

June 29, 2017

Email: [REDACTED]

Dear [REDACTED]

**Re: Request for Access to Information Under Part II
of the Access to Information and Protection Privacy Act**

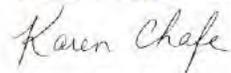
On June 19, 2017, the City of St. John's received your request for access to the following information:

"The complete record - all reports, correspondence, minutes of Council meetings, emails, etc. - everything you have in any form as a record of Council's decision not to adopt the Sharpe recommendation. Re: no subsidy above the 190 contour."

Enclosed is the information you requested. As the provision of the information constitutes full disclosure, we now consider this matter completed and will be closing the file.

If you have any further questions, please feel free to contact the undersigned by telephone at 576-8619 or by e-mail: kchafe@stjohns.ca

Yours truly,



Karen Chafe
ATIPP Coordinator

ST. JOHN'S

St. John's Urban Region Regional Plan Amendment
Number 2, 2012

St. John's Municipal Plan Amendment Number 69, 2011

St. John's Development Regulations Amendment
Number 457, 2011

Development of Lands Above the 190 Metre Contour

Report on the Public Hearing
14 February, 2012

Christopher Sharpe
Commissioner

General Intent of the Proposed Amendments

The general intent of the amendments which were adopted by the Municipal Council at its regular meeting of 16 January, 2012, and which the City now wishes to have registered, is to permit future urban development serviced with municipal water and sewer, in two areas where such development is prohibited at present. The two areas, one referred to as the Southlands area and the other, on Kenmount Road, as the South-West Development Area (hereafter SWDA), are currently off-limits to urban development because they lie above the 190 metre elevation which defines the upper limit of development. The provenance of this restriction is unknown but it has been in effect for many years. There is no reference to it in the text of the 1976 St. John's Urban Region Regional Plan (hereafter SJURRP), but it is implicit. The maps which form part of the SJURRP designate all lands above this height in such a way as to prohibit urban development. The St. John's Municipal Plan was amended to include a reference to this development prohibition in 2003.

The proposed changes to the St. John's Municipal Plan and Development Regulations would require two Map Amendments to the SJURRP, the introduction of a new Land Use District to the Municipal Plan and the addition of a two new Comprehensive Development Areas to the Development Regulations.

Proposed Amendments

St. John's Urban Region Regional Plan Amendment No. 2, 2012.

1. Re-designate land east of the Trans-Canada Highway, south of Pitts Memorial Drive from 'Rural' and 'Productive Forest' to 'Urban Development';
2. Re-designate land south of Kenmount Road, east of the boundary with the City of Mount Pearl from 'Rural' to 'Urban Development';
3. Re-designate land north of Kenmount Road, east of the boundary with the Town of Paradise from 'Watershed Protection' and 'Restricted Development' to 'Urban Development'.

St. John's Municipal Plan Amendment No. 69, 2011:

1. Introduce a new Land Use District entitled 'Urban Development-Southlands/Kenmount Land Use District' to Part III of the Municipal Plan;
2. Delete Section 5.2.4, Part IV 'Servicing Limits – Planning Area 9 – South West Expansion Area'; and
3. Re-designate lands in the Southlands and Kenmount Road areas from 'Rural' and 'Restricted' Land Use Districts to 'Urban Development', and amend Map IV-3 ('Southwest Expansion Area Development Concept') to reflect the new designations.

St. John's Development Regulations Amendment No. 457, 2011.

1. Repeal Section 5.1.4 'Development above the 190 metre contour line' and replace it with the following:

'Notwithstanding the provisions of Section 10 – the Comprehensive Development Area – Southlands (CDA-Southlands) Zone and the Comprehensive Development Area – Kenmount (CDA-Kenmount) Zone, no residential development utilizing municipal water and/or sewer services or on-site water and/or sewer services, shall be permitted above the 190 metre contour line'.

2. Add two new Zones to Section 10 of the Regulations:

a) Comprehensive Development Area – Southlands (CDA-Southlands Zone)

Permitted Uses:

- a) Existing uses
- b) Reconstruction and replacement of and additions to existing buildings provided that Council may refuse permission for a replacement or reconstruction or addition if Council is of the opinion that such a Development would adversely affect the development of the CDA.

With the exception of uses listed above, no Development may be permitted in this CDA until such time as the City's Department of Engineering determines that the area is available for serviced urban development. Council will consider the rezoning of lands in the CDA to an appropriate zone to accommodate a development.

b) Comprehensive Development Area – Kenmount Road (CDA-Kenmount) Zone

Permitted Uses:

- a) Existing uses
- b) Reconstruction and replacement of and additions to existing buildings provided that Council may refuse permission for a replacement or reconstruction or addition if Council is of the opinion that such a Development would adversely affect the development of the CDA.

With the exception of uses listed above, no Development may be permitted in this CDA until such time as the City's Department of Engineering determines that the area is available for serviced urban development. Council will consider the rezoning of lands in the CDA to an appropriate zone to accommodate a development.

3. Rezone lands in the Southlands area from the 'Rural' (R) Zone to the CDA – Southlands (CDA-Southlands) Zone.
4. Rezone lands in the Kenmount Road area from the Rural (R) Zone, the Open Space Reserve (OR) Zone and the Open Space (O) Zone to the CDA – Kenmount (CDA-Kenmount) Zone.

