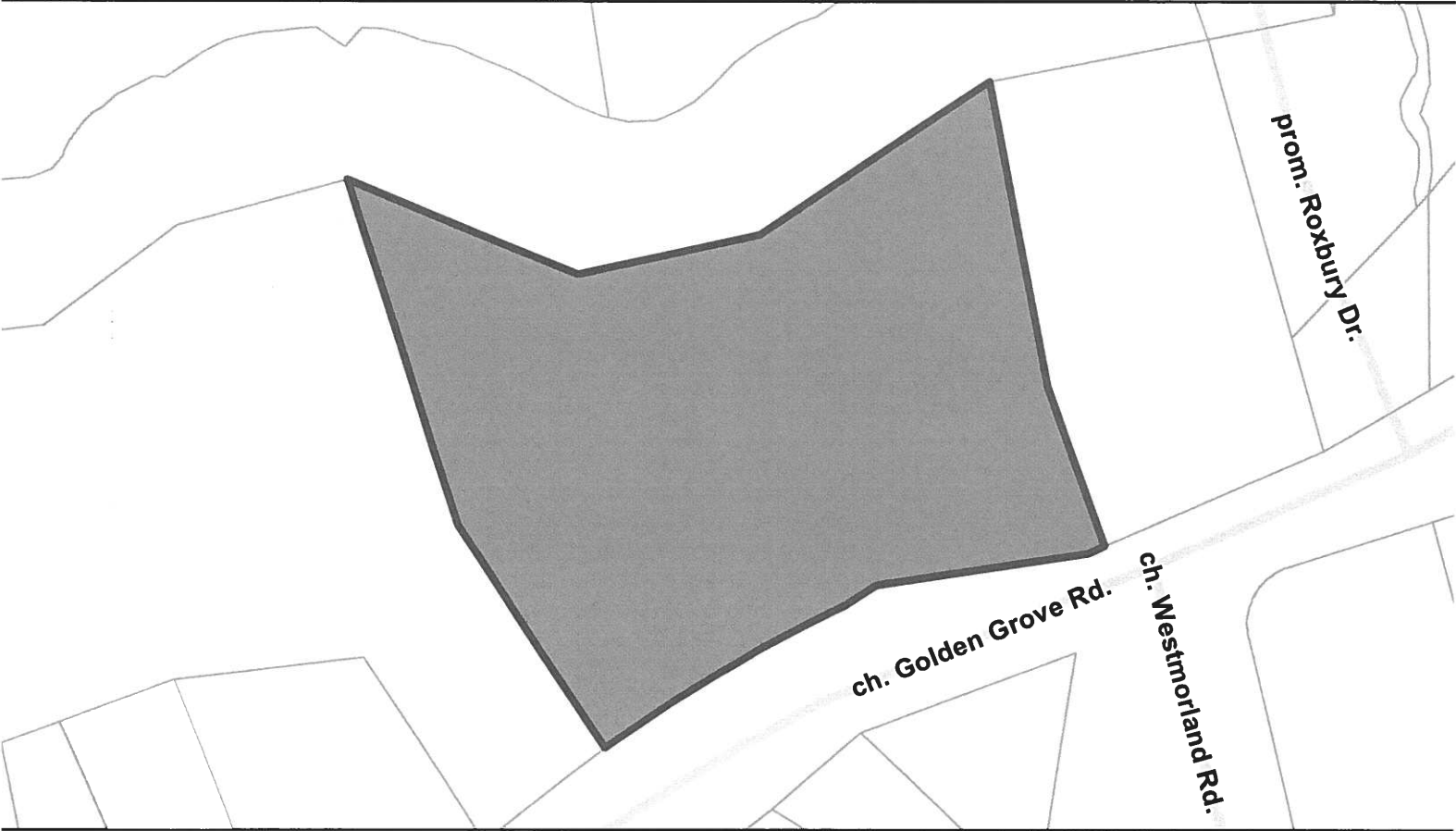
Filed in Registry Office/Enregistré le:

By-Law #/Arrêté #

Drawn By/Crée Par: Andrew Pollock **Date Drawn/Carte Créée:** March 18 mars, 2019

GROWTH & COMMUNITY DEVELOPMENT SERVICES
SERVICE DE LA CROISSANCE ET DU DÉVELOPPEMENT COMMUNAUTAIRE
MUNICIPAL DEVELOPMENT PLAN / PLAN D'AMÉNAGEMENT MUNICIPAL

Amending Schedule B
Modifiant annexe B



FROM / DE

TO / À

Stable Residential
Secteur résidentiel stable



Stable Commercial
Secteur commercial stable

Applicant: Scott's Auto Body & Collision Ltd.

Location: 179-185 Golden Grove Road

PID(s)/NIP(s): 55201750, 55057855, 55057848

Considered by P.A.C./considéré par le C.C.U.: February 20 février, 2019

Enacted by Council/Approuvé par le Conseil:

Filed in Registry Office/Enregistré le:

By-Law #/Arrêté #

**BY-LAW NUMBER C.P. 111-70
A LAW TO AMEND
THE ZONING BY-LAW
OF THE CITY OF SAINT JOHN**

Be it enacted by The City of Saint John in Common Council convened, as follows:

The Zoning By-law of The City of Saint John enacted on the fifteenth day of December, A.D. 2014, is amended by:

- 1. Adding the following to the list of Other zones in Section 2.2:
“Special Zone No. 4 SZ-4”
- 2. Adding the following as Section 14.9:

**“14.9 Special Zone No. 4 (SZ-4)
14.9(1) Permitted Uses**
Any land, building, or structure may be used for the purposes of, and for no other purpose than, the following, which may include outdoor storage as an accessory or secondary use, subject to paragraph 14.9(2)(a):

- Accommodation;
- Auction House;
- Bakery;
- Banquet Hall;
- Business Office, subject to paragraph 14.9(2)(b);
- Business Support Service;
- Catering Service;
- Commercial Entertainment;
- Commercial Group;
- Communication Facility;
- Contractor Services, Household;
- Day Care Centre;
- Emergency Services Facility;
- Financial Service;
- Fleet Service;
- Funeral Service;
- Grocery Store;
- Health and Fitness Facility;
- Health Services Laboratory;
- Medical Clinic;
- Personal Service;

**ARRÊTÉ N° C.P. 111-70
ARRÊTÉ MODIFIANT L'ARRÊTÉ DE
ZONAGE DE THE CITY OF SAINT
JOHN**

Lors d'une réunion du conseil communal, The City of Saint John a décrété ce qui suit :

L'arrêté sur le zonage de The City of Saint John, décrété le quinze (15) décembre 2014, est modifié par :

- 1. L'adjonction de l'élément suivant à la liste d'Autres zones d'article 2.2 :
« Zone spéciale n° 4 SZ-4 »
- 2. L'adjonction de l'article 14.9 qui se lit comme suit:

**« 14.9 Zone spéciale n° 4 (SZ-4)
14.9(1) Usages permis**
Les terrains, bâtiments et constructions ne peuvent être affectés qu'aux fins suivantes, ces fins pouvant comporter de l'entreposage à l'air libre en tant qu'usage accessoire ou secondaire, sous réserve du paragraphe 14.9(2)a) :

- atelier de débosselage et de peinture de véhicules,
- boulangerie;
- bureau d'affaires, sous réserve du paragraphe 14.9(2)b);
- centre de santé et de conditionnement physique;
- centre de vente par maisons-témoins;
- clinique médicale;
- clinique vétérinaire;
- divertissement à des fins commerciales;
- école de formation technique ou professionnelle;
- entrepôt libre-service;
- entreprise d'entretien et de réparation d'articles ménagers;
- épicerie;
- flotte;
- garderie;
- gare routière;
- hébergement;
- installation de communication;

- Pet Grooming;
- Recreational Vehicle Sales and Service, Small;
- Restaurant;
- Retail General;
- Sales Centre, Model Home;
- Self-Storage Facility;
- Service and Repair, Household;
- Technical or Vocational School;
- Transit Terminal;
- Vehicle Body and Paint Shop, subject to paragraph;
- Veterinary Clinic.
- installation de services d'urgence;
- institution financière;
- laboratoire de services de santé;
- maison d'enchères;
- restaurant;
- salle de réception;
- salon funéraire;
- service d'appui aux entreprises;
- service d'entrepreneur à domicile;
- service de traiteur;
- service personnel;
- studio de toilettage d'animaux familiers;
- vente au détail générale;
- vente et réparation de petits véhicules de plaisance.

14.9(2) Conditions of Use

- (a) Outdoor Storage as an accessory or secondary use to a main use permitted in subsection 14.9(1) shall be subject to the following:
- (i) The yard shall not occupy any required front or flankage yard or any area required for parking;
 - (ii) The yard shall be completely enclosed by a solid board-on-board fence or a chain-link fence entirely covered by filler strips woven into the mesh or a walled structure or a berm, or any combination thereof, having a minimum height of 2 metres and including any gate constructed in the same manner and height as the enclosure;
 - (iii) Notwithstanding the above, the yard may instead be screened in accordance with paragraph 6.1(k), or by any combination of permitted structures, berms and landscaping; and
 - (iv) When the yard is developed within 15

14.9(2) Conditions régissant les usages

- a) L'entreposage à l'air libre en tant qu'usage accessoire ou secondaire par rapport à un usage principal permis par le sous-article 14.9(1) est subordonné aux conditions suivantes:
- (i) la cour d'entreposage ne doit pas occuper une cour avant obligatoire, une cour de flanc obligatoire ou une aire de stationnement obligatoire;
 - (ii) la cour doit être entièrement fermée au moyen d'une clôture pleine de construction planche-sur-planche, d'une clôture à mailles losangées entièrement recouverte au moyen de languettes entrelacées dans les mailles, ou d'une construction fermée ou d'une levée, ou d'une combinaison de ces éléments, d'une hauteur minimale de 2 mètres, les barrières, s'il en est, devant être construites de la même manière et de la même hauteur que l'enceinte;
 - (iii) malgré ce qui précède, la cour peut, au lieu, être dissimulée conformément au paragraphe 6.1j), ou au moyen de toute combinaison des constructions, levées et aménagement paysager permis;
 - (iv) lorsqu'un aménagement est effectué dans la cour à moins

- metres of an abutting lot in a Residential zone, the yard shall also be in accordance with section 5.5.

(b) A Business Office permitted in subsection 14.9(1) shall not exceed 3,000 square metres in gross floor area.
- de 15 mètres d'un lot attenant dans une zone résidentielle, la cour doit également être conforme à l'article 5.5.

b) L'aire de plancher brute des bureaux d'affaires permis par le paragraphe 14.9(1) ne peut être supérieure à 3 000 mètres carrés.

14.9(3)	Zone Standards	14.9(3)	Normes applicables à la zone
	Standards for development in Special Zone 4 shall be as set out in subsection 11.5(4), and Parts 4 to 9 where this zone shall be considered a Corridor Commercial (CC) zone.		Les normes d'aménagement dans la zone spéciale n° 4 doivent être conformes aux dispositions de paragraphe 11.5(4) et des parties 4 à 9, et la zone en question doit être considérée en tant que zone commerciale de corridor (CC).

3. Amending Schedule “A”, the Zoning Map of The City of Saint John, by re-zoning a parcel of land having an area of approximately 0.55 hectares, located at 179-185 Golden Grove Road,, also identified as being PID Nos. 55057848, 55057855 and 55201750, from Two-Unit Residential (R2) to Special Zone 4 (SZ4) pursuant to a resolution adopted by Common Council under Section 59 of the Community Planning Act.
3. La modification de l'annexe «A», Plan de zonage de The City of Saint John, permettant de modifier la désignation pour une parcelle de terrain d'une superficie d'environ 0.55 hectares, située au 179-185, chemin Golden Grove, et portant les NID 55057848, 55057855 et 55201750, de zone résidentielle bifamiliale (R2) à zone spéciale n° 4 (SZ-4) conformément à une résolution adoptée par le conseil municipal en vertu de l'article 59 de la Loi sur l'urbanisme.

- all as shown on the plan attached hereto and forming part of this by-law.
- toutes les modifications sont indiquées sur le plan ci-joint et font partie du présent arrêté.

IN WITNESS WHEREOF The City of Saint John has caused the Corporate Common Seal of the said City to be affixed to this by-law the * day of *, A.D. 2019 and signed by:

EN FOI DE QUOI, The City of Saint John a fait apposer son sceau communal sur le présent arrêté le 2019, avec les signatures suivantes :

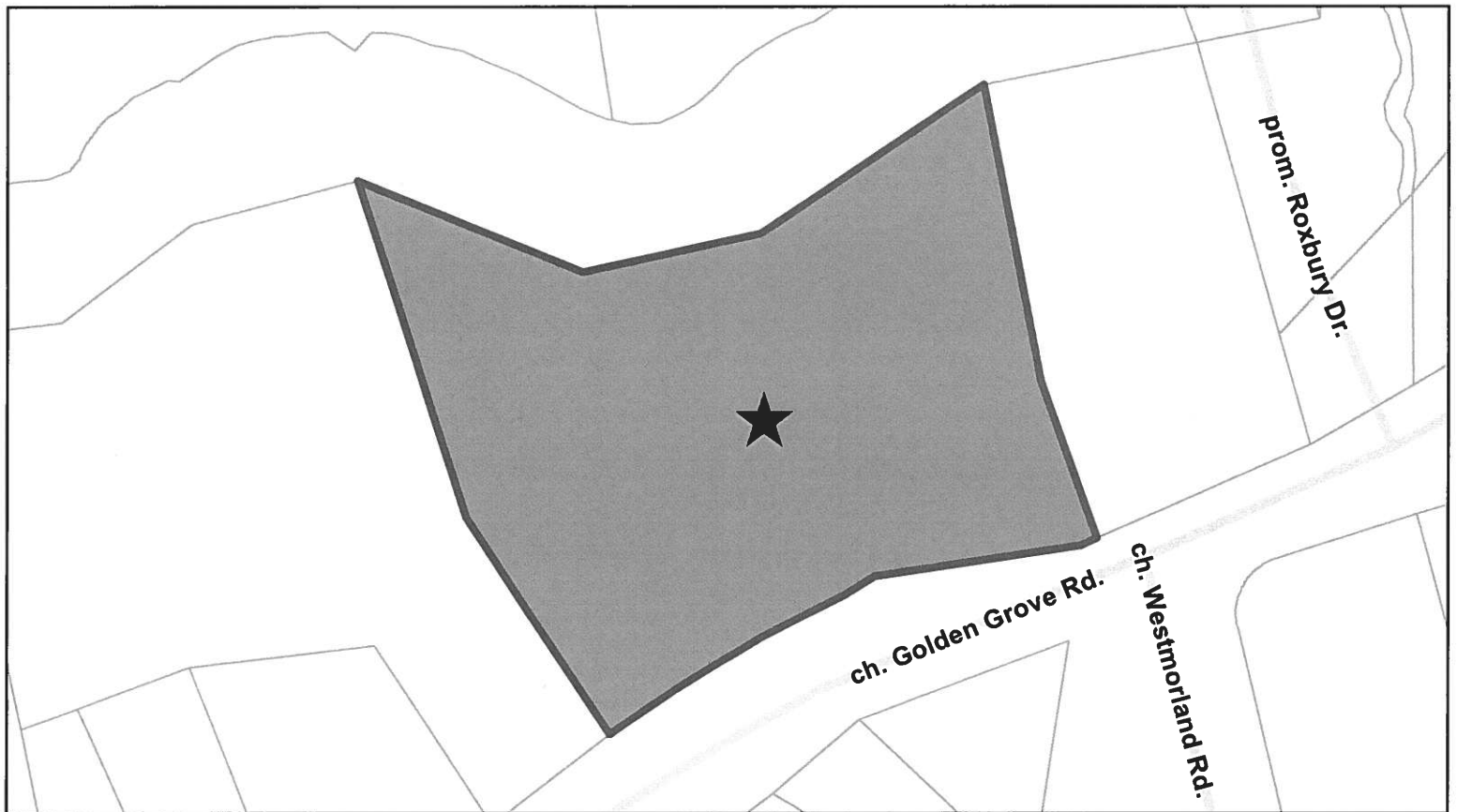
Mayor/Maire

Common Clerk/Greffier communal

First Reading	- March 11, 2019	Première lecture	- le 11 mars 2019
Second Reading	- March 11, 2019	Deuxième lecture	- le 11 mars 2019
Third Reading	-	Troisième lecture	-

GROWTH & COMMUNITY DEVELOPMENT SERVICES
SERVICE DE LA CROISSANCE ET DU DÉVELOPPEMENT COMMUNAUTAIRE
REZONING / REZONAGE

Amending Schedule "A" of the Zoning By-Law of The City of Saint John
Modifiant Annexe «A» de l'Arrêté de zonage de The City of Saint John



FROM / DE

TO / À

Two-Unit Residential
Zone résidentielle
bifamiliale

R2



SZ-4

Special Zone No. 4
Zone spéciale n° 4



Pursuant to a Resolution under Section 59 of the Community Planning Act
Conformément à une résolution adoptée par le conseil municipal en vertu
de l'article 59 de la Loi sur l'urbanisme

Applicant: Scott's Auto Body & Collision Ltd.

Location: 179-185 Golden Grove Road

PID(s)/NIP(s): 55201750, 55057855, 55057848

Considered by P.A.C./considéré par le C.C.U.: February 20 février, 2019

Enacted by Council/Approuvé par le Conseil:

Filed in Registry Office/Enregistré le:

By-Law #/Arrêté #

Drawn By/Crée Par: Andrew Pollock **Date Drawn/Carte Créée:** March 18 mars, 2019

Section 59 Conditions - 179-185 Golden Grove Road

That Common Council rescind the Section 39 conditions imposed on the November 8, 1976 rezoning of the property and located at 185 Golden Grove Road, also identified as PID Number 55201750, and modified February 15, 1979 and June 11, 1984.

That Common Council hereby imposes pursuant to the provisions of Section 59 of the Community Planning Act (SNB 2017, c.19) the following conditions upon the development and use of the parcels of land having a combined area of approximately 0.55 hectares, located at 179-185 Golden Grove Road, also identified as PID Numbers 55057848, 55057855 and 55201750:

- a) All areas of the site not occupied by buildings, driveways, walkways, parking, storage or loading areas must be landscaped by the developer, in accordance with a detailed landscaping plan, subject to the approval of the Development Officer prior to the issuance of a Building Permit. This landscaping plan is to be prepared by the developer or their consultant and submitted for approval with the Building Permit application.
- b) The building elevations be submitted to the Development Officer for review and approval prior to issuance of a Building Permit.
- c) A plan showing access to the site and adjacent facility must be prepared by the developer and submitted to Infrastructure Development and the Development Officer for approval prior to issuance of a Building Permit.

That Common Council discharge all covenants and conditions of the agreement, made pursuant to the provisions of Section 101 of the Community Planning Act in effect at that time between Douglas and Gloria Mitton as developer, and the City of Saint John, dated March 19, 1997 respecting the property located at 185 Golden Grove Road, also identified as PID Number 55201750.

Received Date	March 18, 2019
Meeting Date	March 25, 2019
Open or Closed	Open Session

His Worship Don Darling and
Members of Common Council

Your Worship and Councillors:

Subject: Queen Square West: Rain Garden Proposal

Background:

As part of the Climate Change Adaptation Planning Process, ACAP Saint John is proposing three pilot projects to complete in the city that will showcase adaptation methods in practice. ACAP Saint John has received funding from Green Communities Canada to construct a small rain garden that will act as a demonstration of stormwater management infrastructure. We are proposing to construct this rain garden in Queen Square West.

Staff from the Parks Department and the Transportation and Environment Department are supportive of the project and have agreed to provide in-kind support for the installation of the garden. Volunteers will also help with planting and maintenance.

Motion:

That Common Council approve the construction of a rain garden in Queen Square West as proposed by ACAP Saint John.

Respectfully Submitted,

(Received via email)

Donna Reardon
Ward 3 Councillor
City of Saint John

A rain garden is a stormwater management structure that reduces the amount of overland flow by holding water in a depression and allowing it to naturally absorb back into the ground. Rain gardens can enhance a public space to add more biodiversity, filter pollutants out of stormwater and control flooding. Rain gardens are planted with native plants that are suitable for both wet and dry conditions, and can add beauty to an area with blooming flowers and foliage. Rain gardens allow approximately 30% more water to absorb into the ground than a traditional lawn and will act as an attractive stormwater management structure (Bannerman, 2003). Due to the topography of the Lower-West Side, rainfall is likely to run downhill from the southern to the northern portion of the neighbourhood. In order to reduce the amount of rainfall that will pool at the bottom of this hill, stormwater best management practices (BMPs) should be implemented throughout the neighbourhood, but especially in higher elevations. City owned properties such as Queen Square-West and King Square-West would be excellent sites to implement stormwater management BMPs, such as rain gardens, as these sites are located uphill and are public spaces that can demonstrate what green infrastructure looks like in practice.

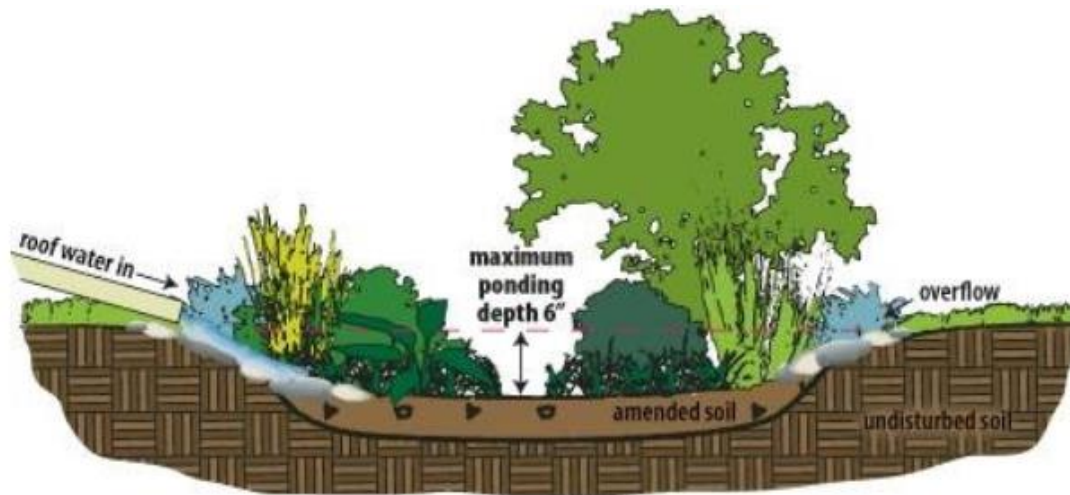


Figure 1: View of a typical rain garden (Alliance for the Chesapeake Bay, n.d.).

ACAP Saint John (ACAP) proposes to develop a rain garden within Queen Square-West Park that will capture rainfall that is traveling downhill towards flood risk areas. This rain garden will serve as a public demonstration of how green infrastructure can make Saint John a climate resilient city and will enhance a public area in the Lower-West Side. ACAP will leverage community volunteers as well as staff from the City of Saint John Parks and Stormwater Services departments to help with the construction and installation of the rain garden. Volunteers will learn how to construct a rain garden and be provided with guidance on how they can replicate a rain garden project on their property. Typical residential rain gardens range from 100 ft² to 300 ft². The proposed rain garden in Queen Square-West will reflect the size of a residential rain garden and will be approximately 250 ft² in size. Educational signage will remind and/or inform community members of the project and the benefits of rain gardens for climate change adaptation and stormwater management. Maintenance of the rain garden will be completed by ACAP Saint John and require weeding and watering for the first two years until the perennials have fully established in the garden.

Overall promotion of the project will be done through ACAP Saint John's volunteer email list, social media platforms and webpage, flyers, and other local community groups. The local media and City representatives will be invited to attend the event to bolster community engagement. The results from this project will be posted to ACAP's webpage and social media accounts where ACAP can track how the material is being disseminated.

This project is designed to produce tangible results that lend themselves readily to measurement and quantification. For example, the size of the rain garden and capacity, the number of volunteers, in-kind contributions from community partners, number of media articles produced, number of likes/shares/views through social media, number of presentations, requests for information, and page viewings of ACAP's website will be measured to determine success.

Intangible results, such as a more aesthetically pleasing environment or a more environmentally conscientious community are more difficult to measure and will be evaluated based on solicited testimonials or questionnaires, unsolicited opinions (supportive or contradictory), and comments or requests for additional information.

The final results from this project will be incorporated into the ACAP's climate change adaptation plan for the City of Saint John as a definitive example of how green infrastructure can reduce flooding in Saint John and will provide a concrete example of what adaptation will look like. A demonstration project like this one will forge the path for developing transformative green infrastructure throughout the City of Saint John.

Project Timeline:

Step	Timeline
Design rain garden and source materials.	February-March 2019.
Work with City of Saint John Parks and Stormwater Services departments for support to remove sod, lay pipe and cut the curb near the storm drain.	May 2019
Engage approximately 40 volunteers for help to add gravel, landscape cloth and planting native flowers and shrubs. Provide volunteers with information about rain gardens and their role in stormwater management.	May 2019
Promote the completion of the project through television, radio, and social media platforms, as well as the ACAP Saint John website. Hold public education events and tours in the park with local scouts and girl guides, schools and community groups. Target reach: 1000 people online and in person	April-June 2019
Expected completion date: June 30, 2019	

Project Budget: Funding has already been secured from Green Communities Canada.

Item	Description	Cost
Materials	Gravel, native shrubs and wildflowers, drainage pipe, landscape cloth	\$3400
Signage	Signs displaying benefits of rain gardens/green infrastructure, and funder acknowledgment (2 @ \$600)	\$1200
Other	Public engagement materials, permitting costs, volunteer appreciation	\$400
Labour (City of Saint John Parks, Stormwater Crew, Volunteers)	Removing topsoil, amending soil, adding gravel and landscape cloth, planting.	In-Kind
Staff time (ACAP Staff)	Planning, garden design, communications	In-Kind
Total budget for activity		\$5000

Attachment: Queen Square West Rain Garden Site Plan.

References:

Alliance for the Chesapeake Bay (n.d.). Rain Gardens. Retrieved from:
<http://www.stormwater.allianceforthebay.org/take-action/installations/rain-gardens>

Bannerman, R. (2003). Rain Gardens A How-To Manual for Homeowners. Wisconsin Department of Natural Resources. Retrieved from: clean-water.uwex.edu/pubs/raingarden

Queen Square W

Queen Square W

SLOPE % - 3.9% W 1.9% AE
NATIVE PERENNIALS



4M FROM DRAIN

- CURB

St. JAMES ST. W

Drain to combined Pipe

WATER



SIDEWALK

SCALE

1:100

COUNCIL REPORT

M&C No.	M&C 2019-57
Report Date	March 19, 2019
Meeting Date	March 25, 2019
Service Area	Transportation and Environment Services

His Worship Mayor Don Darling and Members of Common Council

SUBJECT: Regional Ice Strategy Update

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>Tim O'Reilly</i>	<i>Michael Hugenholtz</i>	<i>John Collin</i>

RECOMMENDATIONS

Your City Manager recommends Common Council:

1. Endorse Mayor Darling's motion he presented for consideration at the March 25, 2019 Regional Service Commission Board meeting that reads as follows:
 - a) Commit by May 1, 2019 to the following principles of a regional arena funding formula:
 - i. The formula shall redistribute the applicable total operating cost deficit of all regional arenas among taxpayers of the respective municipalities and LSDs based on proportion of usage in the respective jurisdictions,
 - ii. Operating cost deficits determined not to be applicable shall not be included in the funding formula and shall remain the responsibility of the host municipality.
 - b) Approves, only after commitments in (a) are obtained, external consulting services be hired to define the applicable operating cost deficits by accessing, and reviewing for consistency, usage and financial data related to each regional arena. The Commission agrees the applicable operating cost deficits and usage data defined by the consultant will be binding.
 - c) Commission Directors will provide a resource for the Staff Working Group to coordinate (b)
 - d) Commit to exploring further regional collaboration relative to arena management following a ratified arena funding agreement. Collaboration would include sharing resources, sharing arena Capital costs, and developing an arena supply plan that meets the current and future demands of users and/or is financially sustainable for the regional taxpayers.