Provincial Release

In a letter dated 16 January, 2012, Mr. Corrie Davis, Manager, Land Use Planning, Department of Municipal Affairs, Engineering and Land Use Planning Division informed the Director of Planning for the City of St. John's that the three proposed amendments did not conflict with any stated provincial policies. He therefore released them from Provincial review.

Appointment of the Commissioner

On January 16, 2012 I was appointed by the City as the Commissioner to hold a public hearing and write the subsequent report. On the same day the Minister of Municipal Affairs, Mr. Kevin O'Brien, appointed me his Commissioner to conduct a public hearing regarding the proposed amendment to the St. John's Urban Region Regional Plan. He and City staff had agreed that a joint hearing to consider both the Provincial and Municipal amendments should be held, and a single report written. His letter also included the following authorization:

Although the proposed amendment to the St. John's Urban Region Regional Plan is localized in nature, I recognize that the magnitude of the proposal may have broader regional implications. Should you wish to explore those regional implications and provide comment or recommendation on how the regional impacts could be addressed or mitigated, I would welcome such advice.

Advertisement of the Public Hearing

All requirements of the Urban and Rural Planning Act regarding the notification of potentially affected parties and public advertisement were met. Two advertisements were placed in the *St. John's Telegram* on January 25 and 28 and a notice of meeting was posted on the City's website. In addition, 2,500 notices were mailed to property owners and residents in the Southlands area and on Blackmarsh and Kenmount Roads, including those in the Kenmount Terrace development.

Planning Issues

The planning issues raised by the City's proposed amendments can be summarized under two headings. First, if development above the 190m contour was once thought either to be so undesirable, or impossible, that it was proscribed, what has changed? Second, how would the

development of one or both of the Kenmount and Southlands areas relate to the goals of the St. John's Urban Region Regional Plan and of the St. John's Municipal Plan?

1. Development above the 190m contour.

Three major issues need to be considered here: the supply of potable water, the disposal of sanitary sewage, and the disposition of storm water. Because I am not an engineer, I cannot definitively assess the validity of the several relevant reports, some prepared by the Engineering Department of the City, and some by external consultants, which deal with questions related to the provision of water and sewer services to these areas. But, having read the reports carefully, and having sought expert advice to clarify some of the issue, I offer the following observations.

Water Supply:

The conclusion reached by a recent report on the water supply situation is that 'there is no technical reason why areas above the 190 metre contour cannot be serviced with water'. (BAE-Newplan, 2009: 18) Water usage in St. John's is in the medium to high range when compared with other municipalities which have metered supply. However, conservative yield estimates, based on data from the driest periods (and assuming no drastic changes in precipitation regime in the near future) indicate that there is a plentiful supply. The current supply from Bay Bulls Big Pond, plus the yield from Petty Harbour Long Pond, when it comes back on stream in 2013, will be approximately 124,000 cubic metres per day (cm/d). Taking projected population growth in areas currently zoned for development into account, there are almost 46,000 cm/d surplus to current requirements. Full development of the Southlands and SWDA will require an estimated 24,000 cm/d. (Newfoundland Design Associates, 2007 and BAE-NewPlan, 2009).

It is worth noting the consultant's statement that '...development above the 190 metre contour will not change water demand. It just means you have more areas available for development, thus competing for the population growth.' (BAE-Plan, 2009: 18) The question of whether opening these lands for urban development would lead to new population growth, or merely redistribute it is one to which I will return later.

Sanitary Sewers:

The sewage that would be generated by new developments in Southlands would be accommodated by the Waterford Valley Sanitary Trunk sewer. The current estimate, based on all land zoned for urban development in 2009 as well as all the land over 190 metres that could be developed if these amendments are registered, a residential density of 40 persons/gross hectare, and a production rate of 275 litres/capita/day, indicate a surplus capacity of 668 litres/second (l/s).

There are about 55 hectares of developable land above 190m in Mount Pearl and about 50 hectares in Paradise. The combined sewage output from these areas would be about 52 l/s. The

estimated output from the Southlands area, when developed, would be about 140 l/s. There is, then 'sufficient capacity in the Waterford Valley system to allow the zoning request desired by the City and to rezone all areas between 190 and 220 metres in Mount Pearl and Paradise'. (BAE-Newplan, 2009: 7)

The areas in the SWDA above 190m would generate an additional flow into the Rennie's River catchment area of about 107 l/s, according to current design criteria. A 2007 report by the City of St. John's Engineering Department concluded that there is adequate capacity to accommodate this flow. (City of St. John's, 2007: 5).

Storm Sewers:

The developable lands above the 190m contour in Southlands are in the Waterford River catchment area, and those in the SWDA in that of Learys Brook/Rennie's River. The City's report on the potential to provide services to lands above the 190m contour contains the following statement: 'It is assumed that new developments above 190m would direct storm water to the nearest watercourse, and would not place any strain on the existing storm sewer system.' (City of St. John's, 2007: 6).

The implications of this statement, which are at odds with admonitions made elsewhere in this, and other reports, are dealt with in more detail below. For now I will simply emphasize the point made in several reports, that *there is no downstream capacity in the Waterford River or Leary's Brook/Rennie's River catchments to handle any increase in storm water runoff*. All the bridges and culverts in the system were designed to handle only the runoff from areas below 190m and runoff from lands above 190m cannot exceed the current rate. All new developments must be held to a zero-net runoff increase policy. The need for legislation to control stormwater runoff was highlighted by the City Engineer in his presentation at the 2009 public meeting (City of St. John's, 2009: 2) and reiterated since, but no policy has yet been proposed. To accomplish the desired outcome will require either the construction of underground concrete chambers or above-ground detention ponds. It is noted that ponds would be the more economical alternative, but that they 'require large areas of land and have safety and aesthetic issues'. (City of St. John's, 2007: 6).

The controlled management of stormwater in St. John's was not a high priority item in the past, and trying to ameliorate some of the most serious problems which have resulted from this neglect has been an expensive business. The designs for the Avalon Mall, the O'Leary Avenue Industrial Park and both the Kelsey Drive and Stavanger Drive power centres apparently did not factor it in. As a result, Leary's Brook and Rennie's Mill River have essentially become channelized storm sewers. The rapid intake of peak stormwater influx causes them to rise, and then fall, quickly – and overtopping of their banks is not uncommon. However, when Sobey's built their new store on the Howley Estate site, they were required to build underground cisterns

to collect all the rainwater from the roof and the parking lot, store it, and then mete it out slowly into the storm sewer on Torbay Road and Kenna's Hill. This has apparently helped to alleviate the problem, although the aged infrastructure is still not always able to cope with the demands placed upon it. The recent problems caused by the failure of some segments of the old underground system, on Portugal Cove Road and elsewhere, have drawn attention to one part of the problem. Unfortunately the heavy load placed by heavy runoff on the natural watercourses in the city is less commonly appreciated.

If development above the 190m contour is to be permitted *the requirements for stormwater management must be legislated in advance*. In fact, although it exceeds my mandate to write this, I believe the City should develop a policy which requires that for *any* new development in the City, the man-made surfaces should contribute no more to stormwater run-off than the pre-development natural ground surfaces. How this could be accomplished is a matter for the City's engineering staff to consider – something that I think they would be pleased to do.

Infrastructure Costs:

A recent briefing paper says 'it is the present policy of the City that the cost of all infrastructure required to service any lands located above the 190m elevation that are developed will be the responsibility of persons developing those lands' (City of St. John's, 2007: 7). I believe that the reference to a 'policy' is premature. While it is the recommendation of city staff that this be the case, and may well be the current practice, I do not believe that a formal policy exists. I will return to this issue in a later section of this report.

2. Compliance with Planning Policies

a) The St. John's Urban Region Regional Plan

Redesignation of these two areas for urban development would comply with several of the Plan's objectives, notably:

B.5 To prevent development that will require disproportionately expensive public services because of location or use ...

B.6 To prevent the continuation of 'ribbon development' along the main roads and highways of the region;

B.11(e) To allow for and to encourage the fullest growth and development of individual communities within the Region within limits set by: the amount of infilling possible within presently developed areas;

B.12 To encourage development to concentrate within defined urban areas;

B.13 To recognize the position of St. John's as the region's dominant centre.

It will also support the model on which the Plan is based, namely the creation and maintenance of a concentrated form of development, 'recognizing the advantages of developing areas adjacent to St. John's as opposed to directing significant additional growth beyond the infilling level to existing settlements outside the present urban area (i.e. the 1971 boundaries).

Finally, it would comply with the fundamental aim of creating a strong regional centre. The Plan considers (p. 8) that the 'Mount Pearl/New Town area ... is essentially an extension of St. John's itself and is therefore considered as part of the Regional Centre'. It goes on to say (p. 11) that several areas within the Centre but outside the 1971 boundaries 'are effectively natural extensions of the City that are to be supplied with full urban services'. Both the SWDA and the Southlands area are such areas.

Most of the land in question is currently designated for 'Rural Uses' in the SJURRP. Removing it from this designation would suggest that it is no longer reasonable or necessary to maintain the existing restrictions. This is the case. The 'Rural Use' designation is intended to provide for residential and other forms of development in a rural environment, so long as they do not lead to an erosion of rural quality. Specifically, development dependent on piped water and sewer services is not permitted. In the words of the Plan (Section F (b), p. 14) 'not everyone wants to live close to their neighbours, and ... some people value an area of open space around their home more than the availability of piped water supply and sanitary sewers.' Amendment no. 4 (1994) added a 'rural residential' policy to the Plan but prohibited residential development sufficiently dense 'to exceed that which may be considered to be inconsistent with the traditional rural use of the area concerned, or that which could conceivably lead to a requirement, on public health grounds, for the installation of municipal services'. (p. 15). Furthermore it is required that any site developed for residential uses must have 'adequate soil conditions and a supply of groundwater to ensure safe and sanitary operation of on-site wells and sewage disposal for each lot in the development for all time' (F.B (d), p. 16). Thus, if the City is to have the opportunity in future to consider development proposals for the two areas in question, their designation as 'Rural' must be amended.

The proposed amendments to the SJURRP require that small parcels of land be taken out of the 'Watershed Protection', 'Productive Forest' and 'Restricted' districts. This does not mean that productive forest areas will be destroyed, or that watersheds will be imperiled. The Forestry Policy statement (1978), now incorporated in the Plan as Section F (f) clearly states that Forestry use was never intended to be enforced on any private lands in the Region 'since there are no areas of privately owned land of sufficient size to form the basis for a forestry industry'. So the removal of the one small designated area will not violate the intent of the Plan.