2. Proceed with Saint John's alternate Plan B "non-resident user fee" approach in the absence of agreement from the Regional Service Commission as sought in (1a) by May 1, 2019
3. Reconfirm that Saint John Common Council believes a co-operative regional approach is preferred over a solution that requires a form of non-resident user fees to advance the priorities of regional fairness and sustainability

EXECUTIVE SUMMARY

The City of Saint John is at a cross-roads in its involvement in working toward a collaborative Regional Ice Strategy. There is a need for regional consensus on principles that would define a fair and sustainable arena funding formula and agreement. In the absence of movement on collaborative solution, the City will need to continue to pursue a solution that achieves fairness and sustainability on its own.

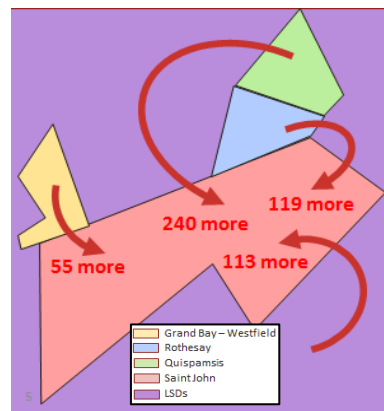
REPORT

The purpose of the Regional Ice Strategy is to improve regional co-operation in the management of similar facilities (arenas) for similar customers. It started in 2017 as a result of the Regional Service Commission's completion of a Regional Recreation Plan in 2016. The City of Saint John advocated that the Ice Strategy be the first pilot project when it was presented with the final 2016 plan.

The City advocated for the Ice Strategy and provided a staff resource towards its development because of the opportunities it presented in seeking regional fairness and sustainability:

- It was important that demand and supply of arenas be considered regionally to align with the fact the customers are regional
- Regional sharing of resources for essentially identical services can generate cost savings for all taxpayers and users
- A funding formula and agreement would align taxpayer subsidization with usage levels from the respective jurisdictions within the region.

With the data currently available, there is an imbalance between taxpayer responsibility for arena lifecycle cost contributions and the level of use from each jurisdiction. Approximately 1/3 of the use of Saint John's arenas is from outside our city. The adjacent figure demonstrates the net difference between the number of users from each town and all LSDs using City arenas relative to flow in the other direction. In each case, Saint John is supplying more ice to our neighbours' users.



The Regional Ice Strategy developed over approximately a one year period between 2017 until 2018. A Working Group of staff members from the Commission, municipalities and LSDs worked on the strategy. Two consultation sessions involving municipal Council and LSD leadership representatives from across the region were completed in August 2018 provided additional input. Check-ins with the Commission Board were completed at various point in time.

City staff did a check-in with Council in September 2018 to ensure Council was aligned on a set of principles as staff continued working their regional partners toward the strategy and associated funding formula. The principles, that generally fit into one of two overall themes of regional fairness or sustainability, were:

- Arena lifecycle costs (design, construction, operation, maintenance, capital renewal, decommissioning) need to be recovered from regional users and taxpayers in a deliberate, consistent, fair, and financially sustainable way
- Share of arena lifecycle costs from the taxpayers between the different municipalities and LSDs should be based primarily on the proportion of regional use with some consideration of other factors such as comparative tax bases, level of service provided at the respective facilities, lifecycle phase of respective facilities, and location of the arenas (user convenience and positive economic impact for host municipalities),
- The municipalities and LSDs need to obtain residency data from users of the arenas in the 2018-2019 season necessary to ensure taxpayer costs are more fairly distributed based on use,
- A funding agreement needs to be in place in time to allow for sufficient communication in advance of the 2019-2020 winter season that starts in October 2019,
- Collaborative efforts to reduce costs and increase revenues need to be explored to reduce burden on all regional taxpayers and users, such as matching inventory of available ice surfaces to demand, and more importantly, affordability and exploring efficiencies associated with co-located ice surfaces from a regional perspective,
- The City of Saint John remains open to extending the strategy and developed agreement for other recreational facilities and programs in the future. However, implementation of the arena model needs current focus.

The draft Regional Ice Strategy was released publicly in the Fall of 2018 for review. The draft Strategy and other information about the project can be found at: www.fundyrecycles.com/ice.

Page 19 of the draft strategy describes guiding principles believed to best capture the regional views in pursuing the funding formula. Staff point out a few aspects of these guiding principles:

- There must be mutual benefits and risks

- The funding model needs to consider lifecycle costs and be data driven
- The data that would be used to develop the funding model was not clarified.

Page 17 of the draft strategy summarizes a review of funding formulas used in other jurisdictions in the province and beyond. Unfortunately a preferred formula is not identified in the draft strategy as a result of this review. However, there are some take-aways identified:

- A formula used in Nanaimo BC is referenced more than other formulas
- The need for a formula that is fair to all communities is referenced
- A solution that unfairly targets LSDs should be avoided

City staff believe the referenced Nanaimo BC funding formula has similarities to our Fundy Region:

- Multiple jurisdictions supply and use the referenced recreation facilities
- The formula appears to fairly redistribute taxpayer subsidization of the referenced recreation facilities based on usage levels

After public release of the draft Strategy, the Working Group developed working funding formulas that could be applicable to the Fundy Region. Although there were variations of both, essentially two models were developed.

The City staff representative on the Working Group developed one of the funding formulas. This formula can be described as follows:

- The formula first calculates and adds up the net status quo taxpayer subsidization of all regional arenas (with the exception of Harbour Station given its cost sharing formula in the Regional Facilities Commission legislation). The net subsidization of each arena is calculated from:
 - Operations & maintenance costs related to service provided
 - A proportion of “normalized” lifecycle asset costs
 - Subtracting revenues generated from user fees
- The formula also calculates the proportion of regional usage from each municipality and LSD
- The formula then redistributes the total regional taxpayer subsidization responsibility between jurisdictions based on proportion of use and identifies if there is a net contribution due or owed based on comparison with status quo subsidization.
- For any jurisdictions owed a contribution from others, the formula requires investment of a proportion of what is owed toward its arenas’ Capital costs
- City staff built some flexibility into the formula if required to build consensus such as:
 - Debiting any additional benefit received by taxpayers and/or users that are in proximity to an arena
 - The formula allows other weighted factors besides usage data to be considered

Another funding formula was developed by other members of the Working Group. This model can be described as follows:

- The formula calculates a tax levy from each LSD without an arena
 - The levy is capped at 3 cents based on Provincial input and application elsewhere
- Credit is given to LSDs for recreation spending, which equally reduces the levy below 3 cents
- The formula then adds up the LSD tax levies and distributes to municipalities proportional to the number of arenas in jurisdictions
- The formula obligates capital reinvestment of a portion of funding each municipality receives from the LSDs
- The levy is intended to cover broader recreation services than just arenas

City staff believed there was a fundamental difference between the two formulas. The formula the City representative developed provided a fair redistribution of taxpayer subsidization responsibilities whereas the formula developed by others only contemplated corrections in responsibility for a portion of the region (the LSDs). With the cross flow data available that demonstrated the City is also subsidizing town users, and the City's consistent believe in a regionally fair funding formula, staff could not support the formula developed by others. There was also not consensus with using the City's formula.

The City representative on the Working Group continued to remain open to building consensus while adhering to the City's consistent Guiding Principles. The City representative developed a formula that combined philosophies of the two previous ones. There was some value in considering LSDs once and similar to other jurisdictions in the province given the need to involve the Provincial Department of Environment & Local Government. City staff was clear however that subsidization realignment based on usage between municipalities must be part of solution to remain aligned with City's consistent commitment to regional fairness. Unfortunately consensus on this combined formula was also not reached.

A lack of clear regional consensus has been a significant issue in making substantial progress. As mentioned previously in this report, the draft Strategy released in the Fall did not propose a preferred funding formula and did not identify what data should be considered in developing it. When presented with the draft Strategy, the Councils of the region were asked to continue exploring funding formulas and to require its arena users to collect residency data. There was support for the two recommendations except for one municipality making their support contingent on support from all other partners and another municipality not approving the collection of user data. Staff also reviewed the minutes of Board meetings of the Regional Service Commission in relation to the Strategy; there were three received and filed updates to the Strategy and an approval to engage a consultant to assist with consultation sessions.

Reliable data to use within a funding formula was another barrier to achieving regional consensus. There was only very recent unanimous support from municipalities to collect user data and there has been some concern over use of collected data from regional ice user associations. There are differences in how municipalities report on arena service and facility costs.

A Regional Service Commission Board meeting scheduled for the morning of March 25, 2019 includes a report and recommendations relative to the Ice Strategy. This meeting would have been concluded when Common Council considers this report and recommendations. Staff attached the March 25 Commission report to this report.

City staff agree with the report that regional data (such as usage and financial data) needs to be improved. Unfortunately, however, the report also makes references to data that is incomplete. The City's arena usage data is reported without regional context and all factors that will need to be considered to improve the quality of the data are not reported.

City staff believe alternate resolutions to the recommendations in the report are required to advance regional consensus toward a finalized Ice Strategy. This conclusion is based on the following observations in reviewing the March 25 Commission report:

- The contextual information in the report is incomplete
- The two recommendations, proceeding with LSD resident contributions and finalizing contributions from municipalities, are independent and therefore are not aligned with a regionally fair solution
- Recommendation 2 does not further regional consensus on a funding formula as it simply asks the municipal partners to continue working on it
- Recommendation 2 would require continued investment of City resources without advancing consensus on a regionally fair formula.

City staff would like to provide Council with context around the term "User Fees" that has generated a stigma in the region:

- Each municipality in the region charges user fees
 - The proportion of lifecycle costs paid by users and taxpayers is a reflection of value of public good received. The level of public good that justifies the degree of taxpayer subsidization in the place of full cost recovery from user fees may be perceived differently in each community. The City's Operating Budget Policy requires deliberate reflection in this regard with referencing full lifecycle costs.
- The term "Non-Resident User Fees" has its own stigma. However, non-resident user fees are used in other jurisdictions. Application by the City of Saint John would allow regional fairness to be achieved in the absence of regional co-operation and would not be intended to be punitive.

- Staff suggest Saint John Common Council could reconfirm its belief that a regional co-operative approach is preferred over non-resident user fees. Staff also point out that the resources Common Council has invested in the Regional Ice Strategy has demonstrated this belief.

STRATEGIC ALIGNMENT

This report aligns with Council priorities and policies:

- Council's Financial Responsibility priority related to revenue generation
- Council's Operating Budget Policy
- Council's commitment to Asset Management

SERVICE AND FINANCIAL OUTCOMES

The exact opportunities related to service and financial outcomes remain unconfirmed until agreement on a funding model is reached or implementation plan of Saint John's Plan B are detailed. In either outcome, the goal is to align taxpayer contributions with usage of regional arenas from each jurisdiction.

ATTACHMENTS

Ice Strategy report on March 25, 2019 Regional Service Commission agenda

City Staff presentation slides for March 25, 2019 Common Council meeting

Regional Ice Strategy Update

February 22nd 2019

Submitted by Nick Cameron



**Fundy Regional
Service Commission**

**Commission de Services
Régionaux de Fundy**

Purpose

Confirm commitment of Commission members to participate in a regional funding agreement process to avoid non-resident fees at arenas and keep access to arenas open to all residents in the Fundy Region.

Findings of the Working Group

A working group of representatives from across the region has been meeting since December 2017 to develop solutions that will improve access, usage and financial sustainability of our arenas.

Their work has led to a number of solutions including consensus on:

- Creating an allocation policy that prioritizes youth and improves gender equity in ice-sports.
- Cooperation on facility rental pricing.
- Creating a standing regional collaboration and oversight committee.
- Avoid non-resident fees by offering **communities without arenas** access to recreation facilities, if they agree to contribute to their subsidization. A fair contribution that was generated was a property tax levy of 0.03 per \$100 of assessment. By comparison, Saint John property tax payers subsidize recreation services and facilities by \$0.114 per \$100 of assessment. It was also agreed that communities without arenas that subsidize local recreation facilities, such as outdoor rinks or community centres, shall receive a credit that may reduce the levy to no less than \$0.02 per \$100 of assessment.

The working group held a closing meeting with **CAOs** and **DELG**. An agreement could not be reached to address the crossflow of arenas users from **service provider** communities before the agreed deadline. Without an agreement, there is a risk of non-resident user fees being implemented at Saint John arenas this year. Therefore, it is recommended to engage an independent consultant to determine any imbalance between service provider communities by analyzing usage, financial and census data. More details regarding these challenges and recommended solutions may be found below.

Definitions

LSD: local service district

FRSC: Fundy Region Service Commission

CAOs: Chief Administrative Officers such as town managers, city manager

DELG: New Brunswick Department of Environment and Local Government

Service Providers: Communities which currently subsidize arenas through property taxes. Those communities include:

- Town of Grand Bay-Westfield
- City of Saint John
- Town of Rothesay
- Town of Quispamsis
- Village of St Martins
- LSD of Saint Martins

Communities Without Arenas:

Communities which do not currently subsidize arenas through property taxes. Those communities include:

- LSD of Musquash
- LSD of Petersville
- LSD of Westfield
- LSD of Greenwich
- LSD of Kingston
- LSD of Rothesay
- LSD of Simonds
- LSD of Fairfield

Challenges

Subsidization of Arenas

All public arenas are funded by two primary sources: rental fees and property taxes from the host community. One challenge has been striking a balance between the two sources so that property taxes and access to arenas remain affordable, and that arenas can be financially sustainable. In striking this balance, some New Brunswick communities have therefore decided to impose additional fees on residents of communities which do not subsidize arenas.

Impending Non-Resident User Fees

In Saint John, more than 30% of usage in their 5 arenas comes from non-residents. Some of this usage is from communities which do not subsidize arenas, but also from neighbouring communities with their own arenas. Saint John has stated that without a regional funding agreement, a new fee system shall be implemented by Fall 2019. The added fees for non-residents have yet to be determined. However, looking at a case study in Fredericton, the city has implemented a non-resident user fee of \$890 per person, per sport. Arenas in Quispamsis, Rothesay, Grand Bay-Westfield and St Martins also demonstrate non-resident usage of 30%, suggesting there is significant crossflow in the Region.

Comparing Crossflow and Level of Service Between Arenas

When comparing the level of service being offered by each arena, many factors must be considered including condition of the facility, number of hours served, how many of those hours were paid, unpaid or shared by large groups (e.g. cross-ice hockey). Complicating matters are the differences in financial information such as accounting practices and capital investment strategies. Comparing all of these factors requires further analysis with appropriate expertise, such as financial accounting, asset management and service management.

Over Supply of Ice

There is currently a surplus of available ice-time, particularly within Saint John. Saint John's Recreation Plan (PlaySJ, 2015) and their infrastructure inventory plan (2010) both recommend rightsizing. In the 2017-2018 season, each of the 4 Saint John civic arenas provided just under 2,100 hours. Cumulatively, 3,300 hours were unused. Through the process this past year, several stakeholders have asked that this over supply of ice-time be addressed before a regional cost sharing agreement can be considered.

Facility	Hours Available	Hours Used	Revenue Hours	Comp Hours	Maint Hours	Utilize %
Belyea Arena	2,875.83	2,047.25	1,119.25	528.50	399.50	71.19%
Gorman Arena	2,875.83	2,070.17	1,182.25	502.00	385.92	71.98%
Hurley Arena	2,875.83	2,054.50	1,124.00	517.50	413.00	71.44%
Peter Murray Arena	2,875.83	2,029.42	1,174.08	462.50	392.83	70.57%
	11,503.33	8201.34	4599.58	2010.5	1591.25	71.30%

Utilization Report of Saint John Civic Arenas for the 2017-2018 season.

Comp Hours are unpaid hours that would include public free-skate, in-kind ice-time and refunded time.

Local Service Districts Representation

The process up to now has lacked representation from the local service districts (LSDs). Unlike municipalities, LSDs do not have staff resources that can represent their community in meetings. Several calls were made to community members, including one member that participated for one meeting, but all candidates sited that they could not make the time commitment to participate on an on-going basis. New methods of LSD community participation must be included in steps going forward.

Data Collection and Privacy Concerns

It has been clear since the beginning of this process that verifiable data will be a key factor to ensure this process is fair and evidence based. Necessary data for this process has been postal codes of registered ice-sports participants. Sports organizations are responsible for protecting the privacy of their participants. They are therefore weary of requests to access this information. Consultation with the FRSC's lawyer has confirmed that sharing only postal codes is not considered personally identifiable information. Regardless, concerns and misunderstanding still exist among sports organizations regarding why this information is needed and how it will be used. Although many groups have cooperated, some responded that privacy concerns prevent them from sharing postal codes and other group simply have not responded.

The City of Saint John has provided the most data through this process because they have been collecting this information for several years. This is a new practice for other service providers. Therefore, it is unrealistic to expect the same level of detail in their data after only the first round of collection. There is also a lot of confusion and misunderstanding among user groups, with whom cooperation is contingent to retrieve this data. Building trust with user groups and the public is essential, and cannot be rushed. We must allow for the proper consultation and communication process to listen to concerns and address them before an agreement can be decided upon.

Recommendations

It is recommended that a regional funding agreement be implemented to avoid non-resident fees, so that all residents in the Fundy Region may continue to have healthy activity options through access to regional recreation facilities, such as arenas. Sufficient data has been collected to propose an offer of service to communities without arenas. However, further information gathering is required to determine the crossflow of users between service providers and any potential imbalance. Therefore, the process moving forward has been separated into two steps.

Process for Step 1: Offer of Service & Public Consultation

Service providers are asked to agree to offer communities without arenas the same level of access to all recreation facilities as their own residents if communities without arenas choose to support those facilities through a levy of \$0.03 per \$100 of assessment. Those communities with local recreation spending may receive a credit, reducing the levy to no less than \$0.02 per \$100 of assessment. Funds generated by the levy shall be distributed to arenas based on usage data.

The Commission shall begin consultation with stakeholder groups and the public, residents of communities without arenas in particular, regarding the proposed offer above. Feedback from these consultations will be sent to the Commission and Minister of Environment and Local Government for their consideration.

Tentative Timeframe: April

To facilitate this process, service providers are asked to agree to:

- Make it mandatory for user groups to provide residency information (e.g. postal codes) of their participants in order to rent ice-time on an on-going basis: weekly or monthly. One-time bookings are excluded from this requirement.
- Share collected residency information, ice-time schedules and financial information with FRSC.
- Cooperate with regional partners on ice-time allocation and pricing; prioritizing youth and gender equity.
- Address any oversupply of ice and optimize existing ice-time by utilizing early time slots and shared-ice whenever possible.

Process for Step 2:

Determine Crossflow Between Service Providers & Potential Imbalance

Confirm commitment of Commission members to provide a resource for the working group going forward in this process.

Issue a request for proposal for a consultant to analyze the crossflow of arena users between service provider communities and compare the level of service offered by each arena. The consultant shall also develop a standard operating and capital cost per ice pad in its calculations. If an imbalance in service and usage is determined between service provider communities, the consultant shall recommend an appropriate funding formula to address the imbalance. Awarding a successful supplier for this work shall be decided at a Commission board meeting.

Tentative Timeframe: April

Findings of the consultant's report shall be considered at a Commission board meeting.

Tentative Timeframe: May

Begin decision-making process with local service districts through the Minister of Environment & Local Government.

Tentative Timeframe: June-July

The estimated timeframe to conclude both steps and the decision-making process for an agreement is July 2019



Regional Ice Strategy Update

City Staff Presentation to Common Council

March 25, 2019



SAINT JOHN

Agenda

- Ice Strategy: Purpose and Process
- City of Saint John Guiding Principles
- Draft Ice Strategy
- History of Regional Resolutions
- Funding Formulas
- March 25 Regional Service Commission report
- Stigma of Term “User Fees”
- Recommendations

Ice Strategy: Its Purpose

Improve collaboration between different jurisdictions in the management of similar facilities (arenas) used by similar customers for the benefit of all regional users and taxpayers through:

Sustainability

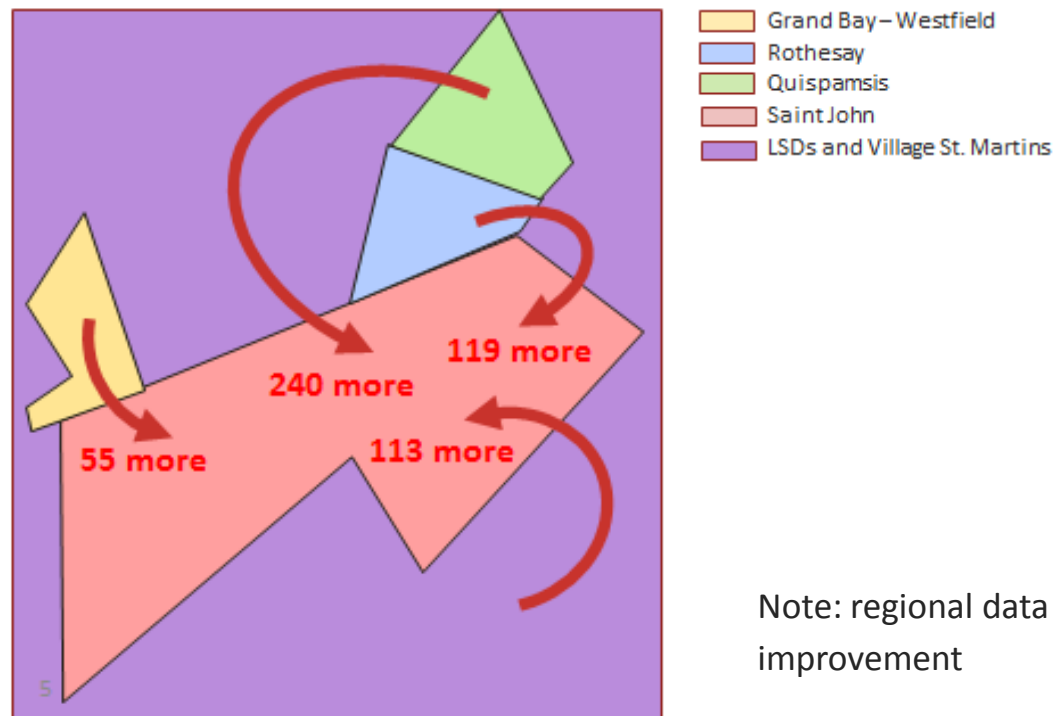
- Matching supply with regional demand
- Sharing for cost efficiencies

Fairness

- Effectively aligning taxpayer contributions with regional use

Regional Use of Arenas

- 1/3 of Saint John arena users are regional
- More residents from each town and LSDs use city arenas than vice versa



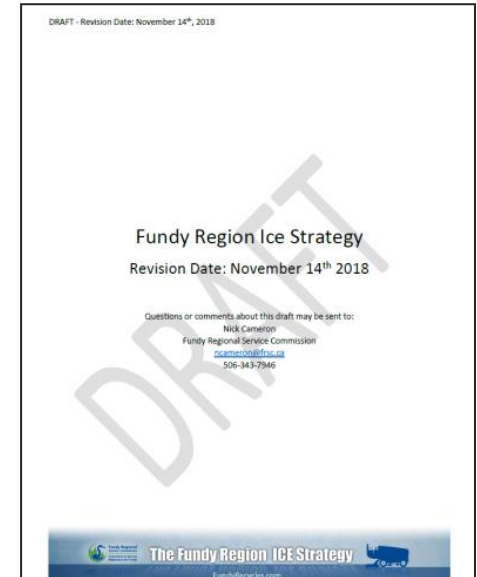
Note: regional data quality requires improvement

Ice Strategy: How Did It Happen?

- Mandate of Regional Service Commission
- Regional Recreation Plan (2016)
- Saint John Council advocated for Ice Strategy
- Working Group of regional recreation staff leaders
- Checkpoints with Commission and Councils

Draft Ice Strategy

- Released in Fall 2018
- Funding formula should be fair, data driven, financially sustainable
- Funding formulas options but no preference
- Municipalities requested to collect residency data and continue to explore funding formula
- Municipal response to requests mixed



Seeking Regional Consensus

- 4 previous Regional Service Commission Board resolutions related to Ice Strategy
 - Receive and File updates July 2017, October 2018, December 2018
 - May 2018 – Consultant engaged for elected official engagement
 - March 25, 2019 report discussed further in presentation

Funding Formulas Developed by Working Group

Formula developed by City Representative

- Redistributes total current subsidization of regional arenas among taxpayers of municipalities and LSDs based on proportion of arena use

Formula developed by other Working Group members

- Tax levy on LSDs residents only for broader access to recreation facilities, redistributed to municipalities based on number of arenas

Consensus on preferred funding formula could not be reached

Challenges with Securing Accurate Data

- Only recent consensus to have all user data shared
- Concern from regional user groups
- City's practice of collecting customer data not shared regionally
- Differences in reporting financial data

March 25 Commission Board Report

Two independent recommendations:

1. Proceed with funding formula that only targets LSD contributions (alternate to City proposed formula)
2. “Confirm commitment of Commission members to provide a resource for the working group going forward in this process”

Conclusions from March 25 Commission Report

- Contextual information in report incomplete
 - Regional usage data not reported
- Limited opportunity to advance consensus
 - Solutions for LSDs and municipalities independent
 - Ambiguity of recommendation #2
 - Requires more City resource investment

Stigma of Term “User Fees”

- Each municipality in region charges user fees
- Level of taxpayer subsidization reflection of degree of public good
- “Non-Resident User Fees”
 - Solution used in other jurisdictions
 - Achieves regional fairness in absence of regional co-operation
 - Not intended to be punitive
 - Difficult to administer
 - Common Council could reconfirm preference of co-operative approach

Recommendations

1. Support Mayor Darling's motion at the March 25, 2019 Regional Service Commission Board meeting:
 - a) Commit by May 1, 2019 principles of a funding formula:
 - i. Redistribute operating cost deficits to taxpayers based on usage
 - ii. Exclude deficit costs not considered applicable
 - b) Approve consulting services to define applicable costs after regional commitment to principles
 - c) Provide resource for Staff Working Group for (b)
 - d) Commit to exploring further collaboration
2. Proceed with Plan B in absence of agreement by May 1, 2019
3. Reconfirm preference of co-operative regional approach over non-resident user fees



Budget Simulator - Public Engagement

City of Saint John Long Term Financial Plan



SAINT JOHN

Budget Simulator – Public Engagement for the LTFP

- Best Practice in Long Term Financial Planning
- Public input on funding priorities to inform long term strategic direction of the City
- Opportunity to engage with the Public:
 - Provide information about the City's current service levels
 - Obtain feedback on how taxpayers prioritize City services
 - Share the experience of balancing the budget

One of many inputs into the development of the Long Term Financial Plan!