One small area is to be removed from the 'Watershed Protection' district. This simply reflects the more accurate mapping which has been undertaken since the original Plan maps were

produced. Areas designated as ‘Restricted’ in the Plan are those that have physical constraints which make development for urban purposes impossible. The Minister has agreed that ‘Provincial interests in this regard can be addressed through regulatory controls in the development process’.

b) The St. John’s Municipal Plan

Designation of a new Land Use District covering the two areas in question would comply with some of the general objectives of the Plan, and would give Council the ability to meet several others in the future, if and when specific development proposals have been submitted. In particular these are:

- 1.1 encourage compact urban form (and) ensure orderly development in new areas;
- 1.2.2 encourage increased density in all areas where appropriate;
- 1.2.3 (2) encourage a compatible mix of residential buildings of varying densities in all zones;
- 1.2.3.(4) minimize sprawl by encouraging large-scale integrated development in all expansion areas; and
- 1.2.4 encourage a mixture of land uses in all areas.

Part of the area in the SWDA, originally defined in 1973 (City of St. John’s, 2007: 2) is already incorporated in Planning Area 9 – ‘Southwest Expansion Area) (Section IV (5) of the Plan), and a conceptual Planning Area Development Plan (PADP) has been developed. However this plan does not include any areas above the 190m contour, and would therefore have to be amended to bring them in.

In 1987 the Newfoundland and Labrador Housing Corporation began planning for future development of that part of the Southlands area lying below the 190m contour. At that time about two-thirds of the area was inside the boundaries of the City of Mount Pearl, but in 1992, Provincial modification of municipal boundaries led to the entire area being transferred to St. John’s. The total Southlands area covers about 1800 hectares, and the existing Southlands residential area takes up about 13 percent (240 hectares) of it. About 73 percent of the total area (approximately 1300 hectares) remains designated as ‘rural’.

Planning Area 20 (Southlands) does not incorporate the lands which would be designated as ‘Urban Development-Southlands/Kenmount’ District. As in the case of PA 9, they were not included because they are out of bounds for development due to their elevation. For the same reason, the NLHC never developed a conceptual plan for the area. The potential future development of this area, assuming the proposed amendments are approved, should provide an incentive to expand the boundaries of PA 20 and prepare a conceptual plan for the area, well in advance of its development.

The Hearing

The hearing took place in the Foran Room of St. John's City Hall on Valentine's Day, Tuesday, 14 February, 2012. Approximately 80 people were in attendance, including four members of City Council (Councillors Hann, Galgay, Duff and Hickman) and several members of City staff (Robin King, Walt Mills and Dave Wadden from the Department of Engineering, Cliff Johnston, Ken O'Brien and Joe Sampson from the Department of Planning and Lynann Winsor from the Office of the City Solicitor).

The hearing began at 1900 hours. I made some introductory remarks, stressing that this was not a public briefing session, nor an opportunity for members of the audience to engage in debate with members of City staff. I also made it clear that the proposed amendments were not intended to permit a specific development to proceed, since no such application had been received by the City. If approved, the amendments would simply permit urban development in areas where it is currently proscribed. I then asked Mr. Johnston to outline the nature and implications of the City's proposed amendments. He presented a very thorough explanation, using a clean and comprehensive PowerPoint presentation.

Fourteen written submissions were received prior to the commencement of the hearing. Copies are attached to this report. I called on the authors of each of these submissions in turn, asking whether they wished to add any additional comments to those which I already had in my possession. A few did so. I then opened the floor to oral representations, and four people took the opportunity to make their concerns known.

Both the written and oral representations and objections are summarized in the following section of this report.

Objections and Representations

Written Objections and Representations Received Prior to the Hearing (in chronological order):

1. Ann Newhook .

Ms. Newhook wrote to the City Manager on 22 January, in response to a newspaper article. She asked that consideration be given to releasing her 18 acres of undeveloped land in Airport Heights from the prohibition on development above the 190 metre contour. Since consideration of her land was outside the scope of this hearing, I have taken no notice of this representation. The City Manager, Robert Smart, replied to her on 20 February, 2012. A copy of his letter is attached to this report.

2. Acreage Investments (Steve Saunders and Nevin Hollett).

This one-sentence letter informed the City Clerk that Messrs. Saunders and Hollett would attend the hearing ‘as we have lands that are affected by this rezoning’. They were present, but declined my offer of the opportunity to make an oral representation.

3. Berjon Holdings (Bert Hickman).

Mr. Bert Hickman’s letter, dated 8 February, expresses support for the proposed re-designation and rezoning of the land in the South-West Development Area. He believes that it would ‘benefit the overall economy and development potential of St. John’s and the region.’ He is the co-owner, along with GH Investments, of a 68-acre parcel of land on the north side of Kenmount Road, just west of the intersection of Wyatt Boulevard. He wrote that land for ‘properly zoned and accessible commercial and light industrial sites is depleting in the City of St. John’s area’. Opening this land for development would ‘complete the current planning land use gap between the Topsail Road development areas and the commercial/residential developments existing more east on Kenmount Road. This would result in “infilling” and containing future development, therefore, preventing urban sprawl’.

He noted that Berjon Holdings Inc. and GH Investments Limited had submitted a formal application for development of a parcel of land above the 190 metre contour on 1 September, 2011.

He and Mr. Glenn Hickey were present at the hearing, but declined my offer of an opportunity to provide any further explication of their representation.

4. G.H. Investments (Glenn Hickey).

See the preceding notes re Berjon Holdings. The letter from Mr. Hickey was identical to Mr. Hickman’s.

5. Malcolm Jewer, concerned resident of Kenmount Terrace.

Mr. Jewer wrote to express his concern at what he characterizes as the ‘gravel wasteland’ that has been created to the west of Kenmount Terrace. He complains that the land has been clear-cut and that no buffer zone, walking trails or playgrounds have been planned. He asks that if the land above 190 metres is opened for development, that the City ‘require the developers to include and pay for green spaces, a park and suitable playgrounds. I also implore the planners to leave some existing trees’.

Mr. Jewer did not attend the hearing.

6. City of Mount Pearl.

On February 10 the Chief Administrative Officer of the City of Mount Pearl wrote to say that the City would be making a submission. Mr. Stephen Jewczyk, Director of Planning and Development sent a letter on February 14, and made an oral representation during the hearing. The City of Mount Pearl has no objections, in principle, to the proposed amendment to the SJURRP, or to the proposed amendments to the St. John's Municipal Plan. However, in the absence of a specific development proposal it is impossible for his office to make a final determination of whether Mount Pearl could support the proposed changes to the Development Regulations. For this reason the City Council of Mount Pearl does not support the rezoning process proposed by the City of St. John's. He reiterated the point made in his letter that this site could accommodate a development that would be approximately 60% of the current size of Mount Pearl, and that its implications – for water and sewer provision and road infrastructure – will need to be fully assessed when details become available. If the City's proposed amendments to the Municipal Plan are approved and registered, subsequent zoning amendments could be undertaken in the absence of a public hearing. The crux of his argument is:

Considering the size and scale of the Southlands development and the limited information available at this stage of the process, the City Council of Mount Pearl is of the view that the rezoning process as proposed by St. John's as part of this amendment is an insufficient mechanism for further meaningful input by the City of Mount Pearl. It is the Mount Pearl Council's recommendation that, when additional land use, servicing, and transportation information is available, a secondary plan or comprehensive development scheme for the Southlands area be prepared and adopted for the lands pursuant to the provision of the Urban and Rural Planning Act. While this process would include the need for the holding of a further public hearing, and thereby an extended review process, this approach would provide the City Council of Mount Pearl with sufficient detailed information to review, which would provide a planning process involving more meaningful discussion and input by the City.

7. Town of Conception Bay South.

Mayor Woodrow French of the Town of Conception Bay South wrote on 10 February to outline several considerations. Some of the points he raises in his letter are based on the fact that in my letter of appointment, the Minister of Municipal Affairs gave me the authority to consider 'the broader regional implications' of the amendments proposed by the City of St. John's. In this context, Mayor French's concerns are:

a) opening land above the 190 metre contour may accelerate the need for an expansion to the regional water system;

b) on-going service and maintenance costs for the new water infrastructure required in the Southlands and Southwest Development Area would normally be shared among the members of the St. John's Regional Water Authority. Mayor French asks for a written assurance that the Town of CBS will not be responsible for any charges related to the operation and maintenance of this new infrastructure.

c) registration of the proposed amendments will remove an existing limit to urban development in the region, thereby modifying growth patterns throughout the region. He notes that 'the Town is already hearing concerns from local developers that projects in CBS may be negatively impacted by the substantial development proposed about the 190 metre contour'.

8. Empire Theatres.

In a letter dated 10 February, Ms. Valerie Ryan, Vice-President, Real Estate and Development for Empire Theatres expressed her support for the proposed amendments. 'Enabling such development to occur will result in new and strategic locations for national retailers, such as our company, to invest in your capital City.' She makes specific reference to the 'proposed Glencrest development' which she characterizes as a 'strategic location for retail development in the City's west end. It is located in a densely populated area and is accessible via major thoroughfares. In addition it provides for a mix of residential, retail and industrial development which is crucial to such a site's success. As a national retailer, I encourage this progressive approach to development and look forward to future investment opportunities in St. John's.'

9. KMK Capital.

Mr. Kevin King, the President of KMK Capital, wrote to me on 10 February to indicate his support of the proposed amendments. He noted that opening of lands above the 190 metre contour 'is necessary to ensure the continued growth and development of St. John's. This approach is both progressive and practical in that it recognized the need for developable land within city boundaries and supports responsible planning and development. ... (otherwise) future development will need to occur in areas far removed from the city's core or beyond the city's boundaries. Such sprawl within municipal boundaries places pressure on municipal service provision and costs, is not environmentally friendly and flies in the face of planning and development best practices.' Mr. King specifically mentions the 'proposed Southlands development, hereafter referred to as Glencrest' and notes that since the east end of St. John's 'is rapidly becoming built-out ... the future expansion of St. John's lies in the west end.' A

summary of the anticipated economic benefits of the Glencrest development is attached to his letter, but as they are irrelevant to the issue before me I will not refer to them further.