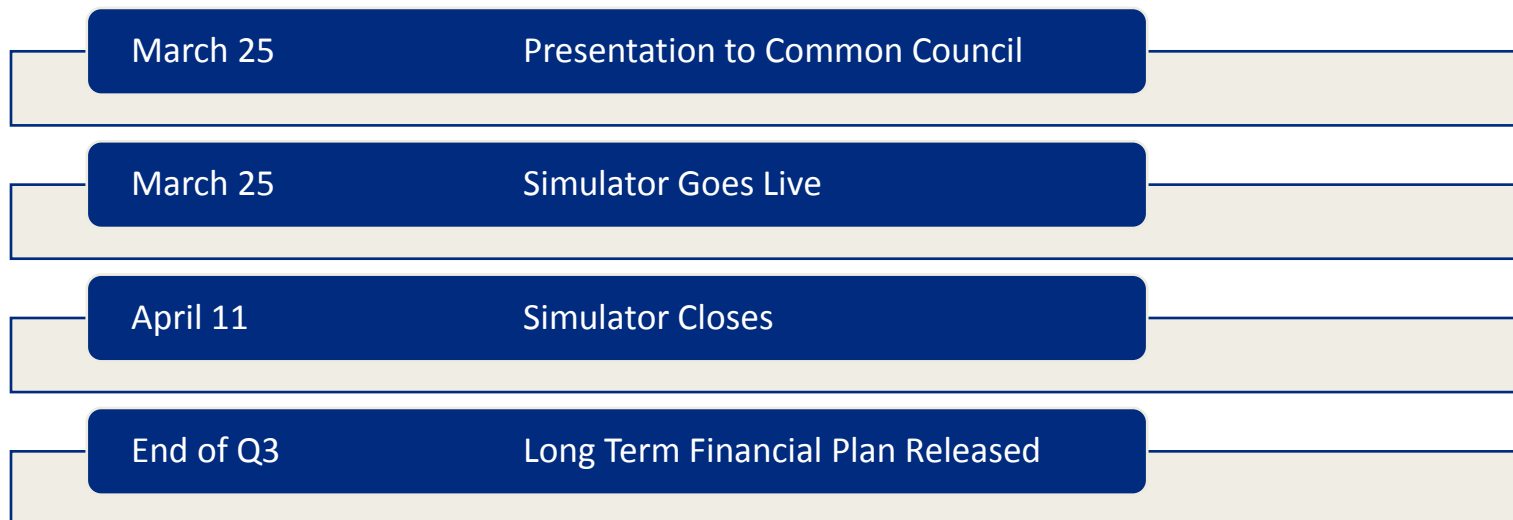
Long Term Financial Plan

Initiatives	Target	Deliverables
Public Engagement	Q1/ 2019	<ul style="list-style-type: none"> Budget Simulator – Public Engagement
10 Year Financial Plan	Q3/ 2019	<ul style="list-style-type: none"> Prepare a 10-Year Operating and Capital Plan
Financial Policies	Q3/ 2019	<ul style="list-style-type: none"> Council approved financial policies that will strengthen the governance respecting fiscal responsibility and influence decision making during the budget planning process;
Financial Health Report Card	Q4/ 2019	<ul style="list-style-type: none"> Annual Report Card on Financial Health (Sustainability, Flexibility, Vulnerability)

How to complete your budget

- **Visit our website – www.saintjohn.ca**
- **Go directly to the budget simulator:**
<https://cityofsaintjohn.budgetsimulator.com/>
- **Visit City Hall to pick up a paper version:**
The Office of the Common Clerk, 8th Floor City Hall

Next Steps / Timeline



Demonstration of Budget Simulator



Thank you



SAINT JOHN

COUNCIL REPORT

M&C No.	2019-55
Report Date	March 18, 2019
Meeting Date	March 25, 2019
Service Area	Saint John Water

His Worship Mayor Don Darling and Members of Common Council

SUBJECT: Engineering Services – Musquash Water Pumping Station Upgrades

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>Susan Steven-Power</i>	<i>Brent McGovern/Brian Keenan</i>	<i>John Collin</i>

RECOMMENDATION

Notwithstanding the City's Procurement Policy for Engagement of Professional Services, it is recommended that Common Council authorize staff to conduct direct negotiations with CBCL Limited to carry out engineering services for the Musquash Water Pumping Station Upgrades project.

EXECUTIVE SUMMARY

The purpose of this report is to request that Common Council authorize staff to conduct direct negotiations for the engagement of CBCL Limited to carry out engineering design services for the Musquash Water Pumping Station Upgrades project.

PREVIOUS RESOLUTION

July 30, 2018; 2019 Water & Sewerage Utility Fund Capital Program Approved.

STRATEGIC ALIGNMENT

This report aligns with Council's Priority for Valued Service Delivery, specifically as it relates to investing in sustainable City services and municipal infrastructure.

REPORT

BACKGROUND

The Musquash Water Pumping Station is a critical piece of infrastructure located in the East Musquash Watershed. It has existed in its current location on the shoreline of the East Branch Musquash Reservoir since the early 1970s and the site currently floods on a regular basis. The station is used to supplement the available water in Spruce Lake. Spruce Lake is the only water source for West Side industrial users and also provides a backup drinking water supply for West Side residential customers.

In 2013 the City commissioned CBCL Limited to complete a facility assessment and preliminary design for upgrades at the Musquash Water Pumping Station. As a result of the facility assessment, one of the key recommendations was that a new electrical substation be constructed and that it be moved to a higher elevation in order to reduce the risk of flooding. The detailed design and construction management of the new electrical substation was awarded to CBCL Limited. This project is currently under construction, with an anticipated completion date of June 2019.

Another key recommendation from the facility assessment report was to upgrade the Musquash Water Pumping Station itself. As the building envelope was in relatively good shape, the recommendation was made to construct a new concrete floor inside the building higher than the existing floor which would essentially raise the elevation of the pumping station while still using the existing building and pump intakes. The building envelope would be modified and the existing piping and equipment would be upgraded and installed at the higher floor elevation. This would reduce the risk and impacts of the seasonal flooding from future flood levels.

ANALYSIS

Typically, the Request for Proposal method requires a period of 7 to 8 weeks for each substantial project. Direct Engagement provides the City the opportunity to identify consulting firms best equipped to complete the designs in a timely manner and significantly reduces the administrative time which is inherent with a traditional call for proposals. The direct engagement process also affords the City staff to fine-tune the details of the engagement in order to achieve the best value for money for the City.

CBCL Limited has an extensive knowledge and understanding of the facility due to their previous assessment of the Musquash Water Pumping Station and Electrical Substation. They have also completed a preliminary design of the Musquash Water Pumping Station Upgrades. The detailed design work for this project is an extension of the work previously completed by CBCL Limited to date

on this project, therefore, it would be most efficient and effective for CBCL Limited to continue with this work. Staff has considered work previously completed by CBCL Limited and is confident in their ability to successfully carry out the work on this critical and complex project.

Provided an acceptable agreement can be reached with CBCL Limited, a subsequent report will be submitted to Council identifying the negotiated fee for the engineering services required and requesting Council's approval to engage CBCL Limited.

The negotiations would proceed as follows:

A detailed scope of work would be developed by staff for this project and, based on this scope of work, CBCL Limited would be required to submit their proposed project team, work plan, schedule and a fee to complete all the work identified. Staff would then review their submission and evaluate the proposed fee for the project. Staff would then seek to settle on an acceptable fee with the consultant for submission to Council.

Should staff be unable to reach an acceptable agreement with CBCL Limited, staff would report back to Council and seek approval to negotiate with an alternative consultant for the project or to implement a public call for proposals.

SERVICE AND FINANCIAL OUTCOMES

An amount of \$450,000 is included in the 2019 Water & Sewerage Utility Fund Capital Program for floodplain mapping and engineering design services for the Musquash Water Pumping Station Upgrades project.

Partial funding for this project is proposed to come from the National Disaster Mitigation Program (NDMP). This funding program supports projects that will lessen and/or eliminate the effects of rising flood levels through informed mitigation efforts. It is important that we are prepared to commence the project in early April 2019 utilizing the funds from the Utility Share of the 2019 Capital Program as the National Disaster Mitigation Program Contribution Agreement stipulates that in order for costs to be eligible under the NDMP, the costs must be incurred between April 1, 2019 and March 31, 2020 meaning that the design work must be completed before March 31, 2020 which will be challenging for this complex project should there be any delays in commencing the engineering design work.

Engineering fees to cover the costs of design generally do not exceed 10-15% of the total overall project cost, depending on the nature of the project and the engineering services required. The costs incurred by the Consultant would be paid in accordance with the terms of the Request for Proposal at the rates submitted and accepted in the Consultant's proposal not to exceed the

Recommended Minimum Hourly Rates as contained in the Association of Consulting Engineering Companies – New Brunswick fee guidelines.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

The engagement process and recommendation has been reviewed with Materials Management and the City Solicitor.

ATTACHMENTS

N/a

COUNCIL REPORT

M&C No.	M&C 2019-65
Report Date	March 13, 2019
Meeting Date	March 25, 2019
Service Area	Growth and Community Development Services

His Worship Mayor Darling and Members of Common Council

SUBJECT: One Stop Development Shop Customer Service Enhancement

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>Jacqueline Hamilton Amy Poffenroth Phil Ouellette</i>	<i>Jacqueline Hamilton</i>	<i>John Collin</i>

RECOMMENDATION

Receive and file this update on planned customer service enhancements to the City's One Stop Development Shop, proposed as a priority deliverable for the City's Growth & Community Development Services in 2019.

EXECUTIVE SUMMARY

The purpose of this report is to update Common Council on planned enhancements to the customer service experience provided by the City's One Stop Development Shop housed within Growth & Community Development Services. Accelerating growth of the City's tax base is critical to addressing Saint John's financial challenges and ensuring long term prosperity. The customer service provided by the City's One Stop Development shop is a key contributor to improve investor confidence and support tax base growth. Working together with DevelopSJ, the recommended customer service enhancement plan will be delivered as a priority City initiative in 2019, taking customer service to the next level and delivering a best in class solutions-oriented customer service model to drive smart growth.

PREVIOUS RESOLUTION

N/A

STRATEGIC ALIGNMENT

Common Council has adopted a set of Council Priorities: 2016-2020 and under the heading of “Growth and Prosperity,” the following is stated: “Saint John is recognized by residents and businesses as a positive and supportive city. We grow in a smart way and attract talent, innovation and opportunities so all people can thrive.” Accelerated growth is needed to address the financial challenges facing the City. Customer service excellence and the ease of development approvals is an important contributor to the City’s ability to attract investment and achieve tax based growth.

REPORT

The purpose of this report is to update Common Council on planned enhancements to the customer service experience provided by the City’s One Stop Development Shop housed within Growth & Community Development Services. Accelerating growth of the City’s tax base is critical to addressing Saint John’s financial challenges and ensuring long term prosperity. The customer service experience provided by the City’s One Stop Development shop is a key contributor to improve investor confidence and support tax base growth.

Context: One Stop Development Shop Customer service Improvement

Under Council’s direction, the City has demonstrated strong leadership in transforming its building and development approval services into a customer focused One Stop Development Shop. Key highlights the major improvements realized over the past five years, based upon significant client engagement include:

- One Stop Shop implemented transformational & structural change bringing staff under one roof
- Defined customer service role as “Facilitators vs Regulators” and implemented 40 plus service improvements to eliminate red tape and streamline approvals and value added services to our clients
- KPIs established that drive performance & efficiency
- Modernized suite of development bylaws adopted to support smart growth
- Initiation of Heritage Bylaw / Neighbourhood Plan to catalyze growth
- Developed a suite of incentives to support urban development and heritage reinvestment
- Completed (3) continuous improvement projects to improve efficiencies during the permit intake process, move to digital notification of planning applications, and enable a streamlined heritage approvals.
- New organization, DevelopSJ has been created to drive tax base growth and will play an important role in attracting and supporting investors working in collaboration with Growth & Community Development Services.

While the City has improved its service over the past five years, there continues to be challenges experienced by our clients navigating the City's One Stop Development Shop and potential areas of improvement:

- Customer resolution remains siloed, and customers are having an inconsistent experience. Escalation is not streamlined and accessing various parties.
- Lack of formalized customer feedback system to track customer satisfaction levels (beyond efficiency metrics).
- Development processes need to be clear and solutions oriented. The lack of clear expectations is causing frustration and costly resubmissions. In some cases, expectations may not always be reasonable.
- Perception is reality – negative experiences can undermine the City's reputation and investment attraction efforts.

Working together with DevelopSJ, the recommended customer service enhancement plan to be delivered as a priority City initiative in 2019 will take the customer service offered at the One Stop Development Shop to the next level and deliver a best in class solutions-oriented customer service model to drive smart growth.

2019 Work plan: One Stop Development Shop Customer Service Improvement

Growth & Community Development Services have identified the need to proactively implement customer service improvements to continually improve the City's One Stop Development Shop and provide valued services to the City's development clients.

The recommended improvement plan will focus on three areas:

1. *Fostering a customer centric culture;*
2. *Removing barriers and incentivizing smart growth; and*
3. *Improving our processes to reduce red tape and costs.*

Some improvements can be actioned immediately as short term wins; others require policy or bylaw changes or more robust process improvement. Priorities will be established working collaboratively with DevelopSJ and our development clients and include the following customer service improvements for 2019:

1. Effective immediately, **introduce a Manager of Customer Service Operations for the One Stop Development Shop.** This role, originally conceived with the One Stop Development Shop model, will be front facing and charged with ensuring seamless customer service experience, providing a single point of contact for the customer to troubleshoot issues, facilitate solutions and roll out customer improvements. This

position will work with a quick reaction team to resolve customer issues & drive improvement. This position will be filled as a secondment opportunity within existing establishment.

2. **Deliver a program of customer service training** for front line staff to continue to build and strengthen competencies around customer service excellence and equip staff with skills needed to navigate the important roles of facilitating solutions.
3. In collaboration with DevelopSJ, host engagement sessions with our respective teams and **developer / client focus groups** to understand pain points for clients, yield and test ideas for improvement and set priorities in terms of implementing customer service process improvements.
4. Action short term customer service improvements including **up to 10 “just do it” initiatives** that will cut red tape and add value for clients. The identification of priorities will be based on client engagement feedback. Engagement sessions will be held with staff to identify “just do it” improvements that can be implemented to cut red tape or costs and add value for clients. The list will include improvements such as streamlining of heritage approvals to reduce timeframes for minor renovations and phased permits for site or infrastructure improvements to enable construction projects to move forward faster.
5. **Facilitate the adoption of the Neighbourhood Plan for the Central Peninsula and new Heritage Bylaw and related Zoning Bylaw amendments** that will be transformational in improving clarity and investor confidence, driving growth and removing unnecessary red tape or regulatory barriers to drive urban density and allow for more flexibility for development in heritage areas and clear guidelines for infill development creating more predictability for investors to unlock development potential for Central Peninsula. Implement enhanced incentive programs to build momentum with these changes.
6. **Deliver process improvements to enhance the planning and infrastructure processes** to ensure an efficient and effective process for clients. Focus will be to review these processes to remove barriers, improve predictability, and create new value added tools to achieve outcomes while reducing costs for industry.

The customer service enhancement plan for the One Stop Development Shop will be a priority initiative for Growth & Community Development Services in 2019. The next steps include updating Council at its March 25 meeting and moving forward the engagement sessions with Developers and clients to seek feedback on pain points and areas of improvement. Growth Committee and Council will be updated at key milestones in the delivery of this plan.

SERVICE AND FINANCIAL OUTCOMES

The intended outcomes of the City of Saint John's growth-related efforts and investments are to achieve new levels of employment, population and tax base growth. The plan will be resourced within the City's current operating budget for 2019.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

The customer service enhancement plan for the One Stop Development Shop has been designed to address previous feedback from clients; improvements will be delivered in partnership with DevelopSJ and staff throughout the organization involved in the development process. The plan will be prioritized on the basis of improvements that yield the maximum impact for our customers to drive growth outcomes.

ATTACHMENTS

Power Point Presentation: One Stop Development Shop Customer Service Enhancements



One Stop Development Shop Customer Service Enhancements Growth & Community Development Services

March 21, 2019
 Growth Committee



Presentation Outline

- Drivers for customer service improvement
- One Stop Development Shop – What we have achieved
- One Stop Development Shop – Areas of Improvement
- Customer Service enhancement plan – Next 90 days
- Customer Service enhancement plan – By end of 2019
- Recommendations & Next steps

What are the drivers for improvement?

- Council Priorities related to Growth & Prosperity, Valued Service Delivery & Fiscal Responsibility
- The City is facing significant financial challenges: Population and tax base growth is stagnant, operating costs are outpacing operating revenues. Beginning in 2021, it is expected that the City will face a \$12M shortfall.
- Saint John needs more robust tax based growth to close the gap.
- Customer Service & Growth are interconnected. Providing excellence in service delivery to our clients contributes to our ability to attract investment.
- The City's One Stop Development shop is an economic development tool – but we need to continually improve our services to ensure a positive experience for our clients & a positive climate for investment

One Stop Development Shop – what we have achieved in the last 5 years

One Stop for all Development approvals



What began as a multi-year project to transform our service, is now core to our customer service role as facilitators of smart growth.

One Stop Development Shop – What are the areas of improvement?

- Our customers are not having a consistent experience. Resolution is not streamlined and is being escalated to various parties. When there are road blocks, we need to do better at facilitating solutions.
- Expectations for some processes are unclear causing frustration and costly resubmissions & expectations may not always be reasonable.
- Lack of formalized customer feedback system to track customer satisfaction (beyond efficiency metrics).
- Perception is reality – negative experiences can undermine City's investment attraction efforts.

One Stop Development Shop – Where do we want to be?

- Knowledgeable team who embrace continuous improvement & reputation of delivering innovative growth plans.
- Opportunity to capitalize on growth momentum in the core and introduce improvements with City Hall move and website refresh.
- Working together, One Stop Development Shop & DevelopSJ, aspire to leverage our innovative partnership to **facilitate & champion growth** and
- Realize our vision to be **best in class at solutions-based customer centric service that drives smart growth**

Plan for Customer Service Enhancement

Three focus areas for 2019 working collaboratively with DevelopSJ:

- **Fostering a customer centric culture**
- **Reducing barriers & incentivizing smart growth**
- **Improving processes to reduce red tape**

Many improvements will be actioned as short term wins, others requires policy or bylaw changes or more robust process improvements.

Plan for Customer Service Enhancement

Next 90 days:

1. **Introduce a Manager of Customer Service Operations for the One Stop Development Shop** as a single point of contact to enhance the customer experience, manage front line staff and work with a quick reaction team to resolve customer issues and drive service improvement. Achieved as a secondment within existing establishment.
2. **Deliver customer service training** to strengthen competencies and capacity to deliver solutions-oriented customer service excellence.
3. **Host engagement sessions with Developers/client groups** to understand pain points, identify & prioritize areas of improvement.
4. **Deliver up to 10 “just do it” improvements.** Potential improvements will be selected based on client feedback and include phasing of planning & infrastructure requirements, streamlining heritage approvals and new value added tools.

Plan for Customer Service Enhancement

By end of 2019:

5. **Facilitate adoption of Central Peninsula Neighbourhood Plan, new Heritage Bylaw & related Zoning Bylaw amendments** to remove barriers, drive transformational growth to unlock the development potential for the core. Accelerate incentive programs to build momentum.
6. **Deliver improvements to the planning and infrastructure processes** to ensure an efficient and effective process for clients. Focus will be cutting red tape, reducing barriers, improving predictability and creating new value added tools to achieve outcomes, while reducing costs of doing business.

Recommendation & Next Steps

- Receive & file the report;
- Deliver Council presentation on March 25;
- Move forward with client engagement and deliver customer service enhancements that are responsive to client needs; and
- Provide regular updates to Growth Committee & Council at key milestones.

Q & A



COUNCIL REPORT

M&C No.	2019-64
Report Date	March 20, 2019
Meeting Date	March 25, 2019
Service Area	Transportation and Environment Services

His Worship Mayor Don Darling and Members of Common Council

SUBJECT: Winter Asphalt Maintenance

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>Jeff Hussey / Amy Dobson</i>	<i>Michael Hugenholtz</i>	<i>John Collin</i>

RECOMMENDATION

It is recommended that this report be received and filed by Common Council.

EXECUTIVE SUMMARY

During a winter, such as this, where the City experiences large temperature fluctuations, potholes become a common hazard on our streets that affects the travelling public. They are not only an inconvenience to citizens but also can create a safety hazard and potential for property damage. The purpose of the following report is to inform Council on how potholes are formed, the different types of surface defects, the materials used to maintain them, and the maintenance programs utilized in combatting them.

PREVIOUS RESOLUTION

REPORT

A pothole is a structural failure in a road surface due to water in the underlying soil structure and traffic passing over the affected area. Water first weakens the underlying soil; traffic then fatigues and breaks the asphalt surface in the affected area. Potholes can grow to several feet in width, though they usually only develop to depths of a few inches.

Two factors are always present in such a failure: traffic and water.

The mechanism that creates a pothole includes:

- Snow-melt or rain seeps through cracks in the pavement and into the sub-base; if the moisture cannot drain away from the sub-base and soil underneath, it becomes saturated and soft. This is typically because the soils are frozen in the winter. This is why we tend to see an increase in potholes during the winter months.
- Trapped moisture is subjected to repeated freeze/thaw cycles and with each occurrence the expanding ice lifts and cracks the pavement more. The passing traffic weakens the pavement, cracking it further.
- As temperatures rise and the ice melts, voids are left in the pavement. This void collects more water, and during the next freeze, the void will enlarge.
- Vehicles driving over the weakened pavement further deteriorates the surface until it fails even more, thus creating a pothole.

What affects pavement life?

Pavement life is influenced by many factors: vehicle loading (axle loads, tire pressure and gross vehicle weight), traffic volume and mix, environmental conditions, topography, subgrade condition, initial pavement design and construction practices, maintenance activity and pavement age.

In areas such as ours that are subject to freezing and thawing, frost heaving can damage the pavement and create openings for water to enter. During the Spring thaw and mid-winter thaws, the thawing of the sub soils accelerates this process. When the thawing of upper portions of the soil structure in a road cannot drain past still-frozen lower layers, thus saturating the supporting soil and weakening it.

The decision and capability to patch potholes is influenced by: severity (priority) of the pothole; current weather; traffic conditions; major maintenance work or utility work in the roadway; availability of personnel, equipment, and materials, and the demands of the travelling public.

Types of Surface Defects:

Delamination

Delamination is a failure mode that occurs in layered materials. With respect to roads it refers to the loss of an area of the wearing course layer (top most layer, typically 1.5 inches), usually in conjunction with a clear delineation of the wearing course from the layer below. This is a clear sign of not having an adequate bond between the two layers. These types of defects cannot be repaired during the winter months.

Pothole

Potholes are bowl-shaped holes caused by the localized breakdown of the pavement surface. Potholes typically result from the continuous cycle of thawing and freezing. Poor mixtures and weak spots in the base or subgrade can accelerate pothole failures.

Alligator Cracking

Potholes can form progressively from fatigue of the road surface which can lead to a precursor failure pattern known as alligator cracking. Eventually, chunks of pavement between the fatigue cracks gradually work loose, and may then be plucked or forced out of the surface by continued wheel loads to create a pothole. This is a sign of deterioration or failure of the sub-base soils layer. Generally when this type of defect is present that section road may be beyond preventative maintenance and will require full depth repair.

Seam Separation

Longitudinal cracks occur parallel to the centerline of the pavement. They can be caused by: a poorly constructed joint; shrinkage of the asphalt layer; cracks reflecting up from an underlying layer; and longitudinal segregation due to improper paver operation. These cracks are not load-related. These typically can be maintained through a preventative maintenance program commonly known as crack sealing. These types of defects cannot be repaired during the winter months.

Materials

Asphaltic patch materials consist of a binder and aggregate that come in two broad categories, hot mix and cold mix. Hot mixes are generally used in warmer months and are produced at local asphalt plants.

The cold mix used by the City is called EZ Street. It is a polymer-modified cold asphalt designed to temporarily repair potholes, utility cuts, and edge repairs in asphalt or concrete, when properly installed. The polymers that are added to the cold mix are designed to keep the asphalt pliable in sub-zero temperatures. The addition of aggressive compaction activates the cold mix and hardens the material. It is noteworthy that with successive freeze and thaw cycles the material may eventually fail and thus the repair will need to be revisited.

Repair

Pothole patching methods may be either temporary or semi-permanent. Temporary patching is reserved for weather conditions that are not favourable to a more permanent solution and usually uses a cold mix asphalt patching compound placed in an expedient manner to temporarily restore pavement smoothness.

Semi-permanent patching uses more care in reconstructing the perimeter of the failed area to blend with the surrounding pavement and usually employs a hot-mix asphalt fill above replacement of appropriate base materials. The City has the capability to make hot mix during the winter months with our recycler and tumbler. These units can make small batches of hot mix recycled from a pile of virgin asphalt that is stored at our Bay Street facility. This material can be used when the conditions are dry, i.e. the pothole is not full of water, and the pothole is of adequate size.

Priorities

Surface maintenance defects are reported from the public either through our customer service line or our risk management department. Additionally, the crews are out and visually inspecting our network of streets for any surface defects and will report them back to their supervisor. All requests for service, whether initiated internally or externally, are inspected and prioritized based on the criteria below:

Critical:

- Major Pothole > 4" x 8" x 4" deep

Urgent:

- Pothole < 4" x 8" x 4" deep

Important:

- Major potholes in driveway aprons at the edge of a road

Minor:

- Minor potholes in driveway aprons at the edge of the road

During the winter maintenance program, there are a number of other tasks that compete for limited resources. The main focus of the Transportation & Environment team is plowing snow from City streets and sidewalks. In addition crews are busy doing equipment maintenance, cutting ice, and dealing with winter drainage issues. The latter has been particularly challenging this year due to the amount and frequency of rain events. This has eroded our capacity to address potholes on a timely basis.

Asphalt Programs

The City of Saint John has many maintenance programs for asphalt repairs. The type of surface defect and the time of year will determine how and when the defect can be addressed.

The Winter Asphalt Maintenance Program is focused on identifying priority potholes and addressing them as resources and weather conditions permit. This program is not able to rectify surface defects such as delamination, alligator

cracking or seam separation. The only surface defects that can be maintained during the winter months are potholes.

During the Spring Blitz Program, the City makes a consolidated effort to address any potholes throughout city. The entire asphalt department puts on hold all other asphalt work, such as the overlay program and driveway apron reinstatements, until they have addressed all outstanding potholes city wide. Other surface defects, such as delamination, alligator cracking and seam separation, cannot be done at this time. The material needed for these repairs is called sand seal and the required pavement temperature to be at least 15 degrees Celsius.

Once the weather allows the asphalt temperature to remain above 15 degrees Celsius, the City will start their Sand Seal Blitz. This program will allow the City to address any delaminations and other surface defects. This typically starts at the end of June or beginning of July.