10. Newfoundland and Labrador Construction Association.

Mr. Brad Sheppard, First Vice-Chair wrote on 10 February to express strong support for new development in the city. He refers specifically to the potential for new opportunities for growth and development which 'will' result from the Glencrest project, because of the 46,000 person-years of direct and indirect employment which it will create. I note that this same figure was included in Mr. Kevin King's oral presentation.

11. BMT Fleet Technology.

Mr. William Earle wrote on 10 February, representing Messrs. J.V. and Harold Butler who own approximately 81 hectares of land on Kenmount Hill, and who 'fully support' the proposed amendments. A number of the positive aspects which would derive from opening land above 190 metres are:

- a) an opportunity to expand the city's residential base and reduce the population drain to outlying communities. 'Over the past several years less than half of the new house development in the urban region occurred within St. John's. ... The Kenmount Hill area can accommodate approximately 3600 dwelling units providing housing for about 12,600 people.
- b) reduction in travel distance for people living in a development on this land – a reduction of about 7.5 km. daily, or 3,750 km. annually compared with a trip from Paradise. If 3,000 vehicles were to make this trip, it would reduce fuel consumption by 1.35 million litres, thereby eliminating 2,700 tonnes of greenhouse gases. Please note that these data are from Mr. Earles's letter – I have made no effort to validate them.)
- c) there would be a possible increase of \$900 million in assessed residential value, for an annual tax yield of \$91 million.

12. St. John's Board of Trade.

Mr. Steve Power, Chair of the Board of Trade wrote on 10 February to indicate his wish to submit a written representation at the hearing, and to add oral commentary. In his letter and oral comments the following points were made:

- a) The 850-member Board is ‘the voice of business’ in the city, and strongly supports the City’s initiative in lifting the 190m restriction on development, believing it will be of direct benefit to the City, business and residents.
- b) The economy is doing well and the members are confident of significant future demand for developable land.
- c) Land is in increasingly short supply and development of the two areas in question, but especially Southlands, will support the growth or warehousing, light industry and housing.
- d) The parcels of land in question are large, and this will permit comprehensive, well-planned development in the context of regional-scale provision of basic service infrastructure.
- e) Development of these lands will permit the orderly growth of population, and consequent increases in the tax base.

However, the Board noted that any development in the two areas will extend beyond the current limitations of the City’s water supply, both in capacity and physical delivery. Because any future development must be of net fiscal benefit to the City, it is important that the City ‘demand more from new development’ so that it will benefit not only the lifestyles, transportation needs and land-use goals of present, but also future generations.

The Board’s submission included a list of what it considers the essential needs to be considered when any development above the 190m level is considered. Such development should:

- be used as an opportunity to promote regionalism of services and infrastructure;
- have strong business case with benefits outweighing the costs to the city and its residents;
- be well-planned and address livability;
- provide access to multiple kinds of transportation;
- consider the interconnectivity of all modes of transportation
- follow clear development regulations with all infrastructure requirements clearly laid out well in advance of development.

The brief concludes by making two recommendations. One is that the City seize this opportunity to fill in a land-use gap along Kenmount Road and to add to the synergy of the existing industrial areas adjoining Southlands. The second struck me as particularly important, considering by whom it was made:

A lack of clarity in current development regulations has hindered project development in the past. Information about the responsibilities of developers related

to providing water and sewer infrastructure, stormwater management, transportation networks and any other amenities required as a part of such development needs to be consistent, defined early in the process and outlined clearly on paper prior to shovels in the ground.

13. Newfoundland and Labrador Oil and Gas Industries Association

In a letter dated February 10, Robert Cadigan, President and CEO of NOIA wrote in support of the proposed amendments. He noted that there is already a shortage of industrial land in the St. John's area, particularly large lots which can accommodate the need for lay-down areas for equipment and containers. The anticipated development of the Hebron field will exacerbate the current shortage. He goes on to say that the proposed Glencrest development

will result in a new industrial site meeting many of the prerequisites of our members. The location of this proposed development promotes the safe and effective use of our road networks. The Glencrest site will not only have direct entry/exit to the Trans Canada Highway but also provides a direct route, via Pitts Memorial Drive, to the capital city's offshore supply base at St. John's harbour.

14. Newfoundland and Labrador Federation of Labour.

Ms. Lana Payne, President of the NLFL wrote on 13 February to express the general support of her organization for the proposed amendments 'as long as the project meets any issues that may arise from such a large-scale development'. She says that opening the two areas for development would provide the land necessary 'to accommodate "Glencrest" and other land development above 190 including Kenmount Road". She notes that

- a) the proposed development will deliver more than 35,000 person-years of employment during construction and will result in a \$4 billion direct investment
- b) St. John's is facing challenges with respect to available, especially 'affordable' housing, as well as space for industrial space. The additional housing 'may serve to somewhat temper (sic) skyrocketing housing prices given the current demand and low vacancy rates.

She raises two points for future consideration:

- a) given the size and scope of the project it makes sense that an affordable housing component be included.

b) given the need to ensure green spaces within the development ‘something we understand the developers are more than aware of – we would hope that the urban forest master plan is taken into consideration.

15. Sam Bromley.

Sam Bromley (54 Gil Eannes Drive) is opposed to the lifting of the 190m restriction against development. He reiterated some of the points which he and others raised during the April 14, 2009 public meeting on the issue, i.e. that allowing development above the current maximum elevation will result in increased noise and light pollution, increased traffic with attendant safety problems, flooding and erosion, wind problems, sewer backup problems and the destruction of wildlife habitat. He argued that the green spaces along the tops of the hills which constitute the frame which contains St. John’s and its neighbouring communities is a vital component of the city’s visual trademark, and contributes in a significant way to its attractiveness to tourists. He pointed out that there have already been two breaches of the height restriction, one in Paradise and one in Mount Pearl, and that there is an undesirable cumulative effect of incremental violations. Development choices made now are forever, but the current economic and population boom is likely to be finite, and that this reality should be borne in mind. He referred specifically to the ‘Smart Growth’ philosophy which holds that there must be a balance between short-term needs and long-term strategies.

He provided copies of the images found on the ‘protectstjohns.wordpress.com’ website which suggest what the hills above Kenmount Road might look like if development is permitted to expand to the highest elevations. He did not provide any information about the criteria used in the creation of these images, or the assumptions on which they were based. He also provided a copy of a petition expressing opposition to the lifting of the 190m ban, signed by 49 people, most of them residents of the Kenmount Terrace development. There is also a copy of an on-line petition (‘Protect St. John’s Hill-tops) bearing 56 names of people whose place of residence is not known. Copies of all this material are attached to this report.

Oral Objections and Representations

1. Ms. Gaylyne Lambert.

Ms. Lambert spoke on behalf of her family who has owned land on Kenmount Road, some of it above the 190m contour. Their family home has been located here, opposite the site of Kenmount Terrace, for more than 60 years. She and her family fully support the City’s proposed amendments, and look forward to the opportunity of developing some of their land.

Commenting on the concern that development of land in this area would alter the viewplane of those living in Kenmount Terrace, she pointed out that her family once had an unobstructed vista of the forested land north of Kenmount Road – a vista that was considerably altered by recent construction. Her comment reminded those present that all development comes with costs and compromises.

2. Bernard Healy.

Mr. Healy (of 42 Densmore Lane in Kilbride) asked whether the water transmission line from Petty Harbour Long Pond would have a negative impact on property in his area. I told him that I would get the answer to his question and include it in my report.

3. Bruce Pearson, St. John's Community Advisory Council on Homelessness and President of the Canadian Housing and Renewal Association.

Mr. Pearson expressed the hope that new development on lands above 190m would provide an opportunity for competing interests to 'meet in the middle'. By doing so, he argued, it should be possible to satisfy the demands of sustainable development and long-term economic prosperity. He noted that Malmo, a once-struggling industrial and port city in southern Sweden has managed to effect such a compromise in an effective and attractive way.

4. Ms. Kimberley Yetman-Dawson, Newfoundland and Labrador Housing and Homelessness Network.

Ms. Yetman-Dawson noted that several members of Council expressed support for the idea of '1 in 10' housing during the last municipal election. The aim would be to ensure that 10 percent of the units in any new housing development would be 'affordable'. She wondered whether those Councillors still believed in the idea, and would work to make it a reality.

Consideration of Objections and Representations

General considerations:

In writing this report I am facing an unusual situation. It is obvious that many people expect that these amendments will be approved. The mayors of both cities have indicated that to some extent the future economic prosperity of their communities depends on being allowed to pursue development opportunities on lands located about the 190m contour.

The City of St. John's began to consider this possibility as early as 2007, when the Engineering Department carried out a feasibility study. The report concluded that it would be possible to

bring municipal water and sewer services to the undeveloped parts of the SWDA and Southlands. Based on this, the City's Budget 2012 contained the following statement:

The City also anticipates provincial government approval for an amendment to the SJURRP which will permit development above the 190 meter contour. When approved, thousands of acres of new land will open for commercial and residential development. There is enough land above the 190 meter contour to sustain development for 15 to 20 years and contribute billions of dollars to the economy. This potentially represents a major expansion to the City's tax base.

I note, with apprehension, the use of the word 'when' and not 'if' at the beginning of the second sentence.

On 25 November, 2011, while addressing the public hearing on the Hebron development, the Mayor of St. John's said that, although no formal application had been received by Council, it had been briefed two weeks previously on a 'proposed \$5 billion development for the city's west end'. In the absence of a formal application, the Mayor said he could not identify the developer, but said that the proposal outlined a 20-year concept plan, with a proposed starting date of 2012, on a site about the same size as the town of Gander. (Bartlett, 2011a). On 14 December former Premier Danny Williams confirmed that he is the developer behind the project, on which he has been working 'for the past 15-plus years', since he bought the land from the NLHC in the late 1990s (Bartlett, 2011b). The story continued to 'have legs' because when Mayor O'Keefe gave the 'state of the City' speech to the Rotary Club in January, he referred to the city's application for permission to breach the 190m restriction. Referring to the project as 'Dannyville' he said that this development, worth \$5 billion over the 15- to 20- year development period, is dependent on the province changing legislation to allow development above the 190m elevation. (Bartlett, 2012c). The Mayor of Mount Pearl recently entered the debate. During his annual Mayor's Address, he talked about the things the city could look forward to. One is

opportunities that may arise from former premier Danny Williams' major development project planned for a sprawling area near Southlands. In order for it to go ahead, the provincial government will have to change legislation to allow development above the 190 meter contour. Simms noted Mount Pearl has 69 hectares of land it cannot develop on Kenmount Road as a result of the same legislation. "If they say you can go above the 190, we're going to make somebody really, really rich, and we're going to tax the beejesus out of it" said Simms to roars of laughter from attendees at the Mount Pearl-Paradise Chamber of Commerce luncheon'. (Robinson, 2012).