All other surface defects are maintained throughout the construction season. These requests are prioritized and planned in the work schedule for the Surface Maintenance Department. With the exception of seam separation, all other surface defects are maintained through the Surface Maintenance Department. Seam separation is a stand alone program that is currently contracted out on an annual basis.

STRATEGIC ALIGNMENT

This report aligns with Council's Priority for Valued Service Delivery, specifically as it relates to investing in sustainable City services and municipal infrastructure.

SERVICE AND FINANCIAL OUTCOMES

Asphalt pavements, and concrete curb and sidewalks are essential infrastructure which directly impacts the quality of life in our community. Roadway infrastructure is important to the economic health of the community and citizens expect these assets to be maintained to an acceptable standard. Proper and timely maintenance of all roadway assets will ensure public safety, extend service life of the asset, and achieve best value for the investment.

We have purchased 140 tonnes of cold mix at a cost of approximately \$28,000 and have used approximately 55 tonnes of recycled hot mix.

The pothole count (as of March 19) includes the potholes where we have been back several times.

	<i>Potholes</i>	<i>Patching Days</i>
January	57	8
February	455	13
March	651	9

Most days crews would be placing cold mix asphalt and making use of the recycled asphalt capability. As temperatures start to warm up and there is additional meltwater in the potholes, we rely more heavily on the cold mix patching as it is less sensitive to wet conditions.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

Continued support from our citizens to assist us with our pothole patching program by calling our Customer Service line at 506-658-4455 to inform us of the location of the pothole.

ATTACHMENTS

Winter Pothole Maintenance (*Presentation*)



Winter Asphalt Maintenance



SAINT JOHN

March 25, 2019



Winter 2019 Conditions

- Increased storm activity out of the South
- Bringing mixed precipitation
 - Snow
 - Ice
 - Rain
- Followed by sub-zero temperatures

Asphalt Surface Defects

- Delamination

- Failure of the wear layer leaving the base layer intact
- Failure of the bond between the layers
- Cannot be maintained during the winter months



- Pothole

- Bowl shaped hole penetrating all layer of asphalt
- Results from the continued deterioration of other defects
- Can be maintained through the winter months with a temporary repair



- Alligator Cracking
 - Multiple block cracking on the surface
 - Fatigued section work loose and eventually create a pothole
 - Failure of the road base
 - Road beyond preventative maintenance
 - Cannot be maintained during the winter months and will require overlay or full-depth repair in construction season



Asphalt Surface Defects

- Seam Separation
 - Longitudinal cracks occur parallel to the centerline
 - Caused by:
 - shrinkage of the asphalt
 - cracks reflecting up from an underlying layer
 - longitudinal segregation due to improper paver operation
 - Maintained through the crack sealing program during the summer





What Affects Asphalt Life?

- Pavement life is influenced by many factors:
 - Vehicle loading (axle loads, tire pressure and gross vehicle weight)
 - Traffic volume and mix
 - Topography
 - Subgrade condition
 - Initial pavement design and construction practices
 - Maintenance activity
 - Pavement age
 - Environmental conditions (weather)

What Affects Asphalt Life?

- Weather conditions in Saint John
 - Multiple freeze/thaw cycles
 - Water enters through cracks in the asphalt
 - Water freezes and expands stressing the asphalt
 - During the thaw cycle the ice melts and leaves a void under the surface
 - Repeated freeze-thaw cycles coupled with traffic load further deteriorate the asphalt until failure occurs





Materials used to address Potholes

- Pothole Repairs can be either temporary or semi-permanent
 - Temporary repairs
 - Cold mix
 - Polymer modified asphalt
 - Used during the winter months
 - Tumbler/recycler
 - Hot mix
 - Semi-permanent repairs
 - Care and attention to prep the repair
 - Ensure it is dry and clean
 - Use hot mix to fill the repair
 - It is noteworthy that in both cases:
 - The importance of adequate compaction
 - Successive freeze-thaw will eventually cause the repair to fail

- As work orders are generated for potholes, they are prioritized according to their physical characteristics and location:
 - Physical characteristics
 - Critical - $> 4'' \times 8'' \times 4''$ deep in the road surface
 - Urgent - $< 4'' \times 8'' \times 4''$ deep in the road surface
 - Important and Minor – potholes located in driveway aprons and edge of road
 - Location
 - Based on the street priority

- During the winter season Transportation and Environment Services has multiple competing services:
 - Snow and Ice Control for streets and sidewalks
 - Responding to winter snow events
 - Snow removal in high density areas
 - Ice cutting
 - Winter Drainage
 - Maintaining priority catch basins
 - Responding to localized flooding
 - Repairing washouts
 - Illegal Dumping
 - Surface Maintenance
 - Potholes
 - Utility Cuts

- The City has many maintenance programs for asphalt repairs. The type of surface defect and the time of year will determine how and when the defect can be addressed:
 - Winter Asphalt Maintenance
 - Focused on identifying priority potholes
 - Addressed using either recycled hot mix or cold mix
 - 1,500 potholes fill as of March 18th
 - Spring Pothole Blitz
 - Filling potholes throughout city
 - All other asphalt work on hold until complete
 - All resources allocated towards this initiative

- Sand Seal Blitz
 - Address other surface defects
 - Delamination
 - Alligator cracking
 - Pavement temperature of at least 15 degrees Celsius
 - Typically can start in late June
- General Construction Season Maintenance
 - All other asphalt work
 - Overlay program
 - Driveway aprons
 - Water rolls and swales
 - Crack sealing
 - All other surface defects

Questions?



COUNCIL REPORT

M&C No.	2019-058
Report Date	March 18, 2019
Meeting Date	March 25, 2019
Service Area	Growth and Community Development Services

His Worship Mayor Don Darling and Members of Common Council

SUBJECT: Demolition of vacant, dilapidated and dangerous buildings at 149 Broad Street (PID 00000604)

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>Rachel Van Wart</i>	<i>J Hamilton /A Poffenroth</i>	<i>John Collin</i>

RECOMMENDATION

RESOLVED, that the buildings located at 149 Broad Street, PID# 00000604, are to be demolished as they have become a hazard to the safety of the public by reason of dilapidation; and

BE IT FURTHER RESOLVED, that said buildings are to be demolished as they have become a hazard to the safety of the public by reason of unsoundness of structural strength; and

BE IT FURTHER RESOLVED, that one or more by-law enforcement officers appointed and designated under the Saint John Unsightly Premises and Dangerous Buildings and Structures By-law are hereby authorized to arrange for the demolition, in accordance with the applicable City purchasing policies.

EXECUTIVE SUMMARY

The purpose of this report is to advise Council that a Notice to Comply was issued in 2017 under Section 190 of the *Municipalities Act* (now Part 13 of the *Local Governance Act*) for the buildings located at 149 Broad Street. The hazardous conditions outlined in the Notice have not been remedied by the owner within the required time frame as set out in the Substandard Properties Appeal Committee Decision dated September 29, 2017 and staff is looking for authorization from Council to arrange the demolition of the buildings.

PREVIOUS RESOLUTION

N/A

REPORT

Inspections of the property at 149 Broad Street have revealed that there are two buildings on the premise; a detached single-storey shed located at the rear of the property and a large three-storey, brick housing complex, The Courtenay House, constructed in the late 1800s. Staff first became aware of the property's vacancy in December 2013 and began standard enforcement procedures. The property is located in an urban center residential neighborhood and is zoned as a neighborhood community facility in the City's South Central Peninsula. The buildings are a hazard to the safety of the public by reason of being vacant, by reason of dilapidation and by reason of unsoundness of structural strength.

For the reasons described in the attached Inspection Report, a Notice to Comply was issued on August 15, 2017 and was posted to the building on August 17, 2017 as per section 132(3) of the *Local Governance Act* that outlines acceptable methods of service. When the Notice was issued, the Certificate of Registered Ownership listed two individuals as the owners; however on September 19, 2017, title changed to only one of the two previous owners. The Notice provided the owner with 60 days to remedy the conditions at the property. The owner subsequently filed a Notice of Appeal, with a Substandard Properties Appeal Committee Hearing occurring on September 29, 2017.

As per the attached Appeal Decision, City staff agreed to an extension and a number of conditions with intermittent deadlines, with the final completion deadline of January 31, 2019. A building permit was issued on December 19, 2017 for interior demolition only. A permit application for renovations has not been received by this department to date. Within the past year, the property owner has attempted to obtain investors to renovate the building and has had numerous correspondences with City Planning and Building staff. The final deadline of January 31, 2019 as outlined in the Appeal Decision of September 29, 2017 has now expired, requiring staff to pursue further enforcement action.

The Table below details the conditions outlined in the Substandard Properties Appeal Committee Decision and an update as to if these conditions have been met, many of which, have not.

Substandard Properties Appeal Committee Decision conditions as per page 7	City of Saint John Update:
a.) The Appellant shall submit his permit application and repair plan in sufficient time to allow for approval by the City by 31 January 2018.	Building Permit 17-1385 was applied for on December 14, 2017 for interior demolition only. A permit application for renovations has not been received by this department.

b.) The Appellant shall provide monthly progress updates to the City, on the last day of each calendar month, from the date of this Decision until the permit application and repair plan are approved by the City, or until 31 January 2018, whichever is later.	Verbal updates were received that professionals had been hired and were working on the project with plans in place.
c.) The Appellant shall complete all repair-related remedies by 31 January 2019.	Incomplete. An exterior inspection was completed on February 26, 2019. Partial interior demolition has been completed. A large pile of debris remains in the left side yard.
d.) Between the date of approval of the permit application and repair plan, and the completed of all repair-related remedies on or before 31 January 2019, the Appellant shall provide progress updates to the City on the following dates: i. 30 April 2018 ii. 31 July 2018 iii. 31 October 2018 iv. 31 January 2019	The following verbal updates were received: <ul style="list-style-type: none"> • March 2018 – An architect was hired and crews were scheduled to begin work, however they were waiting for better weather. • May 2018 – Investors visited from out of town and City staff met with them to explain enforcement procedures. • June 2018 – The investors backed out, but City staff was assured that there was new funding for the project. • August/ September 2018 – A new investor discussed project with City planning and building staff. They did not pursue the project further.
e.) From the date of this decision until the completion of all repair-related remedies, the Building is to remain secure at all times.	Numerous windows were found open and broken during the February 26, 2019 inspection.
f.) From the date of this decision until the completion of all repair-related remedies in the event the Building sustains a fire, break-ins or other acts of vandalism, the City shall have the right to take enforcement action as necessary.	No fires were sustained. No Police reports on file.
g.) In the event the Building significantly deteriorates any further, the City shall have the right to take enforcement action as necessary.	Conditions have worsened, given the partial interior demolition.

A compliance inspection was conducted on February 26, 2019 which revealed that since the Notice was issued, partial interior demolition has been completed however nothing more. A dumpster and a large pile of debris remains piled at the left side of the building. Therefore conditions which gave rise to the Notice have worsened since the Notice was issued in 2017.

Attached for Council's reference is the Notice to Comply that was issued and the affidavit attesting to service. Also included are photographs of the building. The *Local Governance Act* indicates that where a Notice to Comply has been issued arising from a condition where a building has become a hazard to the safety of the public by reason of dilapidation or unsoundness of structural strength, the municipality may cause the building to be demolished. As required in the Act a report from an engineer is attached, forming part of the issued Notice to Comply, and provides the evidence to the buildings' vacancy, dilapidation, unsoundness of structural strength and resulting hazard to the safety of the public. A copy of the letter advising of the Common Council Hearing date and outlining Appeal Decision conditions and updates is attached; it was posted to the building on February 27, 2019, was sent to the property owner via email and via registered mail.

STRATEGIC ALIGNMENT

Enforcement of the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-law* aligns with Council's Vibrant, Safe City priority.

SERVICE AND FINANCIAL OUTCOMES

As is written in the *Local Governance Act* that a municipality must commence in the proceedings of remedial action, approval of Common Council is required prior to starting demolition activities at the property.

Total cost of the demolition work is approximated in excess of \$125,000. Upon approval of staff recommendation, staff will seek competitive bidding in accordance with the City's purchasing policy which requires an Advertised Tender. Staff will then return to Common Council on April 23, 2019 with the Tender results and recommendation for award of contract. The cost of the work will be billed to the property owner and if left unpaid, it will be submitted to the Province with a request for reimbursement.

Note: The property is currently assessed at \$32,000 as per the Service New Brunswick Land Registry.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

The City Solicitor's Office provided ownership verification by obtaining the Certificate of Registered Ownership for the property. Additionally, the City Solicitor's Office registered the Notice to Comply with Service New Brunswick's Land Registry.

ATTACHMENTS

Notice to Comply

Affidavit of Service - Notice to Comply

Appeal Decision

Notice of Common Council Hearing Letter

Affidavit of Service - Notice of Common Council Hearing Letter

Photos

CANADA
PROVINCE OF NEW BRUNSWICK
COUNTY OF SAINT JOHN

IN THE MATTER OF THE BUILDING THAT IS LOCATED AT

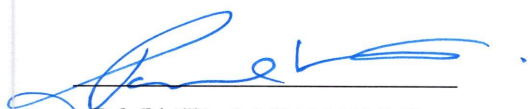
149 Broad Street, SAINT JOHN, N.B. (PID number 0604)

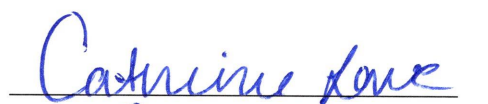
AFFIDAVIT OF SERVICE

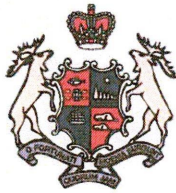
I, Catherine Lowe, of Saint John, N.B., Make Oath And Say As Follows:

1. I am employed by The City of Saint John in its Growth and Community Development Services Department. I have personal knowledge of the matters herein deposed except where otherwise stated.
2. On February 27, 2019, at approximately 3:34pm, I posted a copy of the attached Notice of Common Council Hearing Letter, marked Exhibit "A" to the front door of the building that is located at 149 Broad Street, Saint John, N.B.

Sworn To before me at the
City of Saint John, N.B.,
on the 27th day of
February, 2019


RACHEL A VAN WART
COMMISSIONER OF OATHS
MY COMMISSION EXPIRES
DECEMBER 31ST, 2022


Catherine Lowe



The City of Saint John

Buildings and Inspection Services / Services d'inspection et des bâtiments

Phone / Tél: (506) 658-2911

Fax / Téléc: (506) 632-6199

February 27, 2019

Case Number: 13-674

VIA EMAIL

Mr. Lang Lee
38 William Street
Guelph, ON
N1E 5E3

Dear Mr. Lee,

This is Exhibit "A"
Referred to in the Affidavit of

Catherine Lowe

Sworn before me at the City of
Saint John, New Brunswick

the 27 day of February 2019

Rachel [Signature]
Commissioner of Oaths

NOTICE OF COMMON COUNCIL HEARING

RE: 149 Broad Street, Saint John, New Brunswick
PID# 00000604

Please be advised that the Notice to Comply that was issued for the above noted property pursuant to the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-law* on August 15, 2017 has expired. The conditions outlined in the Appeal Decision pursuant to the September 29, 2017 Substandard Properties Appeal Committee Hearing by Brian Maude have not been met. Enclosed for your reference is a copy of the Substandard Properties Appeal Committee Decision dated September 29, 2017.

Therefore, the City of Saint John will be pursuing further enforcement action. City Staff will be attending the Common Council meeting scheduled on March 25, 2019 at 6:00 p.m. to recommend that the building be demolished as it has become a hazard to the safety of the public by reason of dilapidation and by reason of unsoundness of structural strength. Please be advised that at this meeting, you can present evidence that the building is not dilapidated or structurally unsound; however, note that this meeting will be your only opportunity to do so.

The Table below details the conditions outlined in the Substandard Properties Appeal Committee Decision and an update as to if these conditions have been met, many of which, have not.

Substandard Properties Appeal Committee Decision conditions as per page 7	City of Saint John Update:
a.) The Appellant shall submit his permit application and repair plan in sufficient time to allow for approval by the City by 31 January 2018.	Building Permit 17-1385 was applied for on December 14, 2017 for interior demolition only. A permit application for renovations has not been received by this department.



SAINT JOHN

P.O. Box 1971
Saint John, NB
Canada E2L 4L1

C.P. 1971
Saint John, N.-B.
Canada E2L 4L1

www.saintjohn.ca

**Buildings and Inspection Services / Services d'inspection et des
bâtiments**

Phone / Tél: (506) 658-2911

Fax / Téléc: (506) 632-6199

b.) The Appellant shall provide monthly progress updates to the City, on the last day of each calendar month, from the date of this Decision until the permit application and repair plan are approved by the City, or until 31 January 2018, whichever is later.	Verbal updates were received that professionals had been hired and were working on the project with plans in place.
c.) The Appellant shall complete all repair-related remedies by 31 January 2019.	Incomplete. An exterior inspection was completed on February 26, 2019. Partial interior demolition has been completed. A large pile of debris remains in the left side yard.
d.) Between the date of approval of the permit application and repair plan, and the completed of all repair-related remedies on or before 31 January 2019, the Appellant shall provide progress updates to the City on the following dates: i. 30 April 2018 ii. 31 July 2018 iii. 31 October 2018 iv. 31 January 2019	The following verbal updates were received: <ul style="list-style-type: none"> • March 2018 – An architect was hired and crews were scheduled to begin work, however they were waiting for better weather. • May 2018 – Investors visited from out of town and City staff met with them to explain enforcement procedures. • June 2018 – The investors backed out, but City staff was assured that there was new funding for the project. • August/ September 2018 – A new investor discussed project with City planning and building staff. They did not pursue the project further.
e.) From the date of this decision until the completion of all repair-related remedies, the Building is to remain secure at all times.	Numerous windows were found open and broken during the February 26, 2019 inspection.
f.) From the date of this decision until the completion of all repair-related remedies in the event the Building sustains a fire, break-ins or other acts of vandalism, the City shall have the right to take enforcement action as necessary.	No fires were sustained. No Police reports on file.
g.) In the event the Building significantly deteriorates any further, the City shall have the right to take enforcement action as necessary.	Conditions have worsened, given the partial interior demolition.

**Buildings and Inspection Services / Services d'inspection et des
bâtiments**

Phone / Tél: (506) 658-2911

Fax / Téléc: (506) 632-6199

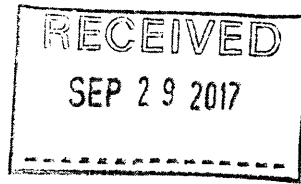
Please do not hesitate to contact me at 658-2911.

Regards,



Rachel Van Wart, EIT
Technical Services Officer

Enclosure



Brian Maude
Suite 300 – 85 Charlotte Street
Saint John, New Brunswick
E2L 2J2

Friday, 29 September 2017

Office of the Common Clerk,
City of Saint John
P.O. Box 1971
Saint John, NB E2L 4L1

Attention: Jonathan Taylor, Common Clerk

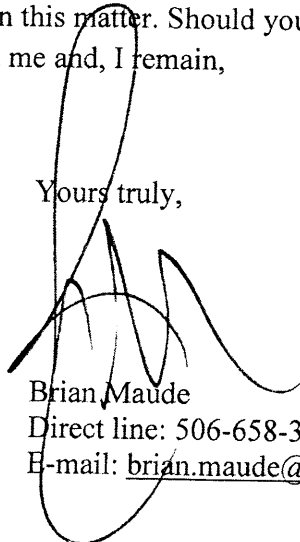
**RE: Saint John Substandard Properties Appeal Committee
Appeal File No. 2017-03
Lang Lee & Ilir Loka v. The City of Saint John
Hearing: Friday, 29 September 2017, 10:00 a.m.**

Dear Mr. Taylor,

Enclosed please find my Decision and Statement of Account for services rendered with respect to the above-noted matter. Kindly attend to providing a copy of the Decision to the Parties.

Thank you for allowing me to assist you in this matter. Should you have any questions or concerns, please do not hesitate to contact me and, I remain,

Yours truly,



Brian Maude
Direct line: 506-658-3020
E-mail: brian.maude@fcnb.ca

FILE: 2017-03

IN THE MATTER OF AN APPEAL pursuant to section 190.01(2) of the *Municipalities Act*, R.S.N.B., 1973, c.M-22 and pursuant to section 26(1) of the *Saint John Minimum Property Standards By-Law*, No. M-14

BETWEEN:

LANG LEE & ILIR LOKA

Appellants

– and –

THE CITY OF SAINT JOHN

Respondent

**DECISION OF THE SAINT JOHN
SUBSTANDARD PROPERTIES APPEAL COMMITTEE**

Parcel Identifier Number: 00000604

Parcel Address: 149 Broad Street, Saint John, New Brunswick

Registered Owners: Lang Lee & Ilir Loka

Hearing date: Friday, 29 September 2017

The Parties

1. The Appellants, Lang Lee and Ilir Loka, (the “**Appellants**”) were the registered owners of a property located at 149 Broad Street in Saint John, New Brunswick (the “**Property**”), having the Property Identification Number of 00000604. As a result of a property transfer registered on 20 September 2017, Mr. Lee is the sole remaining registered owner of the Property. However, both individuals appeared in person at the hearing and made submissions.
2. The Respondent, the City of Saint John, was represented by Rachel Van Wart, EIT, a Technical Services Officer, and Amy Poffenroth, P. Eng., a By-law Enforcement Officer (together, the “**City Officers**”).

The Property

3. Pursuant to subsection 190.01(3) of the New Brunswick *Municipalities Act*, R.S.N.B. 1973, c. M-22, as amended, (the “**Act**”), a Notice to Comply was issued by the Municipal Officer of the City of Saint John on 15 August 2017 (the “**Notice to Comply**”). The Notice to Comply indicated that the Property was in contravention of the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law*, By-law number M-30 (the “**By-Law**”), and subsections 190.01(1), 190.01(1.1) and 190.01(2) of the *Act*.
4. The Notice to Comply was accompanied by an Inspection Report prepared by Ms. Van Wart, which was reviewed and concurred in by Ms. Poffenroth (the “**Inspection Report**”).
5. The Inspection Report details a number of issues with the Property that bring it in contravention of the By-Law and the *Act*. The Property houses one large building (the “**Building**”) and one shed. In general, those issues were:

- An accumulation of junk, rubbish and refuse on the property;
- Fallen, cracked, loose and spalling bricks on the Building's exterior;
- Deteriorated and, in one section, fallen, roof fasciae;
- A dilapidated shed on the Property;
- One failed retaining wall; and
- Numerous issues with the Building's interior which include, but are not limited to, extensive water damage, crumbled wall and ceiling plaster, a sloping and partially dropped floor, mould and fungi growth on the walls and ceilings, and areas which have been vandalized.

The Appeal

The Appellant's Submissions

6. The Appellants were served with the Notice to Comply by posting it on the exterior of the Building on 17 August 2017, and also by personal service on 22 August 2017. As the Appellants attended at the hearing, service is not at issue.
7. The Appellants filed a Notice of Appeal on 1 September 2017. Their grounds of appeal were that they required more time in order to complete the plan they had for the Property.
8. A Notice of Appeal was issued on 11 September 2017. The Appeal was scheduled for 10:00 a.m. on 29 September 2017, at the City Hall Building. Again, service is not at issue as all parties attended the hearing.
9. As required by Section G, paragraph 4 of the *Provisions Governing the Procedure and Operation of the Saint John Substandard Properties Appeal Committee*, I confirmed with the Appellants that the Notice to Comply was indeed that which the Appellants sought to appeal.

10. The Appellants made their representations first. They indicated that they were in the process of finalizing their business plan in relation to the Property. Their plan is to convert the existing Building – constructed, according to the Appellants, in 1878 – into a Nursing Home. This, they submit, they can accomplish with financing (which, they submit, they are securing), an architect’s plan (which, they submit, they are obtaining) and some additional time from the City in which to complete their endeavour.
11. The Appellants accepted all of the findings contained in the Inspection Report, with the exception of the finding that the Building is structurally unsound.
12. The Appellants concluded by indicating that they had discussed their building plan with the City and contend that they had come to an agreement with regard to the execution of that plan.

The Respondent’s Submissions

13. The Respondent was represented by the City Officers. Ms. Van Wart presented a detailed file, in 12 sections, outlining the procedural history of the Appeal as well as the findings made by the Respondent over the course of its examination of the Property.
14. Ms. Van Wart presented a number of photographs which support the findings made in the Inspection Report. The Building looks to be in quite a dilapidated state.
15. As to the issue of structural soundness, the Inspection Report details that the Building is structurally unsound for the following reasons (set out on page 4 of the Inspection Report):

1. *The brickwork on the exterior of the Building is structurally unsound and causing other elements of the Building to fail. Loose bricks are visible near the main entrance where a large section of the roof has already fallen onto the front staircase and landing. Falling pieces of brick or other elements of the Building could cause serious damage to anyone on the property as well as pedestrians passing by on the sidewalk. The stairs leading to the main entrance of the Building are anchored to exterior brick that shows signs of stress and could also cause failure.*
 2. *The stairs leading to the front, left, and rear entrances of the Building are rusted and structurally unsound. Missing stair treads, rust and deterioration of the bricks where the stairs are anchored to the Building illustrate that the stairs are not safe for travel.*
 3. *The retaining walls on the property are structurally unsound and hazardous to the public. The concrete retaining wall to the left of the Building is leaning and has failed with sections of concrete and cinder blocks piled near the public sidewalk. There are unsecure stones dislodging from the stone wall at the front of the property. These stones and broken cinder blocks pose a tripping hazard to individuals entering the property and pedestrians using the sidewalk in the high density urban area.*
 4. *The interior of the Building is structurally unsound, specifically the front room that has failed and caved into the basement. Extensive water damage throughout the Building to key structural members contributes to the structural unsoundness of the Building. The flooring in the basement is soft and deflects under load indicating improper structural support.*
-
16. The Appellants, in their submissions, disputed the Inspection Report and contended that the Building is sound. They offered nothing additional in support of their contention other than a commentary on some of the internal wall framing.
 17. Where the evidence of the Respondent differs from that of the Appellants on the issue of the Building's structural soundness, I prefer the evidence of the Respondent.
 18. The Respondent confirmed the Appellants' contention that it had come to an agreement regarding the execution of the Appellants' plan for the property. However, the Respondent indicated that it would only do so subject to a certain number of conditions.

19. The Respondent outlined its conditions as follows:

- The permit application and repair plan are to be submitted by the Appellants and approved by 31 January 2018;
- The Building is to remain secure at all times;
- In the event the Building sustains a fire, break-ins or other acts of vandalism, the City reserves the right to take enforcement action as necessary; and
- In the event the Building significantly deteriorates further, the City reserves the right to take enforcement action as necessary.

20. Furthermore, the Respondent set out two deadlines:

- 31 January 2018: the date by which the Appellants were to have their permit application and repair plan both submitted and approved (the “**First Deadline**”); and
- 31 January 2019: the date by which the Appellants are to have their repair-related remedies completed (the “**Second Deadline**”).

21. In the event these deadlines are not met, the Respondent reserved the right to proceed with enforcement action.

22. Finally, the Respondent indicated that:

- between the time of the hearing and the First Deadline, it required monthly progress updates from the Appellants; and
- once the permit is issued, it required quarterly progress updates from the Appellants until the Second Deadline.

23. As indicated, the parties appeared to agree on this course of action.

Decision and Order

24. The Notice to Comply set out two remedial actions available to the Appellants, and the dates by which either of those options was to occur:

- the demolition of the Building, clean-up of the property and related remedies must be complete, or plans and permit applications for repair-related remedies, must be submitted within 60 days of being served with the Notice to Comply; and
- the repair-related remedies must be complete within 180 days of being served with the Notice to Comply.

25. However, as indicated above, the Parties have agreed upon an alternate course of action, accompanied by alternate time frames.

26. Additionally, as Mr. Loka is no longer a registered owner of the Property, I will refer only to Mr. Lee as the Appellant, and the order shall apply to whomsoever is the registered owner of the Property.

27. These proceedings are governed by *A By-Law Respecting Standards for Maintenance and Occupancy of Buildings and Premises*, By-law number M-14 of the City of Saint John. Subsection 26(4) of that By-law reads as follows:

26(4) On an appeal, the committee of council may confirm, modify or rescind the notice or extend the time for complying with the notice.

28. In light of the agreement between the Parties, I will modify the Notice to Comply, extend the time for complying with the Notice to Comply, and issue the following Decision:

- a) The Appellant shall submit his permit application and repair plan in sufficient time to allow for approval by the City by 31 January 2018;
- b) The Appellant shall provide monthly progress updates to the City, on the last day of each calendar month, from the date of this Decision until the permit application and repair plan are approved by the City, or until 31 January 2018, whichever is later;
- c) The Appellant shall complete all repair-related remedies by 31 January 2019;
- d) Between the date of approval of the permit application and repair plan, and the completion of all repair-related remedies on or before 31 January 2019, the Appellant shall provide progress updates to the City on the following dates:
 - i. 30 April 2018;
 - ii. 31 July 2018;
 - iii. 31 October 2018; and
 - iv. 31 January 2019
- e) From the date of this decision until the completion of all repair-related remedies, the Building is to remain secure at all times;
- f) From the date of this decision until the completion of all repair-related remedies, in the event the Building sustains a fire, break-ins or other acts of vandalism, the City shall have the right to take enforcement action as necessary; and

g) In the event the Building significantly deteriorates any further, the City shall have the right to take enforcement action as necessary.

29. The Notice to Comply is therefore modified as set out above and otherwise remains in full force and effect.

DATED at Saint John, New Brunswick this 29th day of September 2017.

Brian Maude
Chairperson
Saint John Substandard Properties Appeal Committee

CANADA
PROVINCE OF NEW BRUNSWICK
COUNTY OF SAINT JOHN

IN THE MATTER OF THE BUILDING THAT IS LOCATED AT

149 Broad Street, SAINT JOHN, N.B. (PID number 604)

AFFIDAVIT OF SERVICE

I, Stephen Guenette, of Saint John, N.B., Make Oath And Say As Follows:

1. I am employed by The City of Saint John in its Growth and Community Development Services Department. I have personal knowledge of the matters herein deposed except where otherwise stated.
2. On August 17, 2017, at approximately 11:00am, I posted a copy of the attached Notice to Comply, marked Exhibit "A" and Notice of Appeal, marked Exhibit "B" to the front door of the building that is located at 149 Broad Street, Saint John, N.B.

Sworn To before me at the
City of Saint John, N.B.,
on the 17 day of
August, 2017

Chris McKiel
CHRISTOPHER D MCKIEL
COMMISSIONER OF OATHS
MY COMMISSION EXPIRES
DECEMBER 31ST, 2019

Stephen Guenette
Stephen Guenette

This is Exhibit "A"
Referred to in the Affidavit of
Stephen Gruenette
Sworn before me at the City of
Saint John, New Brunswick
the 17 day of August 2017
Chris McGee

FORM 1
NOTICE TO COMPLY
(Municipalities Act, R.S.N.B. 1973,
c.M-22, s.190.01(3))

FORMULE 1
AVIS DE CONFORMITÉ
(Loi sur les municipalités, L.R.N.-B. de 1973,
ch. M-22, par. 190.01(3))

Parcel Identifier: 604

Numéro d'identification de la parcelle : 604

Address: 149 Broad Street, Saint John, New Brunswick

Adresse : 149, rue Broad, Saint John, Nouveau-Brunswick

Owner(s) or Occupier(s):

Propriétaire(s) ou occupant(s) :

Name: Lee, Lang

Nom : Lee, Lang

Address: 38 William Street, Guelph, Ontario, N1E 5E3

Adresse : 38, rue William, Guelph, Ontario, N1E 5E3

Name: Loka, Ilir

Nom : Loka, Ilir

Address: 38 William Street, Guelph, Ontario, N1E 5E3

Adresse : 38, rue William, Guelph, Ontario, N1E 5E3

Municipality issuing notice: City of Saint John

Municipalité signifiant l'avis : City of Saint John

By-law contravened: *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law*, By-law Number M-30 and amendments thereto (the "By-law").

Arrêté enfreint : *Arrêté relatif aux lieux inesthétiques et aux bâtiments et constructions dangereux de Saint John*, Arrêté numéro M-30, ainsi que ses modifications ci-afférentes (l'« Arrêté »).

Provision(s) contravened: Paragraphs 190.01(1), 190.01(1.1) and 190.01(2) of the *Municipalities Act*, and amendments thereto.

Disposition(s) enfreinte(s) : Les paragraphes 190.01(1), 190.01(1.1) et paragraphe 190.01(2) de la *Loi sur les municipalités*, ainsi que les modifications afférentes.

Description of condition(s): The premise is unsightly by permitting junk, rubbish, refuse and a dilapidated building to remain on the premise. The building has become a hazard to the safety of the public by reason of being vacant or unoccupied and has become a hazard to the safety of the public by reason of dilapidation and by reason of unsoundness of structural strength. The conditions of the building and premise are described in Schedule "A", a true copy of the inspection report dated August 15, 2017 prepared by Rachel Van Wart, EIT, By-law Enforcement Officer, reviewed and concurred in by Amy Poffenroth, P. Eng., By-law Enforcement Officer.

Description de la (des) condition(s) : Les lieux sont inesthétiques en permettant la présence de ferraille, de détritux et le bâtiment délabré. Le bâtiment est devenu dangereuse pour la sécurité du public du fait de son inhabitation ou de son inoccupation et est devenu dangereuse pour la sécurité du public du fait de son délabrement et du fait de manque de solidité. Les conditions du bâtiment et des lieux sont décrites à l'annexe « A », une copie conforme du rapport d'inspection en date du 15 août 2017 et préparé par Rachel Van Wart, IS, une agente chargé de l'exécution des arrêtés municipaux, révisé et en d'accorde avec par Amy Poffenroth, ing., une agente chargé de l'exécution des arrêtés municipaux.

Remedy or remedies required: The owner is to remedy the conditions by complying with the required remedial actions of the aforementioned inspection report and bring the building and premises into compliance with the aforesaid By-law.

Mesure(s) à prendre : La propriétaire doit restaurer les conditions en se conformant aux recommandations du rapport d'inspection susmentionné et d'amener le bâtiment et les lieux en conformités avec l'Arrêté.

In the event that the owner does not remedy the condition of the building and premises in the time prescribed by this Notice to Comply, the building may be demolished as the corrective action to address the hazard to the safety of the public and the premises may be cleaned up.

Dans l'éventualité que la propriétaire ne remédient pas le bâtiment et les lieux dans le temps prescrit par le présent avis de conformité, le bâtiment pourront être démolis comme mesure corrective compte tenu qu'il représente un danger pour la sécurité du public et les lieux pourront être nettoyés.

In the event of demolition, all debris and items on the premises will be disposed of as the corrective action to address the hazard to the safety of the public.

Dans l'éventualité de démolition, tous les débris et autres items sur les lieux seront disposés comme mesure corrective dans le but de remédier le danger

pour la sécurité du public.

The aforementioned remedial actions relating to the demolition of the building and the disposal of debris and items on the premises do not include the carry-out clean-up, site rehabilitation, restoration of land, premises or personal property or other remedial action in order to control or reduce, eliminate the release, alter the manner of release or the release of any contaminant into or upon the environment or any part of the environment.

Date by which the remedy or remedies must occur:¹

- a) The demolition of the building, clean-up of the property and related remedies must be complete, or plans and permit applications for repair related remedies, must be submitted: within 60 days of being served with the Notice to Comply.
- b) The repair related remedies must be complete within 180 days of being served with the Notice to Comply.

Date by which notice may be appealed: Within 14 days of being served with the Notice to Comply.

Process to appeal: The owner may within 14 days after having been served with this Notice to Comply, send a Notice of Appeal by registered mail to the Common Clerk of The City of Saint John, City Hall – 8th Floor, 15 Market Square, Saint John, New Brunswick, E2L 4L1.

Potential penalty for non-compliance within specified time:² Paragraph 190.03(1) of the *Municipalities Act* states that a person who fails to comply with the terms of the Notice to Comply given under Section 190.011 of the said Act, commits an offence that is punishable under Part II of the *Provincial Offences Procedure Act* as a category F offence.

Where an offence under paragraph 190.03(1) continues for more than one day, the minimum fine that may be imposed is the minimum fine set by the *Provincial Offences Procedure Act* for a category F offence multiplied by the number of days during which the offence continues pursuant to subparagraph 190.03(1.2)(b)(i).

Municipality's authority to undertake repairs or remedy:³ Subparagraphs 190.04(1)(a), 190.04(1)(a.1) and 190.04(1)(b) of the *Municipalities Act* states that if a Notice to Comply has been given under section 190.011 of the said Act and that an owner or occupier does not comply with the Notice to Comply, as deemed confirmed or as confirmed or modified by a committee of council or a judge under section 190.021 of the said Act, within the time set out in the Notice to Comply, the municipality may, cause the premises of that owner or occupier to be cleaned up or repaired, or cause the

Les mesures correctives susmentionnées relativement à la démolition du bâtiment et la disposition des débris et autres items sur les lieux ne comprennent pas le nettoyage, la remise en état des lieux, des terrains ou des biens personnels ou toute autre mesure corrective dans le but de contrôler ou de réduire, d'éliminer le déversement, de modifier le mode de déversement ou le déversement d'un polluant dans ou sur l'environnement ou toute partie de l'environnement.

Date à laquelle la ou les mesures doivent être prises:¹

- a) La démolition du bâtiment et le nettoyage des lieux doivent être complétés, ou à laquelle les plans et demande de permis pour les mesures des réparations, doivent être soumises, dans les 60 jours qui suivent la signification de l'avis de conformité.
- b) Les réparations reliées aux mesures doivent être complétées dans les 180 jours qui suivent la signification de l'avis de conformité.

Date à laquelle un appel de l'avis peut être déposé: Dans les 14 jours qui suivent la notification de l'avis de conformité.

Processus d'appel : La propriétaire peut dans les 14 jours qui suivent la notification de l'avis de conformité, envoyé un avis d'appel par courrier recommandé à la greffière communale de la municipalité, à The City of Saint John, Édifice de l'hôtel de ville, 8^e étage, 15 Market Square, Saint John, Nouveau-Brunswick, E2L 4L1.

Pénalité possible pour non-conformité dans le délai prescrit:² Le paragraphe 190.03(1) de la *Loi sur les municipalités* prévoit quiconque omet de se conformer aux exigences formulées dans un avis de conformité notifié aux termes de l'article 190.011 de ladite loi, commet une infraction qui est punissable en vertu de la Partie II de la *Loi sur la procédure applicable aux infractions provinciales* à titre d'infraction de la classe F.

Lorsqu'une infraction prévue au paragraphe 190.03(1) se poursuit pendant plus d'une journée, l'amende minimale qui peut être imposée est l'amende minimale prévue par la *Loi sur la procédure applicable aux infractions provinciales* pour une infraction de la classe F multipliée par le nombre de jours pendant lesquels l'infraction se poursuit conformément à l'alinéa 190.03(1.2)(b)(i).

Pouvoir de la municipalité d'entreprendre les réparations ou de prendre les mesures:³ Conformément aux alinéas 190.04(1)(a), 190.04(1)(a.1) et 190.04(1)(b) de la *Loi sur les municipalités*, si un avis de conformité a été signifié aux termes de l'article 190.011 de ladite loi et, que le propriétaire ou l'occupant ne se conforme pas à cet avis de conformité dans le délai imparti et tel qu'il est réputé confirmé ou tel qu'il est confirmé ou modifié par un comité du conseil ou par un juge en vertu de l'article 190.021 de ladite loi, la municipalité peut

building of that owner or occupier to be repaired or demolished, and the cost of carrying out such work, including any related charge or fee, is chargeable to the owner or occupier and becomes a debt due to the municipality.

faire nettoyer ou réparer les lieux de ce propriétaire ou de cet occupant ou de faire réparer ou démolir la propriété de ce propriétaire ou de cet occupant, et les frais relatifs à l'exécution de ces travaux, y compris toute redevance ou tout droit afférent, sont à la charge du propriétaire ou de l'occupant et deviennent une créance de la municipalité.

Dated at Saint John the 15th day of August, 2017.

Fait à Saint John le ____ août, 2017.

Municipality: The City of Saint John

Municipalité : The City of Saint John

Signature of Municipal Officer:

Signature de la représentante municipale:



Municipal Officer's Contact information:

Name: Rachel Van Wart, EIT
Mailing address:

Growth and Community Development Services

The City of Saint John
15 Market Square
City Hall Building, 10th Floor
P. O. Box 1971
Saint John, New Brunswick
E2L 4L1

Telephone: (506) 658-2911
Telecopier: (506) 632-6199
Email: rachel.vanwart@saintjohn.ca

Coordonnées de la représentante municipale :

Nom : Rachel Van Wart, IS
Adresse postale:

Service de la Croissance et du Développement
Communautaire

The City of Saint John
15 Market Square
Édifice de l'hôtel de ville, 10^e étage
Case postale 1971
Saint John (Nouveau-Brunswick)
E2L 4L1

Téléphone : (506) 658-2911
Télécopieur : (506) 632-6199
Courriel: rachel.vanwart@saintjohn.ca

Seal of municipality



Notes:

1. All appropriate permits must be obtained and all relevant legislation must be complied with in the course of carrying out the required remedial action.
2. Payment of the fine does not alleviate the obligation to comply with the by-law, standard or notice to comply.
3. Costs become a debt due to the municipality and may be added to the joint municipal and provincial Real Property Assessment and Tax Notice.


Sceau de la municipalité

Notes :

1. Tous les permis prescrits doivent être obtenus et toute la législation pertinente doit être respectée, pendant l'exécution de la mesure de recours.
2. Le paiement de l'amende n'annule pas l'obligation de respecter l'arrêté, la norme ou l'avis de conformité.
3. Les coûts deviennent une dette envers la municipalité et peuvent être ajoutés à l'avis d'évaluation et d'impôt foncier municipal et provincial.

i hereby certify that this document is a true copy of the original.

INSPECTION REPORT
Schedule "A"
149 Broad Street
Saint John, New Brunswick
PID# 00000604

Dated at Saint John,
this 15th day of
August 2017

Standards Officer

Inspection Date: June 23, 2017
Inspection Conducted by: Rachel Van Wart, EIT

Introduction

Inspections of the property at 149 Broad Street, PID# 00000604, have revealed that there are two buildings on the premise; a large three-storey, brick housing complex (the "Building") and a detached single-storey shed (the "Shed"). Staff first became aware of the property's vacancy in December 2013 and began standard enforcement procedures. The property is located in an urban center residential neighborhood and is zoned as a neighborhood community facility in the City's South Central Peninsula. The Building is a hazard to the safety of the public by reason of being vacant, by reason of dilapidation and by reason of unsoundness of structural strength.

Discussion

The Building is not in compliance with the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-law*, By-law Number M-30, and amendments thereto (the "By-law").

Unsightly Premise Conditions

Subsection 190.01(1) of the *Municipalities Act* states:

No person shall permit premises owned or occupied by him or her to be unsightly by permitting to remain on any part of such premises

- (a) any ashes, junk, rubbish or refuse;
- (b) an accumulation of wood shavings, paper, sawdust or other residue of production or construction;
- (c) a derelict vehicle, equipment, machinery or the body of any part of a vehicle equipment or machinery, or
- (d) a dilapidated building.

1. There is an accumulation of junk, rubbish, and refuse on the property. These items include, but are not limited to, bricks, tires, discarded wood, shingles, rusted metal, a pile of metal siding, a window screen, a wooden door and other various loose and bagged garbage. The aforementioned accumulation of junk, rubbish, and refuse is unsightly.
2. The Building is dilapidated. The Building's exterior is composed of brick with a stone rock foundation. Bricks have fallen from various locations of the Building while other sections are in danger of falling, specifically at a location at the front of the Building. The bricks on the Building are cracked, loose and spalling. A portion of brick is missing from the front right side of the Building above the fascia, exposing plastic building material. There is a broken window on the second storey of the front right side of the Building, leaving the room exposed to the elements. A large portion of the roof fascia from the left side of the Building has fallen. The remaining roof fascias are deteriorated. There are four boarded windows at the rear of the Building. There are three sets of metal stairs attached to the Building; the front, left side, and rear. All three staircases are rusted and unsightly. A tread in the rear stairs is broken and hanging from the stringer.

3. The Shed at the rear of the property is dilapidated. The Shed has metal siding that is beginning to rust. The wooden roof fascia is rotten and some sections are falling. The wooden door of the Shed is dilapidated with peeling paint and a boarded door window. At the rear of the Shed the soffit is hanging.
4. There are two retaining walls on the property; one concrete cinder block retaining wall on the left side of the property and stone retaining wall at the front of the Building adjacent to the sidewalk. The concrete retaining wall to the left of the Building has failed. The corner of the remaining wall is no longer intact. The other two walls are leaning. Broken concrete cinder blocks remain piled and wooden barricades have been placed near the public sidewalk. There are portions of the stone retaining wall at the front of the property that have been dislodged and remain on the sidewalk and in the path to the main entrance of the Building.

Vacant and Unoccupied

Subsection 190.01(1.1) of the *Municipalities Act* states:

No person shall permit a building or structure owned or occupied by him or her to become a hazard to the safety of the public by reason of being vacant or unoccupied.

The Building and Shed are a hazard to the safety of the public by reason of being vacant or unoccupied for the following reasons:

1. The Building was found open during a routine inspection on June 22, 2017 but has since been secured and boarded by the owners. Buildings that are in a dilapidated condition and left unsecured from public entry can attract vandalism, arson, or criminal activity. When the Building was found open, there were two points of access to the Building; the right and left side doors. Both points of entry allow unrestricted access to the entire Building. An interior inspection of the Building was conducted on June 23, 2017 which noted signs of vandalism and trespassing. Graffiti that was dated 2017 was seen on the walls of the Building, confirming recent trespassing. Vandalism, arson and criminal activity pose a hazard to the safety of the public and devalue properties in the surrounding area. There have been two police reports filed regarding the Building; one in February 2016 regarding suspicious males around the property and the second in October 2016 regarding a broken window. The City of Saint John Finance department confirmed that the water has been turned off since September 2012. Saint John Energy confirmed that the power has been disconnected since June 2010.
2. There is a higher risk of a fire event occurring at the property since it is known to the public that the Building and Shed are vacant and there has been evidence of recent trespassing. The property is adjacent to a 3 unit residential dwelling at 137 Broad Street and a single family residential dwelling at 151 Broad Street. If a fire event were to occur within the Building or Shed, it could potentially spread to the neighboring properties which would cause significant damage to the buildings and endanger the lives of the occupants.
3. There is a concern for emergency personnel safety in the event of a fire. If firefighters suspect there may be people inside the Building or Shed, it would be reasonable to expect they may be required to enter it. The June 23, 2017 interior inspection found flooring caved in on the first floor of the Building. There are also numerous locations with water damage, making the floors soft throughout the Building. There is household furniture present throughout the Building including beds, large shelves, and tables. The exterior stairs at the rear of the Building which access the second storey are unsound and would be unsafe for use by emergency personnel. The basement area was not inspected by staff due to the hazardous condition of the ceiling and floors and would therefore be hazardous for emergency personnel searching the Building in the

event of an emergency. The condition of the interior is not known to firefighters which pose a hazard to their safety and others who may be inside in the event of a fire.

Dilapidated Building Conditions

Subsection 190.01(2) of the *Municipalities Act* states

No person shall permit a building or structure owned or occupied by him or her to become a hazard to the safety of the public by reason of dilapidation or unsoundness of structural strength.

The Building is a hazard to the safety of the public by reason of dilapidation for the following reasons:

Exterior Conditions:

1. Bricks are falling from the Building in a number of places, most notably to the left, above of the main entrance. A large section of the roof has already fallen onto the front staircase and landing, leading to the main entrance. More pieces of the roof show signs of deterioration and could fall. Falling pieces from the Building could cause serious damage to anyone on the property as well as pedestrians passing by on the sidewalk.
2. The stairs leading to the front, left, and rear entrances of the Building are rusted and unsound. There is a missing stair tread approximately mid-way up the rear staircase leading to the second storey. The stairs on the left side of the Building leading to the second storey are extremely rusted. The stairs leading to the main entrance of the Building are anchored to exterior brick that shows signs of stress. The stairs are unsafe for use and they could fail under live load.
3. The retaining walls on the property are dilapidated and hazardous to the public. The concrete retaining wall to the left of the Building has failed; sections of concrete and cinder blocks have fallen onto the edge of the sidewalk and remain in a pile. A wooden barricade has been placed partially on the sidewalk amongst the debris. In addition, stones have fallen onto the sidewalk and walkway to the main entrance from the stone retaining wall at the front of the Building. These stones and broken cinder blocks pose a tripping hazard to individuals entering the property and pedestrians using the sidewalk in the high density urban area.
4. The Shed at the rear of the property is dilapidated with rusted metal siding and rotten wooden roof fascia. Both the soffit and fascia are hanging from the Shed, which could cause injury if failure occurs.

Interior Conditions:

5. The Building has suffered extensive water damage and is in a state of decay. In multiple rooms throughout the Building, water has pooled on the floor and is sitting stagnant. Ceiling tiles are warped, bowing and have fallen. Paint is peeling throughout the Building. Gyproc and plaster walls and ceilings have been removed in multiple locations throughout the Building leaving the broken plaster and crumbled gyproc covering the floors. Exposed lathe is water stained from water infiltration. Plywood and MDF boards have been affixed to the ceiling in some areas, which appear to be an attempt to remedy the water damage. In a room on the second storey the ceiling is missing, exposing vapour barrier with pooling stagnant water. Flooring in many rooms, most notably in the basement, are soft due to water saturation.

6. Flooring in a front room of the Building is severely sloped and has dropped approximately 6 inches. The flooring system is visibly detached with space between hardwood floors and baseboard trim and a hole into the basement near the fireplace. Water has run from the opposite side of the room towards the failed side and into the basement. This room is extremely hazardous and the flooring system could fail under load.
7. There is broken glass from windows and doors throughout the Building. The glass could injury to those entering the Building without protective equipment.
8. There is black mould and fungi growth on the walls and ceilings throughout the Building. Water damage, mould and fungi all pose a respiratory hazard for those who may enter the Building.

Structurally Unsound Building Conditions

Subsection 190.01(2) of the *Municipalities Act* states

No person shall permit a building or structure owned or occupied by him or her to become a hazard to the safety of the public by reason of dilapidation or unsoundness of structural strength.

The Building is a hazard to the safety of the public by reason of unsoundness of structural strength for the following reasons:

1. The brickwork on the exterior of the Building is structurally unsound and causing other elements of the Building to fail. Loose bricks are visible near the main entrance where a large section of the roof has already fallen onto the front staircase and landing. Falling pieces of brick or other elements of the Building could cause serious damage to anyone on the property as well as pedestrians passing by on the sidewalk. The stairs leading to the main entrance of the Building are anchored to exterior brick that shows signs of stress and could also cause failure.
2. The stairs leading to the front, left, and rear entrances of the Building are rusted and structurally unsound. Missing stair treads, rust and deterioration of the bricks where the stairs are anchored to the Building illustrate that the stairs are not safe for travel.
3. The retaining walls on the property are structurally unsound and hazardous to the public. The concrete retaining wall to the left of the Building is leaning and has failed with sections of concrete and cinder blocks piled near the public sidewalk. There are unsecure stones dislodging from the stone wall at the front of the property. These stones and broken cinder blocks pose a tripping hazard to individuals entering the property and pedestrians using the sidewalk in the high density urban area.
4. The interior of the Building is structurally unsound, specifically the front room that has failed and caved into the basement. Extensive water damage throughout the Building to key structural members contributes to the structural unsoundness of the Building. The flooring in the basement is soft and deflects under load indicating improper structural support.

Required Remedial Actions

The owner must comply with one of the two options stated below:

Option 1: Remedy the conditions of the Building and Shed through all repair and remedial actions as follows:

1. The Building and Shed must be must be completely repaired to remedy the above mentioned hazards to public safety while meeting the requirements of the *National Building Code of Canada (2010)* as well as all other applicable by-laws.
2. The Building and Shed must be maintained, kept secure, and monitored on a routine basis while the property remains vacant or unoccupied.
3. A detailed plan must be submitted to the Growth and Community Development Services Department of the City of Saint John (the "Department") for review and approval. The plan should also include a schedule for the work that is to be carried out. The repaired Building and Shed must meet the *National Building Code of Canada (2010)* as well as other applicable codes.
4. The detailed plan, including schedules and any engineering reports, must be approved by the Department prior to commencing repair work.
5. A building permit must be obtained for any and all applicable work prior to commencing said work from the City of Saint John in order to comply with the *Saint John Building By-law*, By-law Number C.P. 102 and amendments thereto (the "*Saint John Building By-law*").
6. The premise must be cleared of all debris found on the property, including any and all rubbish that may be considered hazardous or unsightly. The debris from the premise must be disposed of at an approved solid waste disposal site, in accordance with all applicable by-laws, acts and regulations. Documented proof, that clearly demonstrates an approved solid waste disposal site was used for the disposal of debris, must be provided to the Department. The premise must comply with all applicable By-laws, Acts, Codes and Regulations.

Option 2: Demolition of the Building and Shed and cleanup of all debris on the premise by complying with all the remedial actions as follows:

1. The Building and Shed must be demolished to remove the hazard to the safety of the public by reason of dilapidation and by reason of being vacant or unoccupied.
2. A demolition permit must be obtained from the City of Saint John in order to comply with the *Saint John Building By-law*.
3. The premise must be cleared of the debris from the demolition and the lot must be made reasonably level with grade so as to not create a tripping or falling hazard. All debris must be disposed of at an approved solid waste disposal site, and in accordance with all applicable By-laws, Acts and Regulations. Documented proof, that clearly demonstrates an approved solid waste disposal site was used for the disposal of debris, must be provided to the Department.
4. All debris that is currently on the premise must be removed and disposed of at an approved solid waste disposal site, and in accordance with all applicable By-laws, Acts and Regulations. Documented proof, that clearly demonstrates an approved solid waste disposal site was used for the disposal of debris, must be provided to the Department.
5. The property must be in compliance with all applicable By-laws, Acts and Regulations.

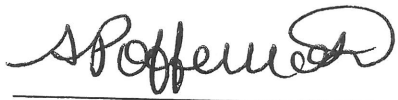
Prepared by:



Rachel Van Wart, EIT
Technical Services Officer
Growth and Community Development Services

August 15/17
Date

Reviewed by and concurred in by:



Amy Poffenroth, P. Eng., MBA
Building Inspector
Deputy Commissioner
Growth and Community Development Services

August 15, 2017
Date

NOTICE OF APPEAL
FORM 1
(Municipalities Act, R.S.N.B. 1973,
c. M-22, s.190.021(1))

AVIS D'APPEL
FORMULE 1
(Loi sur les municipalités, L.R.N.-B. de 1973,
ch. M-22, par. 190.021(1))

File No.: _____

N° du dossier : _____

BETWEEN :

ENTRE :

This is Exhibit "B"
Referred to in the Affidavit of

Stephen Guenette
Sworn before me at the City of
Saint John, New Brunswick
the 17 day of August, 2017

Appellant(s), Chris Duff

Commissioner of Oaths

Appellant(s),

- and -

- et -

THE CITY OF SAINT JOHN,

THE CITY OF SAINT JOHN,

Respondent.

Intimée.

Parcel Identifier : PID #

Numéro d'identification de la parcelle : # NID

Parcel Address: _____

Adresse de la parcelle : _____

Owner(s) or Occupier(s):

Propriétaire(s) ou occupant(s) :

Name: _____

Nom : _____

Address: _____

Adresse : _____

Telephone: _____

Téléphone: _____

Name: _____

Nom : _____

Address: _____

Adresse : _____

Telephone: _____

Téléphone: _____

The above named appellant(s) is (are) not satisfied with the terms and conditions set out in the notice that has been given under section 190.011 of the *Municipalities Act* and appeals to the *Saint John Substandard Properties Appeal Committee*.

L'appelant(s) susnommé(s) n'accepte(nt) pas les modalités ou les conditions qui y sont énoncés dans l'avis qui a été notifié aux termes de l'article 190.011 de la *Loi sur les municipalités* et fait appel au *Comité d'appel des propriétés inférieures aux normes de Saint John*.

The appellant's grounds for this appeal are as follows (set out the grounds clearly but briefly):

Les motifs d'appel de l'appelant(s) dans le présent appel sont les suivants (énoncer les motifs de façon claire et concise) :

Dated at _____ the _____ day of _____, 2017.

Fait à _____ le _____ 2017.

Signature of owner or occupier

Signature du propriétaire ou l'occupant

The appellant(s) intends to proceed in the English or French language (Please check the appropriate box).

L'appelant(s) a (ont) l'intention d'utiliser la langue française ou anglaise (Veuillez cocher la case appropriée).

Please forward your Notice of Appeal by registered mail to the clerk of The City of Saint John within **fourteen (14) days** after having been given the notice at the following address:

Veuillez faire parvenir votre Avis d'appel par courrier recommandé au secrétaire de The City of Saint John dans les **quatorze (14) jours** qui suivent la notification de l'avis à l'adresse suivante :

Common Clerk's Office
15 Market Square, City Hall Building, 8th Floor
P. O. Box 1971
Saint John, New Brunswick
E2L 4L1

Bureau du greffier communal
15 Market Square, Édifice de l'hôtel de ville, 8^e étage
Case postale 1971
Saint John (Nouveau-Brunswick)
E2L 4L1

Telephone: 506-658-2862
Telecopier: 506-674-4214

Téléphone: 506-658-2862
Télécopieur: 506-674-4214

Notes:

Notes :

1. A notice that is not appealed within **fourteen (14) days** after having been given the notice shall be deemed to be confirmed.

1. Un avis dont il n'est pas interjeté appel dans les **quatorze (14) jours** qui suivent la notification de l'avis est réputée confirmé.

2. On an appeal, the *Saint John Substandard Properties Appeal Committee* shall hold a hearing into the matter at which the owner(s) or occupier(s) bringing the appeal has (have) a right to be heard and may be represented by counsel.

3. On an appeal, the *Saint John Substandard Properties Appeal Committee* may confirm, modify or rescind the notice or extend the time for complying with the notice.

4. The *Saint John Substandard Properties Appeal Committee* shall provide a copy of its decision to the owner(s) or occupier(s) of the premises, building or structure who brought the appeal within **fourteen (14) days** after making its decision.

5. The owner(s) or occupier(s) provided with a copy of a decision from the *Saint John Substandard Properties Appeal Committee* may appeal the decision to a judge of The Court of Queen's Bench of New Brunswick within **fourteen (14) days** after the copy of the decision was provided to the owner(s) or occupier(s) on the grounds that (a) the procedure required to be followed by the *Municipalities Act* was not followed, or (b) the decision is patently unreasonable.

2. Lors d'un appel, le *Comité d'appel des propriétés inférieures aux normes de Saint John* doit tenir, sur le point en litige, une audience au cours de laquelle le(s) propriétaire(s) ou l'occupant(s) qui interjette(nt) appel a (ont) le droit d'être entendu(s) et peut(vent) se faire représenter par un avocat.

3. Lors d'un appel, le *Comité d'appel des propriétés inférieures aux normes de Saint John* peut confirmer, modifier ou annuler l'avis ou proroger le délai pour s'y conformer.

4. Le *Comité d'appel des propriétés inférieures aux normes de Saint John* doit fournir une copie de sa décision au(x) propriétaire(s) ou à l'occupant(s) des lieux, du bâtiment ou de la construction qui lui a(ont) interjeté appel dans les **quatorze (14) jours** suivant la date à laquelle il a rendu sa décision.

5. Le(s) propriétaire(s) ou l'occupant(s) à qui une copie d'une décision a été fournie par le *Comité d'appel des propriétés inférieures aux normes de Saint John* peut(vent), dans les **quatorze (14) jours** qui suivent, interjeter appel de la décision devant un juge de la Cour du Banc de la Reine du Nouveau-Brunswick au motif que (a) la démarche à suivre en vertu de la *Loi sur les municipalités* n'a pas été suivie, ou (b) la décision est manifestement déraisonnable.

FILE: 2017-03

IN THE MATTER OF AN APPEAL pursuant to section 190.01(2) of the *Municipalities Act*, R.S.N.B., 1973, c.M-22 and pursuant to section 26(1) of the *Saint John Minimum Property Standards By-Law*, No. M-14

BETWEEN:

LANG LEE & ILIR LOKA

Appellants

– and –

THE CITY OF SAINT JOHN

Respondent

**DECISION OF THE SAINT JOHN
SUBSTANDARD PROPERTIES APPEAL COMMITTEE**

Parcel Identifier Number: 00000604

Parcel Address: 149 Broad Street, Saint John, New Brunswick

Registered Owners: Lang Lee & Ilir Loka

Hearing date: Friday, 29 September 2017

The Parties

1. The Appellants, Lang Lee and Ilir Loka, (the “**Appellants**”) were the registered owners of a property located at 149 Broad Street in Saint John, New Brunswick (the “**Property**”), having the Property Identification Number of 00000604. As a result of a property transfer registered on 20 September 2017, Mr. Lee is the sole remaining registered owner of the Property. However, both individuals appeared in person at the hearing and made submissions.
2. The Respondent, the City of Saint John, was represented by Rachel Van Wart, EIT, a Technical Services Officer, and Amy Poffenroth, P. Eng., a By-law Enforcement Officer (together, the “**City Officers**”).

The Property

3. Pursuant to subsection 190.01(3) of the New Brunswick *Municipalities Act*, R.S.N.B. 1973, c. M-22, as amended, (the “*Act*”), a Notice to Comply was issued by the Municipal Officer of the City of Saint John on 15 August 2017 (the “**Notice to Comply**”). The Notice to Comply indicated that the Property was in contravention of the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law*, By-law number M-30 (the “**By-Law**”), and subsections 190.01(1), 190.01(1.1) and 190.01(2) of the *Act*.
4. The Notice to Comply was accompanied by an Inspection Report prepared by Ms. Van Wart, which was reviewed and concurred in by Ms. Poffenroth (the “**Inspection Report**”).
5. The Inspection Report details a number of issues with the Property that bring it in contravention of the By-Law and the *Act*. The Property houses one large building (the “**Building**”) and one shed. In general, those issues were:

- An accumulation of junk, rubbish and refuse on the property;
- Fallen, cracked, loose and spalling bricks on the Building's exterior;
- Deteriorated and, in one section, fallen, roof fasciae;
- A dilapidated shed on the Property;
- One failed retaining wall; and
- Numerous issues with the Building's interior which include, but are not limited to, extensive water damage, crumbled wall and ceiling plaster, a sloping and partially dropped floor, mould and fungi growth on the walls and ceilings, and areas which have been vandalized.

The Appeal

The Appellant's Submissions

6. The Appellants were served with the Notice to Comply by posting it on the exterior of the Building on 17 August 2017, and also by personal service on 22 August 2017. As the Appellants attended at the hearing, service is not at issue.
7. The Appellants filed a Notice of Appeal on 1 September 2017. Their grounds of appeal were that they required more time in order to complete the plan they had for the Property.
8. A Notice of Appeal was issued on 11 September 2017. The Appeal was scheduled for 10:00 a.m. on 29 September 2017, at the City Hall Building. Again, service is not at issue as all parties attended the hearing.
9. As required by Section G, paragraph 4 of the *Provisions Governing the Procedure and Operation of the Saint John Substandard Properties Appeal Committee*, I confirmed with the Appellants that the Notice to Comply was indeed that which the Appellants sought to appeal.

10. The Appellants made their representations first. They indicated that they were in the process of finalizing their business plan in relation to the Property. Their plan is to convert the existing Building – constructed, according to the Appellants, in 1878 – into a Nursing Home. This, they submit, they can accomplish with financing (which, they submit, they are securing), an architect’s plan (which, they submit, they are obtaining) and some additional time from the City in which to complete their endeavour.
11. The Appellants accepted all of the findings contained in the Inspection Report, with the exception of the finding that the Building is structurally unsound.
12. The Appellants concluded by indicating that they had discussed their building plan with the City and contend that they had come to an agreement with regard to the execution of that plan.

The Respondent’s Submissions

13. The Respondent was represented by the City Officers. Ms. Van Wart presented a detailed file, in 12 sections, outlining the procedural history of the Appeal as well as the findings made by the Respondent over the course of its examination of the Property.
14. Ms. Van Wart presented a number of photographs which support the findings made in the Inspection Report. The Building looks to be in quite a dilapidated state.
15. As to the issue of structural soundness, the Inspection Report details that the Building is structurally unsound for the following reasons (set out on page 4 of the Inspection Report):

1. *The brickwork on the exterior of the Building is structurally unsound and causing other elements of the Building to fail. Loose bricks are visible near the main entrance where a large section of the roof has already fallen onto the front staircase and landing. Falling pieces of brick or other elements of the Building could cause serious damage to anyone on the property as well as pedestrians passing by on the sidewalk. The stairs leading to the main entrance of the Building are anchored to exterior brick that shows signs of stress and could also cause failure.*
2. *The stairs leading to the front, left, and rear entrances of the Building are rusted and structurally unsound. Missing stair treads, rust and deterioration of the bricks where the stairs are anchored to the Building illustrate that the stairs are not safe for travel.*
3. *The retaining walls on the property are structurally unsound and hazardous to the public. The concrete retaining wall to the left of the Building is leaning and has failed with sections of concrete and cinder blocks piled near the public sidewalk. There are unsecure stones dislodging from the stone wall at the front of the property. These stones and broken cinder blocks pose a tripping hazard to individuals entering the property and pedestrians using the sidewalk in the high density urban area.*
4. *The interior of the Building is structurally unsound, specifically the front room that has failed and caved into the basement. Extensive water damage throughout the Building to key structural members contributes to the structural unsoundness of the Building. The flooring in the basement is soft and deflects under load indicating improper structural support.*
16. The Appellants, in their submissions, disputed the Inspection Report and contended that the Building is sound. They offered nothing additional in support of their contention other than a commentary on some of the internal wall framing.
17. Where the evidence of the Respondent differs from that of the Appellants on the issue of the Building's structural soundness, I prefer the evidence of the Respondent.
18. The Respondent confirmed the Appellants' contention that it had come to an agreement regarding the execution of the Appellants' plan for the property. However, the Respondent indicated that it would only do so subject to a certain number of conditions.

19. The Respondent outlined its conditions as follows:

- The permit application and repair plan are to be submitted by the Appellants and approved by 31 January 2018;
- The Building is to remain secure at all times;
- In the event the Building sustains a fire, break-ins or other acts of vandalism, the City reserves the right to take enforcement action as necessary; and
- In the event the Building significantly deteriorates further, the City reserves the right to take enforcement action as necessary.

20. Furthermore, the Respondent set out two deadlines:

- 31 January 2018: the date by which the Appellants were to have their permit application and repair plan both submitted and approved (the “**First Deadline**”); and
- 31 January 2019: the date by which the Appellants are to have their repair-related remedies completed (the “**Second Deadline**”).

21. In the event these deadlines are not met, the Respondent reserved the right to proceed with enforcement action.

22. Finally, the Respondent indicated that:

- between the time of the hearing and the First Deadline, it required monthly progress updates from the Appellants; and
- once the permit is issued, it required quarterly progress updates from the Appellants until the Second Deadline.

23. As indicated, the parties appeared to agree on this course of action.

Decision and Order

24. The Notice to Comply set out two remedial actions available to the Appellants, and the dates by which either of those options was to occur:

- the demolition of the Building, clean-up of the property and related remedies must be complete, or plans and permit applications for repair-related remedies, must be submitted within 60 days of being served with the Notice to Comply; and
- the repair-related remedies must be complete within 180 days of being served with the Notice to Comply.

25. However, as indicated above, the Parties have agreed upon an alternate course of action, accompanied by alternate time frames.

26. Additionally, as Mr. Loka is no longer a registered owner of the Property, I will refer only to Mr. Lee as the Appellant, and the order shall apply to whomsoever is the registered owner of the Property.

27. These proceedings are governed by *A By-Law Respecting Standards for Maintenance and Occupancy of Buildings and Premises*, By-law number M-14 of the City of Saint John. Subsection 26(4) of that By-law reads as follows:

26(4) On an appeal, the committee of council may confirm, modify or rescind the notice or extend the time for complying with the notice.

28. In light of the agreement between the Parties, I will modify the Notice to Comply, extend the time for complying with the Notice to Comply, and issue the following Decision:

- a) The Appellant shall submit his permit application and repair plan in sufficient time to allow for approval by the City by 31 January 2018;
- b) The Appellant shall provide monthly progress updates to the City, on the last day of each calendar month, from the date of this Decision until the permit application and repair plan are approved by the City, or until 31 January 2018, whichever is later;
- c) The Appellant shall complete all repair-related remedies by 31 January 2019;
- d) Between the date of approval of the permit application and repair plan, and the completion of all repair-related remedies on or before 31 January 2019, the Appellant shall provide progress updates to the City on the following dates:
 - i. 30 April 2018;
 - ii. 31 July 2018;
 - iii. 31 October 2018; and
 - iv. 31 January 2019
- e) From the date of this decision until the completion of all repair-related remedies, the Building is to remain secure at all times;
- f) From the date of this decision until the completion of all repair-related remedies, in the event the Building sustains a fire, break-ins or other acts of vandalism, the City shall have the right to take enforcement action as necessary; and

- g) In the event the Building significantly deteriorates any further, the City shall have the right to take enforcement action as necessary.
29. The Notice to Comply is therefore modified as set out above and otherwise remains in full force and effect.

DATED at Saint John, New Brunswick this 29th day of September 2017.

Brian Maude
Chairperson
Saint John Substandard Properties Appeal Committee



149 Broad Street, Saint John, New Brunswick
223
PID# 0604



149 Broad Street, Saint John, New Brunswick
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PID# 0604



149 Broad Street, Saint John, New Brunswick
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149 Broad Street, Saint John, New Brunswick
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149 Broad Street, Saint John, New Brunswick
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149 Broad Street, Saint John, New Brunswick
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149 Broad Street, Saint John, New Brunswick
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PID# 0604



149 Broad Street, Saint John, New Brunswick
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PID# 0604

Photo 12



149 Broad Street, Saint John, New Brunswick
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PID# 0604



149 Broad Street, Saint John, New Brunswick
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PID# 0604



149 Broad Street, Saint John, New Brunswick
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PID# 0604



149 Broad Street, Saint John, New Brunswick
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PID# 0604



149 Broad Street, Saint John, New Brunswick
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PID# 0604



149 Broad Street, Saint John, New Brunswick
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PID# 0604

FORM 1
NOTICE TO COMPLY
(Municipalities Act, R.S.N.B. 1973,
c.M-22, s.190.01(3))

FORMULE 1
AVIS DE CONFORMITÉ
(Loi sur les municipalités, L.R.N.-B. de 1973,
ch. M-22, par. 190.01(3))

Parcel Identifier: 604

Numéro d'identification de la parcelle : 604

Address: 149 Broad Street, Saint John, New Brunswick

Adresse : 149, rue Broad, Saint John, Nouveau-Brunswick

Owner(s) or Occupier(s):

Propriétaire(s) ou occupant(s) :

Name: Lee, Lang

Nom : Lee, Lang

Address: 38 William Street, Guelph, Ontario, N1E 5E3

Adresse : 38, rue William, Guelph, Ontario, N1E 5E3

Name: Loka, Ilir

Nom : Loka, Ilir

Address: 38 William Street, Guelph, Ontario, N1E 5E3

Adresse : 38, rue William, Guelph, Ontario, N1E 5E3

Municipality issuing notice: City of Saint John

Municipalité signifiant l'avis : City of Saint John

By-law contravened: *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law*, By-law Number M-30 and amendments thereto (the "By-law").

Arrêté enfreint : *Arrêté relatif aux lieux inesthétiques et aux bâtiments et constructions dangereux de Saint John*, Arrêté numéro M-30, ainsi que ses modifications ci-afférentes (l'« Arrêté »).

Provision(s) contravened: Paragraphs 190.01(1), 190.01(1.1) and 190.01(2) of the *Municipalities Act*, and amendments thereto.

Disposition(s) enfreinte(s) : Les paragraphes 190.01(1), 190.01(1.1) et paragraphe 190.01(2) de la *Loi sur les municipalités*, ainsi que les modifications afférentes.

Description of condition(s): The premise is unsightly by permitting junk, rubbish, refuse and a dilapidated building to remain on the premise. The building has become a hazard to the safety of the public by reason of being vacant or unoccupied and has become a hazard to the safety of the public by reason of dilapidation and by reason of unsoundness of structural strength. The conditions of the building and premise are described in Schedule "A", a true copy of the inspection report dated August 15, 2017 prepared by Rachel Van Wart, EIT, By-law Enforcement Officer, reviewed and concurred in by Amy Poffenroth, P. Eng., By-law Enforcement Officer.

Description de la (des) condition(s) : Les lieux sont inesthétiques en permettant la présence de ferraille, de détritux et le bâtiment délabré. Le bâtiment est devenu dangereuse pour la sécurité du public du fait de son inhabitation ou de son inoccupation et est devenu dangereuse pour la sécurité du public du fait de son délabrement et du fait de manque de solidité. Les conditions du bâtiment et des lieux sont décrites à l'annexe « A », une copie conforme du rapport d'inspection en date du 15 août 2017 et préparé par Rachel Van Wart, IS, une agente chargé de l'exécution des arrêtés municipaux, révisé et en d'accorde avec par Amy Poffenroth, ing., une agente chargé de l'exécution des arrêtés municipaux.

Remedy or remedies required: The owner is to remedy the conditions by complying with the required remedial actions of the aforementioned inspection report and bring the building and premises into compliance with the aforesaid By-law.

Mesure(s) à prendre : La propriétaire doit restaurer les conditions en se conformant aux recommandations du rapport d'inspection susmentionné et d'amener le bâtiment et les lieux en conformités avec l'Arrêté.

In the event that the owner does not remedy the condition of the building and premises in the time prescribed by this Notice to Comply, the building may be demolished as the corrective action to address the hazard to the safety of the public and the premises may be cleaned up.

Dans l'éventualité que la propriétaire ne remédient pas le bâtiment et les lieux dans le temps prescrit par le présent avis de conformité, le bâtiment pourront être démolis comme mesure corrective compte tenu qu'il représente un danger pour la sécurité du public et les lieux pourront être nettoyés.

In the event of demolition, all debris and items on the premises will be disposed of as the corrective action to address the hazard to the safety of the public.

Dans l'éventualité de démolition, tous les débris et autres items sur les lieux seront disposés comme mesure corrective dans le but de remédier le danger

pour la sécurité du public.

The aforementioned remedial actions relating to the demolition of the building and the disposal of debris and items on the premises do not include the carry-out clean-up, site rehabilitation, restoration of land, premises or personal property or other remedial action in order to control or reduce, eliminate the release, alter the manner of release or the release of any contaminant into or upon the environment or any part of the environment.

Date by which the remedy or remedies must occur:¹

- a) The demolition of the building, clean-up of the property and related remedies must be complete, or plans and permit applications for repair related remedies, must be submitted: within 60 days of being served with the Notice to Comply.
- b) The repair related remedies must be complete within 180 days of being served with the Notice to Comply.

Date by which notice may be appealed: Within 14 days of being served with the Notice to Comply.

Process to appeal: The owner may within 14 days after having been served with this Notice to Comply, send a Notice of Appeal by registered mail to the Common Clerk of The City of Saint John, City Hall – 8th Floor, 15 Market Square, Saint John, New Brunswick, E2L 4L1.

Potential penalty for non-compliance within specified time:² Paragraph 190.03(1) of the *Municipalities Act* states that a person who fails to comply with the terms of the Notice to Comply given under Section 190.011 of the said Act, commits an offence that is punishable under Part II of the *Provincial Offences Procedure Act* as a category F offence.

Where an offence under paragraph 190.03(1) continues for more than one day, the minimum fine that may be imposed is the minimum fine set by the *Provincial Offences Procedure Act* for a category F offence multiplied by the number of days during which the offence continues pursuant to subparagraph 190.03(1.2)(b)(i).

Municipality's authority to undertake repairs or remedy:³ Subparagraphs 190.04(1)(a), 190.04(1)(a.1) and 190.04(1)(b) of the *Municipalities Act* states that if a Notice to Comply has been given under section 190.011 of the said Act and that an owner or occupier does not comply with the Notice to Comply, as deemed confirmed or as confirmed or modified by a committee of council or a judge under section 190.021 of the said Act, within the time set out in the Notice to Comply, the municipality may, cause the premises of that owner or occupier to be cleaned up or repaired, or cause the

Les mesures correctives susmentionnées relativement à la démolition du bâtiment et la disposition des débris et autres items sur les lieux ne comprennent pas le nettoyage, la remise en état des lieux, des terrains ou des biens personnels ou toute autre mesure corrective dans le but de contrôler ou de réduire, d'éliminer le déversement, de modifier le mode de déversement ou le déversement d'un polluant dans ou sur l'environnement ou toute partie de l'environnement.

Date à laquelle la ou les mesures doivent être prises:¹

- a) La démolition du bâtiment et le nettoyage des lieux doivent être complétés, ou à laquelle les plans et demande de permis pour les mesures des réparations, doivent être soumises, dans les 60 jours qui suivent la signification de l'avis de conformité.
- b) Les réparations reliées aux mesures doivent être complétées dans les 180 jours qui suivent la signification de l'avis de conformité.

Date à laquelle un appel de l'avis peut être déposé: Dans les 14 jours qui suivent la notification de l'avis de conformité.

Processus d'appel : La propriétaire peut dans les 14 jours qui suivent la notification de l'avis de conformité, envoyé un avis d'appel par courrier recommandé à la greffière communale de la municipalité, à The City of Saint John, Édifice de l'hôtel de ville, 8^e étage, 15 Market Square, Saint John, Nouveau-Brunswick, E2L 4L1.

Pénalité possible pour non-conformité dans le délai prescrit:² Le paragraphe 190.03(1) de la *Loi sur les municipalités* prévoit quiconque omet de se conformer aux exigences formulées dans un avis de conformité notifié aux termes de l'article 190.011 de ladite loi, commet une infraction qui est punissable en vertu de la Partie II de la *Loi sur la procédure applicable aux infractions provinciales* à titre d'infraction de la classe F.

Lorsqu'une infraction prévue au paragraphe 190.03(1) se poursuit pendant plus d'une journée, l'amende minimale qui peut être imposée est l'amende minimale prévue par la *Loi sur la procédure applicable aux infractions provinciales* pour une infraction de la classe F multipliée par le nombre de jours pendant lesquels l'infraction se poursuit conformément à l'alinéa 190.03(1.2)(b)(i).

Pouvoir de la municipalité d'entreprendre les réparations ou de prendre les mesures:³ Conformément aux alinéas 190.04(1)(a), 190.04(1)(a.1) et 190.04(1)(b) de la *Loi sur les municipalités*, si un avis de conformité a été signifié aux termes de l'article 190.011 de ladite loi et, que le propriétaire ou l'occupant ne se conforme pas à cet avis de conformité dans le délai imparti et tel qu'il est réputé confirmé ou tel qu'il est confirmé ou modifié par un comité du conseil ou par un juge en vertu de l'article 190.021 de ladite loi, la municipalité peut

building of that owner or occupier to be repaired or demolished, and the cost of carrying out such work, including any related charge or fee, is chargeable to the owner or occupier and becomes a debt due to the municipality.

faire nettoyer ou réparer les lieux de ce propriétaire ou de cet occupant ou de faire réparer ou démolir la propriété de ce propriétaire ou de cet occupant, et les frais relatifs à l'exécution de ces travaux, y compris toute redevance ou tout droit afférent, sont à la charge du propriétaire ou de l'occupant et deviennent une créance de la municipalité.

Dated at Saint John the 15th day of August, 2017.

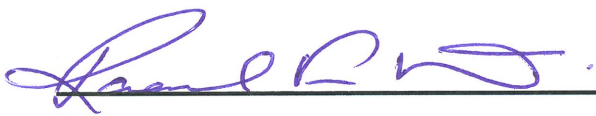
Fait à Saint John le ____ août, 2017.

Municipality: The City of Saint John

Municipalité : The City of Saint John

Signature of Municipal Officer:

Signature de la représentante municipale:



Municipal Officer's Contact information:

Name: Rachel Van Wart, EIT
Mailing address:

Growth and Community Development Services

The City of Saint John
15 Market Square
City Hall Building, 10th Floor
P. O. Box 1971
Saint John, New Brunswick
E2L 4L1

Telephone: (506) 658-2911
Telecopier: (506) 632-6199
Email: rachel.vanwart@saintjohn.ca

Coordonnées de la représentante municipale :

Nom : Rachel Van Wart, IS
Adresse postale:

Service de la Croissance et du Développement
Communautaire

The City of Saint John
15 Market Square
Édifice de l'hôtel de ville, 10^e étage
Case postale 1971
Saint John (Nouveau-Brunswick)
E2L 4L1

Téléphone : (506) 658-2911
Télécopieur : (506) 632-6199
Courriel: rachel.vanwart@saintjohn.ca

Seal of municipality



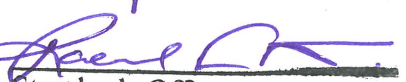
Sceau de la municipalité

- Notes:**
1. All appropriate permits must be obtained and all relevant legislation must be complied with in the course of carrying out the required remedial action.
 2. Payment of the fine does not alleviate the obligation to comply with the by-law, standard or notice to comply.
 3. Costs become a debt due to the municipality and may be added to the joint municipal and provincial Real Property Assessment and Tax Notice.

- Notes :**
1. Tous les permis prescrits doivent être obtenus et toute la législation pertinente doit être respectée, pendant l'exécution de la mesure de recours.
 2. Le paiement de l'amende n'annule pas l'obligation de respecter l'arrêté, la norme ou l'avis de conformité.
 3. Les coûts deviennent une dette envers la municipalité et peuvent être ajoutés à l'avis d'évaluation et d'impôt foncier municipal et provincial.

i hereby certify that this document is a true copy of the original.

INSPECTION REPORT
Schedule "A"
149 Broad Street
Saint John, New Brunswick
PID# 00000604

Dated at Saint John,
this 15th day of
August 2017

Standards Officer

Inspection Date: June 23, 2017
Inspection Conducted by: Rachel Van Wart, EIT

Introduction

Inspections of the property at 149 Broad Street, PID# 00000604, have revealed that there are two buildings on the premise; a large three-storey, brick housing complex (the "Building") and a detached single-storey shed (the "Shed"). Staff first became aware of the property's vacancy in December 2013 and began standard enforcement procedures. The property is located in an urban center residential neighborhood and is zoned as a neighborhood community facility in the City's South Central Peninsula. The Building is a hazard to the safety of the public by reason of being vacant, by reason of dilapidation and by reason of unsoundness of structural strength.

Discussion

The Building is not in compliance with the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-law*, By-law Number M-30, and amendments thereto (the "By-law").

Unsightly Premise Conditions

Subsection 190.01(1) of the *Municipalities Act* states:

No person shall permit premises owned or occupied by him or her to be unsightly by permitting to remain on any part of such premises

- (a) any ashes, junk, rubbish or refuse;
- (b) an accumulation of wood shavings, paper, sawdust or other residue of production or construction;
- (c) a derelict vehicle, equipment, machinery or the body of any part of a vehicle equipment or machinery, or
- (d) a dilapidated building.

1. There is an accumulation of junk, rubbish, and refuse on the property. These items include, but are not limited to, bricks, tires, discarded wood, shingles, rusted metal, a pile of metal siding, a window screen, a wooden door and other various loose and bagged garbage. The aforementioned accumulation of junk, rubbish, and refuse is unsightly.
2. The Building is dilapidated. The Building's exterior is composed of brick with a stone rock foundation. Bricks have fallen from various locations of the Building while other sections are in danger of falling, specifically at a location at the front of the Building. The bricks on the Building are cracked, loose and spalling. A portion of brick is missing from the front right side of the Building above the fascia, exposing plastic building material. There is a broken window on the second storey of the front right side of the Building, leaving the room exposed to the elements. A large portion of the roof fascia from the left side of the Building has fallen. The remaining roof fascias are deteriorated. There are four boarded windows at the rear of the Building. There are three sets of metal stairs attached to the Building; the front, left side, and rear. All three staircases are rusted and unsightly. A tread in the rear stairs is broken and hanging from the stringer.

3. The Shed at the rear of the property is dilapidated. The Shed has metal siding that is beginning to rust. The wooden roof fascia is rotten and some sections are falling. The wooden door of the Shed is dilapidated with peeling paint and a boarded door window. At the rear of the Shed the soffit is hanging.
4. There are two retaining walls on the property; one concrete cinder block retaining wall on the left side of the property and stone retaining wall at the front of the Building adjacent to the sidewalk. The concrete retaining wall to the left of the Building has failed. The corner of the remaining wall is no longer intact. The other two walls are leaning. Broken concrete cinder blocks remain piled and wooden barricades have been placed near the public sidewalk. There are portions of the stone retaining wall at the front of the property that have been dislodged and remain on the sidewalk and in the path to the main entrance of the Building.

Vacant and Unoccupied

Subsection 190.01(1.1) of the *Municipalities Act* states:

No person shall permit a building or structure owned or occupied by him or her to become a hazard to the safety of the public by reason of being vacant or unoccupied.

The Building and Shed are a hazard to the safety of the public by reason of being vacant or unoccupied for the following reasons:

1. The Building was found open during a routine inspection on June 22, 2017 but has since been secured and boarded by the owners. Buildings that are in a dilapidated condition and left unsecured from public entry can attract vandalism, arson, or criminal activity. When the Building was found open, there were two points of access to the Building; the right and left side doors. Both points of entry allow unrestricted access to the entire Building. An interior inspection of the Building was conducted on June 23, 2017 which noted signs of vandalism and trespassing. Graffiti that was dated 2017 was seen on the walls of the Building, confirming recent trespassing. Vandalism, arson and criminal activity pose a hazard to the safety of the public and devalue properties in the surrounding area. There have been two police reports filed regarding the Building; one in February 2016 regarding suspicious males around the property and the second in October 2016 regarding a broken window. The City of Saint John Finance department confirmed that the water has been turned off since September 2012. Saint John Energy confirmed that the power has been disconnected since June 2010.
2. There is a higher risk of a fire event occurring at the property since it is known to the public that the Building and Shed are vacant and there has been evidence of recent trespassing. The property is adjacent to a 3 unit residential dwelling at 137 Broad Street and a single family residential dwelling at 151 Broad Street. If a fire event were to occur within the Building or Shed, it could potentially spread to the neighboring properties which would cause significant damage to the buildings and endanger the lives of the occupants.
3. There is a concern for emergency personnel safety in the event of a fire. If firefighters suspect there may be people inside the Building or Shed, it would be reasonable to expect they may be required to enter it. The June 23, 2017 interior inspection found flooring caved in on the first floor of the Building. There are also numerous locations with water damage, making the floors soft throughout the Building. There is household furniture present throughout the Building including beds, large shelves, and tables. The exterior stairs at the rear of the Building which access the second storey are unsound and would be unsafe for use by emergency personnel. The basement area was not inspected by staff due to the hazardous condition of the ceiling and floors and would therefore be hazardous for emergency personnel searching the Building in the

event of an emergency. The condition of the interior is not known to firefighters which pose a hazard to their safety and others who may be inside in the event of a fire.

Dilapidated Building Conditions

Subsection 190.01(2) of the *Municipalities Act* states

No person shall permit a building or structure owned or occupied by him or her to become a hazard to the safety of the public by reason of dilapidation or unsoundness of structural strength.

The Building is a hazard to the safety of the public by reason of dilapidation for the following reasons:

Exterior Conditions:

1. Bricks are falling from the Building in a number of places, most notably to the left, above of the main entrance. A large section of the roof has already fallen onto the front staircase and landing, leading to the main entrance. More pieces of the roof show signs of deterioration and could fall. Falling pieces from the Building could cause serious damage to anyone on the property as well as pedestrians passing by on the sidewalk.
2. The stairs leading to the front, left, and rear entrances of the Building are rusted and unsound. There is a missing stair tread approximately mid-way up the rear staircase leading to the second storey. The stairs on the left side of the Building leading to the second storey are extremely rusted. The stairs leading to the main entrance of the Building are anchored to exterior brick that shows signs of stress. The stairs are unsafe for use and they could fail under live load.
3. The retaining walls on the property are dilapidated and hazardous to the public. The concrete retaining wall to the left of the Building has failed; sections of concrete and cinder blocks have fallen onto the edge of the side walk and remain in a pile. A wooden barricade has been placed partially on the sidewalk amongst the debris. In addition, stones have fallen onto the sidewalk and walkway to the main entrance from the stone retaining wall at the front of the Building. These stones and broken cinder blocks pose a tripping hazard to individuals entering the property and pedestrians using the sidewalk in the high density urban area.
4. The Shed at the rear of the property is dilapidated with rusted metal siding and rotten wooden roof fascia. Both the soffit and fascia are hanging from the Shed, which could cause injury if failure occurs.

Interior Conditions:

5. The Building has suffered extensive water damage and is in a state of decay. In multiple rooms throughout the Building, water has pooled on the floor and is sitting stagnant. Ceiling tiles are warped, bowing and have fallen. Paint is peeling throughout the Building. Gyproc and plaster walls and ceilings have been removed in multiple locations throughout the Building leaving the broken plaster and crumbled gyproc covering the floors. Exposed lathe is water stained from water infiltration. Plywood and MDF boards have been affixed to the ceiling in some areas, which appear to be an attempt to remedy the water damage. In a room on the second storey the ceiling is missing, exposing vapour barrier with pooling stagnant water. Flooring in many rooms, most notably in the basement, are soft due to water saturation.

6. Flooring in a front room of the Building is severely sloped and has dropped approximately 6 inches. The flooring system is visibly detached with space between hardwood floors and baseboard trim and a hole into the basement near the fireplace. Water has run from the opposite side of the room towards the failed side and into the basement. This room is extremely hazardous and the flooring system could fail under load.
7. There is broken glass from windows and doors throughout the Building. The glass could injury to those entering the Building without protective equipment.
8. There is black mould and fungi growth on the walls and ceilings throughout the Building. Water damage, mould and fungi all pose a respiratory hazard for those who may enter the Building.

Structurally Unsound Building Conditions

Subsection 190.01(2) of the *Municipalities Act* states

No person shall permit a building or structure owned or occupied by him or her to become a hazard to the safety of the public by reason of dilapidation or unsoundness of structural strength.

The Building is a hazard to the safety of the public by reason of unsoundness of structural strength for the following reasons:

1. The brickwork on the exterior of the Building is structurally unsound and causing other elements of the Building to fail. Loose bricks are visible near the main entrance where a large section of the roof has already fallen onto the front staircase and landing. Falling pieces of brick or other elements of the Building could cause serious damage to anyone on the property as well as pedestrians passing by on the sidewalk. The stairs leading to the main entrance of the Building are anchored to exterior brick that shows signs of stress and could also cause failure.
2. The stairs leading to the front, left, and rear entrances of the Building are rusted and structurally unsound. Missing stair treads, rust and deterioration of the bricks where the stairs are anchored to the Building illustrate that the stairs are not safe for travel.
3. The retaining walls on the property are structurally unsound and hazardous to the public. The concrete retaining wall to the left of the Building is leaning and has failed with sections of concrete and cinder blocks piled near the public sidewalk. There are unsecure stones dislodging from the stone wall at the front of the property. These stones and broken cinder blocks pose a tripping hazard to individuals entering the property and pedestrians using the sidewalk in the high density urban area.
4. The interior of the Building is structurally unsound, specifically the front room that has failed and caved into the basement. Extensive water damage throughout the Building to key structural members contributes to the structural unsoundness of the Building. The flooring in the basement is soft and deflects under load indicating improper structural support.

Required Remedial Actions

The owner must comply with one of the two options stated below:

Option 1: Remedy the conditions of the Building and Shed through all repair and remedial actions as follows:

1. The Building and Shed must be must be completely repaired to remedy the above mentioned hazards to public safety while meeting the requirements of the *National Building Code of Canada (2010)* as well as all other applicable by-laws.
2. The Building and Shed must be maintained, kept secure, and monitored on a routine basis while the property remains vacant or unoccupied.
3. A detailed plan must be submitted to the Growth and Community Development Services Department of the City of Saint John (the "Department") for review and approval. The plan should also include a schedule for the work that is to be carried out. The repaired Building and Shed must meet the *National Building Code of Canada (2010)* as well as other applicable codes.
4. The detailed plan, including schedules and any engineering reports, must be approved by the Department prior to commencing repair work.
5. A building permit must be obtained for any and all applicable work prior to commencing said work from the City of Saint John in order to comply with the *Saint John Building By-law*, By-law Number C.P. 102 and amendments thereto (the "*Saint John Building By-law*").
6. The premise must be cleared of all debris found on the property, including any and all rubbish that may be considered hazardous or unsightly. The debris from the premise must be disposed of at an approved solid waste disposal site, in accordance with all applicable by-laws, acts and regulations. Documented proof, that clearly demonstrates an approved solid waste disposal site was used for the disposal of debris, must be provided to the Department. The premise must comply with all applicable By-laws, Acts, Codes and Regulations.

Option 2: Demolition of the Building and Shed and cleanup of all debris on the premise by complying with all the remedial actions as follows:

1. The Building and Shed must be demolished to remove the hazard to the safety of the public by reason of dilapidation and by reason of being vacant or unoccupied.
2. A demolition permit must be obtained from the City of Saint John in order to comply with the *Saint John Building By-law*.
3. The premise must be cleared of the debris from the demolition and the lot must be made reasonably level with grade so as to not create a tripping or falling hazard. All debris must be disposed of at an approved solid waste disposal site, and in accordance with all applicable By-laws, Acts and Regulations. Documented proof, that clearly demonstrates an approved solid waste disposal site was used for the disposal of debris, must be provided to the Department.
4. All debris that is currently on the premise must be removed and disposed of at an approved solid waste disposal site, and in accordance with all applicable By-laws, Acts and Regulations. Documented proof, that clearly demonstrates an approved solid waste disposal site was used for the disposal of debris, must be provided to the Department.
5. The property must be in compliance with all applicable By-laws, Acts and Regulations.

Prepared by:



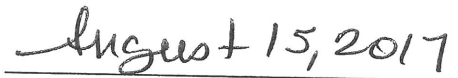
Rachel Van Wart, EIT
Technical Services Officer
Growth and Community Development Services

August 15/17
Date

Reviewed by and concurred in by:



Amy Poffenroth, P. Eng., MBA
Building Inspector
Deputy Commissioner
Growth and Community Development Services



Date



The City of Saint John

**Buildings and Inspection Services / Services d'inspection et des
bâtiments**

Phone / Tél: (506) 658-2911

Fax / Téléc: (506) 632-6199

February 27, 2019

Case Number: 13-674

VIA EMAIL

Mr. Lang Lee
38 William Street
Guelph, ON
N1E 5E3

Dear Mr. Lee,

NOTICE OF COMMON COUNCIL HEARING

RE: 149 Broad Street, Saint John, New Brunswick
PID# 00000604

Please be advised that the Notice to Comply that was issued for the above noted property pursuant to the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-law* on August 15, 2017 has expired. The conditions outlined in the Appeal Decision pursuant to the September 29, 2017 Substandard Properties Appeal Committee Hearing by Brian Maude have not been met. Enclosed for your reference is a copy of the Substandard Properties Appeal Committee Decision dated September 29, 2017.

Therefore, the City of Saint John will be pursuing further enforcement action. City Staff will be attending the Common Council meeting scheduled on March 25, 2019 at 6:00 p.m. to recommend that the building be demolished as it has become a hazard to the safety of the public by reason of dilapidation and by reason of unsoundness of structural strength. Please be advised that at this meeting, you can present evidence that the building is not dilapidated or structurally unsound; however, note that this meeting will be your only opportunity to do so.

The Table below details the conditions outlined in the Substandard Properties Appeal Committee Decision and an update as to if these conditions have been met, many of which, have not.

Substandard Properties Appeal Committee Decision conditions as per page 7	City of Saint John Update:
a.) The Appellant shall submit his permit application and repair plan in sufficient time to allow for approval by the City by 31 January 2018.	Building Permit 17-1385 was applied for on December 14, 2017 for interior demolition only. A permit application for renovations has not been received by this department.



SAINT JOHN

P.O. Box 1971
Saint John, NB
Canada E2L 4L1

C.P. 1971
Saint John, N.-B.
Canada E2L 4L1

www.saintjohn.ca

Buildings and Inspection Services / Services d'inspection et des bâtiments

Phone / Tél: (506) 658-2911

Fax / Téléc: (506) 632-6199

b.) The Appellant shall provide monthly progress updates to the City, on the last day of each calendar month, from the date of this Decision until the permit application and repair plan are approved by the City, or until 31 January 2018, whichever is later.	Verbal updates were received that professionals had been hired and were working on the project with plans in place.
c.) The Appellant shall complete all repair-related remedies by 31 January 2019.	Incomplete. An exterior inspection was completed on February 26, 2019. Partial interior demolition has been completed. A large pile of debris remains in the left side yard.
d.) Between the date of approval of the permit application and repair plan, and the completed of all repair-related remedies on or before 31 January 2019, the Appellant shall provide progress updates to the City on the following dates: i. 30 April 2018 ii. 31 July 2018 iii. 31 October 2018 iv. 31 January 2019	The following verbal updates were received: <ul style="list-style-type: none">• March 2018 – An architect was hired and crews were scheduled to begin work, however they were waiting for better weather.• May 2018 – Investors visited from out of town and City staff met with them to explain enforcement procedures.• June 2018 – The investors backed out, but City staff was assured that there was new funding for the project.• August/ September 2018 – A new investor discussed project with City planning and building staff. They did not pursue the project further.
e.) From the date of this decision until the completion of all repair-related remedies, the Building is to remain secure at all times.	Numerous windows were found open and broken during the February 26, 2019 inspection.
f.) From the date of this decision until the completion of all repair-related remedies in the event the Building sustains a fire, break-ins or other acts of vandalism, the City shall have the right to take enforcement action as necessary.	No fires were sustained. No Police reports on file.
g.) In the event the Building significantly deteriorates any further, the City shall have the right to take enforcement action as necessary.	Conditions have worsened, given the partial interior demolition.

**Buildings and Inspection Services / Services d'inspection et des
bâtiments**

Phone / Tél: (506) 658-2911

Fax / Téléc: (506) 632-6199

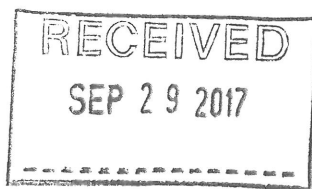
Please do not hesitate to contact me at 658-2911.

Regards,



Rachel Van Wart, EIT
Technical Services Officer

Enclosure



Brian Maude
Suite 300 – 85 Charlotte Street
Saint John, New Brunswick
E2L 2J2

Friday, 29 September 2017

Office of the Common Clerk,
City of Saint John
P.O. Box 1971
Saint John, NB E2L 4L1

Attention: Jonathan Taylor, Common Clerk

**RE: Saint John Substandard Properties Appeal Committee
Appeal File No. 2017-03
Lang Lee & Ilir Loka v. The City of Saint John
Hearing: Friday, 29 September 2017, 10:00 a.m.**

Dear Mr. Taylor,

Enclosed please find my Decision and Statement of Account for services rendered with respect to the above-noted matter. Kindly attend to providing a copy of the Decision to the Parties.

Thank you for allowing me to assist you in this matter. Should you have any questions or concerns, please do not hesitate to contact me and, I remain,

Yours truly,

A large, stylized handwritten signature in black ink, appearing to be "Brian Maude". The signature is written over the printed name and contact information.

Brian Maude
Direct line: 506-658-3020
E-mail: brian.maude@fcnb.ca

FILE: 2017-03

IN THE MATTER OF AN APPEAL pursuant to section 190.01(2) of the *Municipalities Act*, R.S.N.B., 1973, c.M-22 and pursuant to section 26(1) of the *Saint John Minimum Property Standards By-Law*, No. M-14

BETWEEN:

LANG LEE & ILIR LOKA

Appellants

– and –

THE CITY OF SAINT JOHN

Respondent

**DECISION OF THE SAINT JOHN
SUBSTANDARD PROPERTIES APPEAL COMMITTEE**

Parcel Identifier Number: 00000604

Parcel Address: 149 Broad Street, Saint John, New Brunswick

Registered Owners: Lang Lee & Ilir Loka

Hearing date: Friday, 29 September 2017

The Parties

1. The Appellants, Lang Lee and Ilir Loka, (the “**Appellants**”) were the registered owners of a property located at 149 Broad Street in Saint John, New Brunswick (the “**Property**”), having the Property Identification Number of 00000604. As a result of a property transfer registered on 20 September 2017, Mr. Lee is the sole remaining registered owner of the Property. However, both individuals appeared in person at the hearing and made submissions.
2. The Respondent, the City of Saint John, was represented by Rachel Van Wart, EIT, a Technical Services Officer, and Amy Poffenroth, P. Eng., a By-law Enforcement Officer (together, the “**City Officers**”).

The Property

3. Pursuant to subsection 190.01(3) of the New Brunswick *Municipalities Act*, R.S.N.B. 1973, c. M-22, as amended, (the “*Act*”), a Notice to Comply was issued by the Municipal Officer of the City of Saint John on 15 August 2017 (the “**Notice to Comply**”). The Notice to Comply indicated that the Property was in contravention of the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law*, By-law number M-30 (the “**By-Law**”), and subsections 190.01(1), 190.01(1.1) and 190.01(2) of the *Act*.
4. The Notice to Comply was accompanied by an Inspection Report prepared by Ms. Van Wart, which was reviewed and concurred in by Ms. Poffenroth (the “**Inspection Report**”).
5. The Inspection Report details a number of issues with the Property that bring it in contravention of the By-Law and the *Act*. The Property houses one large building (the “**Building**”) and one shed. In general, those issues were:

- An accumulation of junk, rubbish and refuse on the property;
- Fallen, cracked, loose and spalling bricks on the Building's exterior;
- Deteriorated and, in one section, fallen, roof fasciae;
- A dilapidated shed on the Property;
- One failed retaining wall; and
- Numerous issues with the Building's interior which include, but are not limited to, extensive water damage, crumbled wall and ceiling plaster, a sloping and partially dropped floor, mould and fungi growth on the walls and ceilings, and areas which have been vandalized.

The Appeal

The Appellant's Submissions

6. The Appellants were served with the Notice to Comply by posting it on the exterior of the Building on 17 August 2017, and also by personal service on 22 August 2017. As the Appellants attended at the hearing, service is not at issue.
7. The Appellants filed a Notice of Appeal on 1 September 2017. Their grounds of appeal were that they required more time in order to complete the plan they had for the Property.
8. A Notice of Appeal was issued on 11 September 2017. The Appeal was scheduled for 10:00 a.m. on 29 September 2017, at the City Hall Building. Again, service is not at issue as all parties attended the hearing.
9. As required by Section G, paragraph 4 of the *Provisions Governing the Procedure and Operation of the Saint John Substandard Properties Appeal Committee*, I confirmed with the Appellants that the Notice to Comply was indeed that which the Appellants sought to appeal.

10. The Appellants made their representations first. They indicated that they were in the process of finalizing their business plan in relation to the Property. Their plan is to convert the existing Building – constructed, according to the Appellants, in 1878 – into a Nursing Home. This, they submit, they can accomplish with financing (which, they submit, they are securing), an architect’s plan (which, they submit, they are obtaining) and some additional time from the City in which to complete their endeavour.
11. The Appellants accepted all of the findings contained in the Inspection Report, with the exception of the finding that the Building is structurally unsound.
12. The Appellants concluded by indicating that they had discussed their building plan with the City and contend that they had come to an agreement with regard to the execution of that plan.

The Respondent’s Submissions

13. The Respondent was represented by the City Officers. Ms. Van Wart presented a detailed file, in 12 sections, outlining the procedural history of the Appeal as well as the findings made by the Respondent over the course of its examination of the Property.
14. Ms. Van Wart presented a number of photographs which support the findings made in the Inspection Report. The Building looks to be in quite a dilapidated state.
15. As to the issue of structural soundness, the Inspection Report details that the Building is structurally unsound for the following reasons (set out on page 4 of the Inspection Report):

1. *The brickwork on the exterior of the Building is structurally unsound and causing other elements of the Building to fail. Loose bricks are visible near the main entrance where a large section of the roof has already fallen onto the front staircase and landing. Falling pieces of brick or other elements of the Building could cause serious damage to anyone on the property as well as pedestrians passing by on the sidewalk. The stairs leading to the main entrance of the Building are anchored to exterior brick that shows signs of stress and could also cause failure.*
2. *The stairs leading to the front, left, and rear entrances of the Building are rusted and structurally unsound. Missing stair treads, rust and deterioration of the bricks where the stairs are anchored to the Building illustrate that the stairs are not safe for travel.*
3. *The retaining walls on the property are structurally unsound and hazardous to the public. The concrete retaining wall to the left of the Building is leaning and has failed with sections of concrete and cinder blocks piled near the public sidewalk. There are unsecure stones dislodging from the stone wall at the front of the property. These stones and broken cinder blocks pose a tripping hazard to individuals entering the property and pedestrians using the sidewalk in the high density urban area.*
4. *The interior of the Building is structurally unsound, specifically the front room that has failed and caved into the basement. Extensive water damage throughout the Building to key structural members contributes to the structural unsoundness of the Building. The flooring in the basement is soft and deflects under load indicating improper structural support.*
16. The Appellants, in their submissions, disputed the Inspection Report and contended that the Building is sound. They offered nothing additional in support of their contention other than a commentary on some of the internal wall framing.
17. Where the evidence of the Respondent differs from that of the Appellants on the issue of the Building's structural soundness, I prefer the evidence of the Respondent.
18. The Respondent confirmed the Appellants' contention that it had come to an agreement regarding the execution of the Appellants' plan for the property. However, the Respondent indicated that it would only do so subject to a certain number of conditions.

19. The Respondent outlined its conditions as follows:

- The permit application and repair plan are to be submitted by the Appellants and approved by 31 January 2018;
- The Building is to remain secure at all times;
- In the event the Building sustains a fire, break-ins or other acts of vandalism, the City reserves the right to take enforcement action as necessary; and
- In the event the Building significantly deteriorates further, the City reserves the right to take enforcement action as necessary.

20. Furthermore, the Respondent set out two deadlines:

- 31 January 2018: the date by which the Appellants were to have their permit application and repair plan both submitted and approved (the “**First Deadline**”); and
- 31 January 2019: the date by which the Appellants are to have their repair-related remedies completed (the “**Second Deadline**”).

21. In the event these deadlines are not met, the Respondent reserved the right to proceed with enforcement action.

22. Finally, the Respondent indicated that:

- between the time of the hearing and the First Deadline, it required monthly progress updates from the Appellants; and
- once the permit is issued, it required quarterly progress updates from the Appellants until the Second Deadline.

23. As indicated, the parties appeared to agree on this course of action.

Decision and Order

24. The Notice to Comply set out two remedial actions available to the Appellants, and the dates by which either of those options was to occur:

- the demolition of the Building, clean-up of the property and related remedies must be complete, or plans and permit applications for repair-related remedies, must be submitted within 60 days of being served with the Notice to Comply; and
- the repair-related remedies must be complete within 180 days of being served with the Notice to Comply.

25. However, as indicated above, the Parties have agreed upon an alternate course of action, accompanied by alternate time frames.

26. Additionally, as Mr. Loka is no longer a registered owner of the Property, I will refer only to Mr. Lee as the Appellant, and the order shall apply to whomsoever is the registered owner of the Property.

27. These proceedings are governed by *A By-Law Respecting Standards for Maintenance and Occupancy of Buildings and Premises*, By-law number M-14 of the City of Saint John. Subsection 26(4) of that By-law reads as follows:

26(4) *On an appeal, the committee of council may confirm, modify or rescind the notice or extend the time for complying with the notice.*

28. In light of the agreement between the Parties, I will modify the Notice to Comply, extend the time for complying with the Notice to Comply, and issue the following Decision:

- a) The Appellant shall submit his permit application and repair plan in sufficient time to allow for approval by the City by 31 January 2018;
- b) The Appellant shall provide monthly progress updates to the City, on the last day of each calendar month, from the date of this Decision until the permit application and repair plan are approved by the City, or until 31 January 2018, whichever is later;
- c) The Appellant shall complete all repair-related remedies by 31 January 2019;
- d) Between the date of approval of the permit application and repair plan, and the completion of all repair-related remedies on or before 31 January 2019, the Appellant shall provide progress updates to the City on the following dates:
 - i. 30 April 2018;
 - ii. 31 July 2018;
 - iii. 31 October 2018; and
 - iv. 31 January 2019
- e) From the date of this decision until the completion of all repair-related remedies, the Building is to remain secure at all times;
- f) From the date of this decision until the completion of all repair-related remedies, in the event the Building sustains a fire, break-ins or other acts of vandalism, the City shall have the right to take enforcement action as necessary; and

- g) In the event the Building significantly deteriorates any further, the City shall have the right to take enforcement action as necessary.
29. The Notice to Comply is therefore modified as set out above and otherwise remains in full force and effect.

DATED at Saint John, New Brunswick this 29th day of September 2017.

Brian Maude
Chairperson
Saint John Substandard Properties Appeal Committee



**Saint John Police Force
Tee Off for Mental Health**

Committee

Cst. Marc Hussey
marc.hussey@saintjohn.ca
506-343-2655

Chair

Dawn O'Dell
dawn.odell@cmhanb.ca
506-652-1447

Sponsorship

Cst. Emily Hobbs
James Higgins
Kathy Dumouchel
Christa Barton
Troy MacLeod
Meaghan Bailey

Mailing Address:
**Canadian Mental Health
Association of NB
Saint John office**
Hilyard Place
560 Main Street,
Suite A315
Saint John, NB E2K 1J5

SPONSOR INVITATION LETTER

City of Saint John
Mayor & Council
Po Box 1971
Saint John, NB E2L 4L1

Dear Mayor & Council,

On **Friday September 13th, 2019** the **Saint John Police Force** will once again host ***Tee Off for Mental Health*** at the **Rockwood Park Golf Course** in support of the **Canadian Mental Health Association of New Brunswick (CMHA of NB) Saint John office**. ***Tee Off for Mental Health*** will provide a great opportunity to feature your corporate brand and commitment to the promotion of mental wellness. Last year's tournament raised over \$40,000 to support mental health initiatives within the greater Saint John area.

These events are only possible with financial contributions from companies such as yours. In hopes of attracting sponsors from a variety of companies, we are offering several sponsorship levels:

Dinner Sponsor - \$7,500
Tournament Sponsor - \$5,000
Hole-in-One Sponsor - \$2,500
Gold Sponsor - \$2,000

Of course, donations of any amount (monetary, prize or otherwise) would be accepted and greatly appreciated. Please contact Dawn O'Dell should you choose to support this event.

All proceeds from our event will be benefiting the Canadian Mental Health Association of New Brunswick Saint John office. Please visit the website www.sjpoliceteeoff.ca for event information and announcements prior to the event.

We are grateful for everyone on and off the green who is committed to making mental health a priority in the greater Saint John area. Thank you for your consideration.

Sincerely,

**Cst. Marc Hussey
Saint John Police Force
Chair, Tee Off for Mental Health**

Tee Off for Mental Health

Sponsor Invitation Package

Supporting the Canadian Mental Health Association of New Brunswick Saint John office



Rockwood Park Golf Course

September 13th, 2019

We invite you to put your head in the game for mental health!



This fall, the Saint John Police Force will once again host ***Tee Off for Mental Health*** at the Rockwood Park Golf Course. On September 13th, 2019 members of the community will have the opportunity to take part in a fundraising effort to support the Canadian Mental Health Association of New Brunswick (CMHA of NB) Saint John office. Great strides have been made in recent years towards recognizing the critical role mental health plays in our overall well-being and quality of life. Yet despite many advances, discrimination and stigma remain a reality for those living with mental illness. ***Tee Off for Mental Health*** raises funds, increases awareness, and encourages acceptance and support for individuals and families struggling with mental health issues.

Founded in 1918, the Canadian Mental Health Association (CMHA) is a national charity that helps maintain and improve mental health for all Canadians. As the province-wide leader and champion for mental health, CMHA helps people access the community resources they need to build resilience and support recovery from mental illness.

Tee Off for Mental Health will see teams from a cross section of people from the greater Saint John area. This tournament will attract 32 teams made up of companies, emergency services personnel and individuals from New Brunswick. This is your opportunity to get involved and become a sponsor. By becoming a sponsor, you will be recognized in partnership with the Saint John Police Force and Canadian Mental Health Association of New Brunswick Saint John office in assisting in one of our communities' greatest need - mental health!

We want your company to be part of ***Tee Off for Mental Health!*** Please take this opportunity to review our sponsorship package and become involved. The CMHA of NB also has programs such as Changing Minds, Living Life to the Full, Applied Suicide Intervention Skills Training (ASIST), Kids Have Stress Too and safeTALK. You will be contributing to an organization that promotes "Mental Health for All".

Get involved and let's all make a difference in our community.

Sincerely,

Cst. Marc Hussey
Saint John Police Force
Chair, Tee Off for Mental Health

Package Entitlements **

	DINNER SPONSOR	TOURNAMENT SPONSOR	HOLE-IN-ONE SPONSOR	GOLD SPONSOR
RECOGNITION AS TOURNAMENT SPONSOR IN ALL PROMOTION		✓		
CATEGORY EXCLUSIVITY	✓	✓	✓	✓
BANQUET EXCLUSIVITY	✓			
RECOGNITION AND WELCOME REMARKS	✓	✓		✓
YOUR COMPANY LOGO ON EVENT POSTER ***	✓	✓	✓	
YOUR COMPANY LOGO ON EVENT PROGRAM		✓		
YOUR COMPANY LOGO ON HOLE SIGN			✓	✓
YOUR COMPANY LOGO ON THE BANNER AT CLUBHOUSE		✓		
COMPANY LOGO ON ALL MARKETING COLLATERAL - SOCIAL MEDIA, WEBSITE, AND GOLF SCORE CARD ***	✓	✓	✓	✓
YOUR COMPANY WILL RECEIVE A MENTAL HEALTH WORKSHOP OR PROGRAM FACILITATED BY CMHA OF NB	✓	✓		
ONE TEAM ENTRY (4 PLAYERS)	✓	✓	✓	✓

** For Sponsorships of Monetary Value.

*** Timelines must be adhered to - deadline for event poster April 15th.

Please contact Dawn O'Dell dawn.odell@cmhanb.ca

Your company logo required in a Vector "API" or High-Resolution Image.

Meeting Date	March 25, 2019
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Deputy Mayor McAlary and Councillors,

Subject: Canadian Tire Jumpstart Playground Gift

RESOLVED that the Committee of the Whole, having met on March 11, 2019, recommends that Common Council adopt the following resolution at its meeting of March 25th, 2019:

That the Common Council approves a Gift Agreement between Canadian Tire Jumpstart Charities (“**Jumpstart**”) and the City of Saint John (the “**City**”) upon the following terms and conditions, and authorizes the Mayor and Common Clerk to execute such an agreement:

1. Jumpstart shall

- a) arrange at its own expense for the construction and installation of an inclusive playground (the “**Playground**”) at Rainbow Park;
- b) arrange for the aforesaid construction and installation of the Playground to be generally in accordance with the drawings in this regard submitted to Common Council at its meeting of March 11, 2019;

2. The City shall

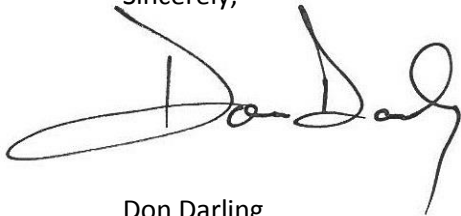
- a) at its own expense undertake the site preparation work necessary to accommodate the construction and installation of the Playground including the installation of appropriate subsurface drainage systems, walkways and associated landscaping;
- b) provide to Jumpstart an Annual Report on the status of the Playground for the purpose of ensuring that the Playground, its walkways, landscaping, etc. are maintained in good condition;
- c) include in each Annual Operating Budget during the 15 year useful lifetime of the Playground sufficient funds to maintain the Playground in compliance with the City’s policies and practices as well as all applicable standards;
- d) in the event of its default under the Agreement and if required by Jumpstart, make repayment to Jumpstart of the costs the latter incurred to the time of the default, but only in the event that the City has not remedied such default within 30 days of being advised in writing by Jumpstart of such default;

3. The City and Jumpstart shall each maintain general liability insurance in the amount of Five Million Dollars (\$5,000,000) naming the other as an additional insured as well as automobile liability insurance with a limit of not less than Two Million Dollars (\$2,000,000.00);



4. The Playground shall be named the Jumpstart Playground with corresponding onsite signage.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Darling". The signature is fluid and cursive, with a large initial "D" and a stylized "D" for the last name.

Don Darling
Mayor



SAINT JOHN

P.O. Box 1971 Saint John, NB Canada E2L 4L1 | www.saintjohn.ca | C.P. 1971 Saint John, N.-B. Canada E2L 4L1



March 25, 2019

Deputy Mayor and Councillors

Subject: Easement Acquisition from Fundamental Baptist Church of Lancaster Civic # 1170
Sand Cove Road

RESOLVED that as recommended by the Committee of the Whole having met on March 25, 2019, Common Council approve the following:

1. That the City acquire an easement for municipal services in portions of PID numbers 395889 and 55152979, upon the terms and conditions set out in the Offer attached to M&C 2019-43; and
2. That the Mayor and Common Clerk be authorized to execute any document(s) necessary to finalize this transaction.

Sincerely,

A handwritten signature in black ink, appearing to read 'Don Darling'.

Don Darling
Mayor



SAINT JOHN

1170 Sand Cove Road: PID No.'s 395889 and 55152979



Printed: 03/05/19 10:50:15 AM

Offer for Acquisition of an Easement for Municipal Services – Portion of PID #'s 395889 and 55152979

In consideration for the acquisition of approximately 3,456 square metres \pm easement for municipal services in a portion of PID numbers 395559 and 55152979, as generally shown on the attached plan, titled "Manawagonish Creek Channel Upgrades Easement Sketch", as revised and dated December 18, 2018, The City of Saint John offers as payment and compensation, the sum of \$12,073.00.

As part of the transaction, The City of Saint John will:

- 1) prepare any plan of survey required to effect the conveyance; and
- 2) pay for registration and filing fees by Service New Brunswick, if applicable, for the plan and Grant of Easement.

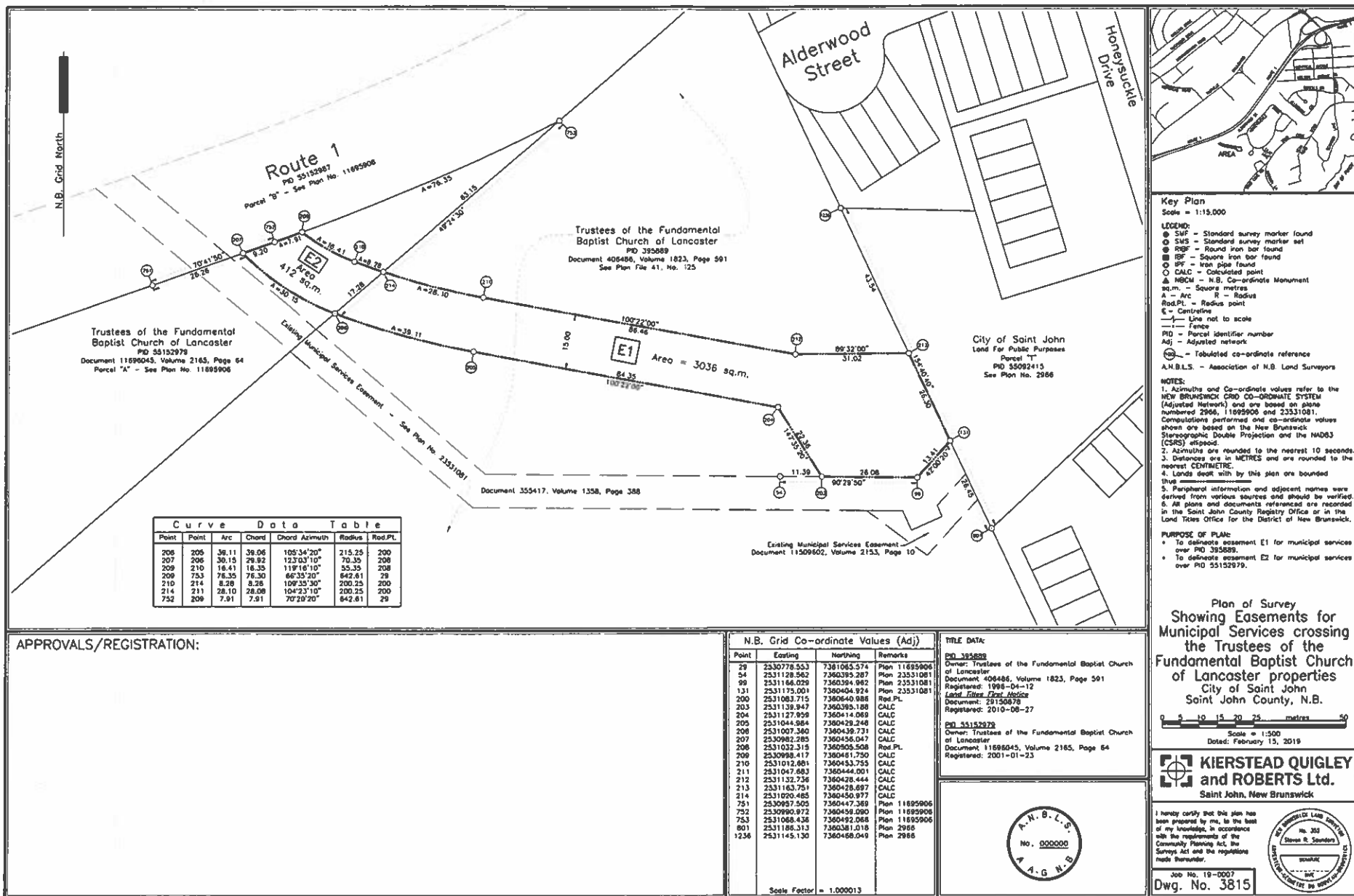
In the event the Vendor's title is encumbered by a mortgage, the Vendor shall obtain from the financial institution a Postponement to the easement herein contemplated in registerable form, provided that the Purchaser shall reimburse the Vendor for all administration (including appraisal) fees required by the financial institution to give a Postponement.

This offer is subject to Common Council approval.

I Glen Porter a duly authorized representative for the owners of Trustees of The Fundamental Baptist Church of Lancaster, owners of PID #395889 and 55152979 off Sand Cove Road hereby accept the offer contained herein.


Signature

Jan 16 / 19
Date





March 25, 2019

Deputy Mayor and Councillors

Subject: Summer Arena Rental Agreement

RESOLVED that as recommended by the Committee of the Whole having met on March 25, 2019, Common Council approve the following:

That the Mayor and Common Clerk be authorized to execute the license agreement between the City of Saint John and Bezeau Skills Ltd. as attached to M&C 2019–56.

Sincerely,



Don Darling
Mayor

This License made in duplicate this ____ day of March, 2019.

BY AND BETWEEN:

The City of Saint John, having its City Hall at 15 Market Square, Saint John, New Brunswick, a body corporate by Royal Charter, confirmed and amended by Acts of the Legislative Assembly of the Province of New Brunswick, hereinafter called the "Licensor"

OF THE ONE PART

- and -

707990 N.B. Inc., a company duly incorporated under the laws of the Province of New Brunswick, having its head office at 42 Bayview Drive, in the City of Saint John, County of St. John, Province of New Brunswick, hereinafter called the "Licensee"

OF THE OTHER PART

WHEREAS the Licensor is the owner of premises known as the Hilton Belyea Arena located at 390 Lowell Street, Saint John, New Brunswick (the "Premises"); and

WHEREAS the Licensee has submitted a proposal to the Licensor for the use of the Premises save and except: the ice plant and maintenance room; ice-making equipment; canteen, office and storage rooms of minor hockey and figure skating and also the use by the Licensor, its officers, servants, agents, contractors and workers of a right of way for access to and from those parts of the Premises not hereby licensed; and

WHEREAS the Licensor has agreed to grant the within License upon the terms and conditions herein contained;

NOW THEREFORE THIS INDENTURE WITNESSETH that for and in consideration of the charges stipulated in this License and other good and valuable consideration, the receipt whereof is hereby acknowledged, the Licensor does hereby grant, subject to the terms, conditions, covenants and provisions herein contained, permission and license to the Licensee, its servants, agents, employees, contractors and invitees to enter into and upon and exit from the Premises during such days and periods of occupation and use as are more particularly set out below. All times referenced in this License are expressed in Atlantic Daylight Time and not otherwise.

1. The Licensee may occupy and use the Premises as follows:
 - (a) Between Monday and Friday from May 5th, 2019 to June 30th, 2019 between the hours of 4:30pm until 11:30pm, inclusive;
 - (b) Between Saturday and Sunday from May 5th, 2019 to June 30th, 2019 between the hours of 8:30am until 11:30pm, inclusive;
 - (c) Between Monday and Friday from July 1st, 2019 to August 31st, 2019 between the hours of 8:30am and 11:30pm, inclusive, but not otherwise, and

- (d) Notwithstanding Article 1(a) to (c) above, the Licensee shall not occupy or use the Premises on May 20th, 2019 (Victoria Day), July 1st, 2019 (Canada Day) and August 5th, 2019 (New Brunswick Day) collectively (the “License Period”).
 - 2. (i) The Licensee shall pay to the Licensor for the occupation and use of the Premises the amount of Ninety Three Thousand Dollars (\$93,000.00) plus HST during the License Period (the “License Fee”);
 - (ii) The payment of the License Fee shall be made to the Licensee by the Licensor by cash or certified cheque at the Office of the Commissioner of Finance, 9th Floor, City Hall Building, 15 Market Square, Saint John, New Brunswick, or such other place as may from time to time be designated by the Licensor in the following installments and before the date identified below for the payment of each installment:
 - (a) On or before May 1st, 2019 in the amount of Fifteen Thousand Five Hundred Dollars (\$15,500.00) plus HST for the month of May 2019;
 - (b) On or before June 1st, 2019 in the amount of Eighteen Thousand Nine Hundred Dollars (\$18,900.00) plus HST for the month of June 2019;
 - (c) On or before July 1st, 2019 in the amount of Twenty Nine Thousand Three Hundred Dollars (\$29,300.00) plus HST for the month of July 2019;
 - (d) On or before August 1st, 2019 in the amount of Twenty Nine Thousand Three Hundred Dollars (\$29,300.00) plus HST for the month of July 2019.
 - (iii) The ice-time purchased at the Premises pursuant to the terms of this License shall be used by the Licensee; however, the Licensee may re-sell its purchased ice-time to a third party/third parties, which shall abide by the terms of this Agreement and which may be prohibited by the Licensor from using the Premises at its sole discretion.
 - (iv) The Licensee shall provide to the Licensor on a weekly basis no later than the preceding Wednesday the Licensee’s schedule of ice use for the following week (Sunday to Saturday, inclusive), together with the contact information for at least one individual for the group using the ice each time. Should there be any changes to the schedule of ice use, the Licensee shall notify the Licensor in writing immediately of any such changes.
- 3. (i) The Licensor may terminate this License and the Licensee shall have no further recourse should the Licensee fail to pay the License Fee pursuant to the terms of this License or otherwise fail to meet any obligations, conditions or agreements stipulated in this License.
 - (ii) The Licensee may terminate this License upon the giving of advance written notice of Thirty (30) business days. Should such a termination occur, the Licensee shall be refunded a pro-rated share of the License Fee as calculated by reference to the days remaining during the License Period.

- (iii) Should the Licensee terminate this License without giving the advance written notice required in Article 3(ii) above, the Licensee shall be obligated to pay to the Licensor, as a penalty for providing inadequate written notice, the equivalent of Three (3) weeks of the License Fee, as calculated by reference to the applicable License Fee payable in the month(s) that are covered by the specific period in question.
4. (i) The Licensee shall keep in place during the full term hereof comprehensive general liability insurance in a minimum amount of Five Million (\$5,000,000.00) Dollars wherein the Licensor is named an “additional insured” and wherein there is a cross-liability clause, all of which also expressly covers and protects the Licensor in circumstances where the Licensee chooses to re-sell ice-time pursuant to Article 2(iii) above and which also expressly covers any allegations/claims of physical or sexual abuse;
- (ii) The Licensee shall provide a Certificate of Insurance to the Licensor at the time of the execution of this License evidencing the insurance coverage described in hereof and providing that coverage shall not be altered or cancelled without the insurers giving thirty (30) days’ notice in writing to the Licensor prior to any such alteration or cancellation.
5. The Licensee shall not have any claim against the Licensor for loss or damage of any nature, kind or description whatsoever arising from the exercise or purported exercise of the License herein granted, unless such loss or damage is due to the negligence of the Licensor or its employees, servants or agents.
6. Notwithstanding Article 4 hereof, the Licensee does hereby indemnify and save harmless the Licensor from all damages, claims, demands, actions, suits or other proceedings by whomsoever made, brought or prosecuted in any manner and whether in respect of property owned by others or in respect of damage sustained by others based upon or arising out of or in connection with this License or anything done or purported to be done in any manner hereunder.
7. The Licensee and all the Licensee’s customers shall, at all times, comply with such rules and regulations in use by the Licensor from time to time as may be reasonably applicable, currently entitled “City of Saint John Parks & Recreation Arena Use Regulations”, a copy of which is attached hereto as **Schedule “A”**.
8. Except in accordance with the terms of this License, the Licensee shall not assign, transfer or otherwise by any act cause or permit this permission and license or any portion hereof to be assigned or transferred to any person(s) whomsoever.
9. The Licensee shall, upon the termination of this License, immediately and at its own expense, remove from the Premises any and all property brought or placed upon the Premises by the Licensee and shall restore the Premises to as good an order and condition as prevailed immediately prior to the commencement of the term hereof and in the event of the failure of the Licensee to do so with reasonable expedition, of which the Licensor shall be the sole judge, the Licensor may effect such removal and restoration at the Licensee’s own risk and expense, but the Licensor shall be by reason of any action taken or things required under this paragraph be entitled to compensation, reimbursement and indemnity from the Licensee.

10. The Licensors shall:
- (a) maintain the ice and operate the premises at the same standard used during the regular season;
 - (b) pay for all maintenance and operating costs;
 - (c) provide one experienced employee on site during the hours of operation;
 - (d) in the event of breakdown that causes the Premises to be unavailable for a day or any portion thereof, the Licensee shall be given a Five Hundred Dollar (\$500.00) credit per day up to a total maximum of Fifteen Thousand Dollars (\$15,000.00). Should any credit arise by operation of this paragraph, the Licensee shall be able to apply such credit toward ice time at any of the Licensors' four (4) arenas at the prevailing rates that apply at the time between the dates of November 1st, 2019 to March 30th, 2020 or November 1st, 2020 to March 30th, 2021. Under this arrangement, the Licensors shall provide the Licensee with a list of available dates and times by October 15th, 2019 or 2020, as applicable, and the Licensee shall, in turn, select the dates and times for which the credit will be used by not later than November 15th, 2019 or 2020, as applicable. Any credit that is not used before March 30th, 2021 shall expire and no longer be valid.
 - (e) The Licensors shall not lease any of its other Three (3) arenas to any other individuals or entities between May 5, 2019 and August 31, 2019 for activities that would be in direct competition with the activities of the Licensors, namely that of an ice hockey training school, and, during the aforementioned period, there shall be no ice surfaces in the Licensors' other Three (3) arenas.

IN WITNESS WHEREOF the parties hereto have set their corporate seals duly attested by the signatures of their properly authorized officers respectively the day and year first above written.

Signed, sealed and delivered

THE CITY OF SAINT JOHN

Don Darling, Mayor

Jonathan Taylor, Common Clerk

Common Council Resolution:
March ____, 2019

707990 N.B. Inc.

Per: _____
Andrew Bezeau, President

SCHEDULE “A”

CITY OF SAINT JOHN PARKS & RECREATION

ARENA USE REGULATIONS

- 1) Ice maintenance is completed at times mutually agreed by the Licensee and Licensor except that the Licensor at its sole discretion may cause ice maintenance to occur at any time to ensure the quality of the ice.
- 2) Should any booked period be sold to another user, the Licensor must be so advised. Should a dispute arise at the rink, the attendant will defer to the Licensee.
- 3) The City’s Arena Code of Conduct is in effect.
- 4) The Licensee is responsible for damages to the premises arising out of his use of the facility.
- 5) The arena attendant on duty is in complete charge of the facility, and his/her instructions are to be followed at all times.
- 6) All persons on the ice must wear skates.
- 7) No food or drink is allowed while skating.
- 8) The City of Saint John, its employees, and agents, cannot be held responsible for any personal injury suffered by any user as a result of the Licensee’s programs.

PROVINCE OF NEW BRUNSWICK
COUNTY OF SAINT JOHN

I, Jonathan Taylor, of the Town of Quispamsis, in the County of Kings and Province of New Brunswick, MAKE OATH AND SAY:

- 1. THAT I am the Common Clerk of The City of Saint John and have custody of the Common Seal hereof.
- 2. THAT the seal to the foregoing instrument affixed is the Common Seal of The City of Saint John and that it was so affixed by Order of the Common Council of the said City.
- 3. THAT the signature “Don Darling” to the said instrument is the signature of W. Donald Darling, Mayor of the said City, and the signature “Jonathan Taylor” thereto is my own signature.
- 4. THAT we are the proper officers to sign the foregoing instrument on behalf of The City of Saint John.

SWORN TO BEFORE ME)	
at the City of Saint John, in the)	
County of Saint John and)	
Province of New Brunswick)	
this ____ day of _____, 2018)	
)	
)	Jonathan Taylor
_____)	
)	
Commissioner of Oaths)	
Being a Solicitor)	
)	

PROVINCE OF NEW BRUNSWICK

1. THAT I am the President of 707990 N.B. Inc., the licensee named in the foregoing instrument and have custody of the corporate seal of the said company and am duly authorized to make this affidavit.

3. THAT the signature “Andrew Bezeau” subscribed to the said instrument is my signature and as I am duly authorized to execute the said instrument.

4. THAT the said document was executed as aforesaid at the _____ of _____, in the Province of New Brunswick on the ____ day of _____, 2019.

_____)
)
Commissioner of Oaths
Being a Solicitor
)
)

Andrew Bezeau



March 25, 2019

Deputy Mayor and Councillors

Subject: Committee Appointment – Develop Saint John

RESOLVED that as recommended by the Committee of the Whole having met on March 25, 2019, Common Council approves the following:

Develop Saint John: to appoint Alanna Waberski for a 3 year term from March 25, 2019 to March 25, 2022.

Sincerely,



Don Darling
Mayor



March 25, 2019

Deputy Mayor and Councillors

Subject: SCDWP – Global Settlement

RESOLVED that as recommended by the Committee of the Whole having met on March 25, 2019, Common Council approves the following:

1. That the City approve the Global Settlement described to Committee of the Whole in closed session at its March 25th, 2019 meeting; and
2. That the Mayor and Clerk be authorized to execute the Minutes of Settlement effecting the Global Settlement in the form as attached to M&C 2019-65; and
3. That the Minutes of Settlement be made publically available once they are formally approved by Port City Water Partners.

Sincerely,



Don Darling
Mayor