The Telegram responded with this editorial cartoon.



The ‘Dannyville’ development, which is apparently to be called ‘Glencrest’ was the elephant in the room during the February 14 hearing, and no doubt influenced the number and tone of representations I received.

While references have been made to the potential benefits of opening the land above 190m to development, there has not yet been any public discussion of the possible negative consequences of such a huge development. According to current estimates by the City’s Planning Department, the total potentially developable area in the two areas is about 1200 hectares. This is four times the area expropriated in 1942 for the Churchill Park development, which doubled the area of the existing city. Applying the City’s usual density estimate of 40 people/gross hectare, an area this large could potentially house 50,000 people – almost half of the City’s 2011 population of 106,000. Assuming that the growth rate of 1.1% *per annum*, which prevailed during the most recent inter-censal period, were to continue, and discounting the effects of compound growth, these areas could accommodate the next forty years of population growth in the city. This is only a rough calculation, which ignores the proportion of the two sites that would be devoted to streets and open spaces, or the proportion that might be taken over for light industrial and commercial uses. But it serves to emphasize that a decision to open these lands for development will have very significant long-term consequences, and must not be taken lightly.

Mr. Bernard Healey

Mr. Healey came to ask a question, and not to raise an objection. He wanted to know if bringing Petty Harbour Long Pond back on stream as a source of water for the regional system would

have any impact on property in his area. The Director of Engineering informs me that it will not. The water main from the Pond is already in place, and no further work will need to be done on it.

Support for the proposed amendments

Not surprisingly there was strong support for the proposed amendments from the Newfoundland and Labrador Construction Association, the St. John's Board of Trade, the Newfoundland and Labrador Federation of Labour, the Newfoundland and Labrador Offshore Oil and Gas Industries Association, Empire Theatres and those who own land above the 190m contour (Acreage Investments, Berjon Holdings, GH Investments, Gaylyne Lambert and BMT Fleet Technology). Several of these submissions argued that there was a shortage of various types of developable land in the city that these amendments would help to alleviate. The Director of Planning has confirmed that such shortages do exist. In the case of residential land, there is still some available in Kilbride, the Clovelly development and Southlands. There are also about 19 hectares in the SWDA, in the existing Kenmount Terrace subdivision. The most critical shortages are in light industrial and commercial lands. About 27 hectares remain below 190m in the SWDA, but none in the O'Leary Avenue Industrial Park. A shortage of land appropriate for the uses now in high demand would clearly have unfortunate consequences for the City's current economy and future growth.

Mr. Bruce Pearson:

Mr. Pearson didn't object to the amendments, but made a heartfelt plea that the goal of ensuring sustainable development should be considered as of equal importance to that of economic prosperity when it came time for the detailed planning of new developments in either of the two areas. He is not alone in thinking that this should be a matter of urgent concern. The participants in the Mayor's Symposium on the Municipal Plan Review, held on February 25, 2012, ranked 'maintenance of a balance between development and environmental sustainability' as the fifth of the top ten environmental concerns.

Ms. Kimberley Yetman-Dawson:

Ms. Yetman-Dawson was another intervenor who did not object to the amendments, but who took the opportunity to remind Council of the commitment made by some its members to promote the idea of 'inclusionary housing', specifically the '1 in 10' idea that has been adopted by some smaller Canadian municipalities'. (Mah and Hackworth, 2011) The idea is laudable, but in the absence of a federal housing policy supporting the idea, difficult to achieve. One might also quibble with the current definition of 'affordable'. Most organizations have based have adopted a definition based on CMHC's concept of 'core housing need', defined as a situation where a household must pay more than 30 percent of its gross income to obtain decent quality housing. For many low-income households such a percentage is far too high. Questions about the definition notwithstanding, this is an important issue. I noted with interest that the subject of

affordable housing was one that generated a great deal of discussion at the recent Mayor's Symposium on the Municipal Plan Review, and the forum's top-ranked idea relating to housing was to 'mandate the inclusion of affordable housing in new and existing development'. (Preliminary Report, Municipal Plan Review Mayor's Symposium. February 25, 2012)

Both Mr. Pearson and Ms. Yetman-Dawson brought legitimate concerns to the hearing. However, my mandate was to consider the general question of whether lands above the 190m contour should be opened for development, and not to evaluate the qualities of a specific development proposal. For this reason I can do no more than bring their concerns to the attention of the Council and the Minister.

Opposition to the Proposed Amendments

Only one intervenor, Dr. Sam Bromley, opposed the amendments. It is difficult to respond to some of the issues he raised, but not to one of them. His letter contains a section entitled 'strong sampling bias' in which he expresses surprise that he was the only resident to raise an objection to the proposed amendment, and wonders 'how the forum could change to allow passionate individuals greater comfort in expressing opposing views. He goes on to say 'I feel that the city has not acted in good faith', basing this conclusion on the fact that many of his neighbours were apparently unaware of the hearing. In my opinion the City took extraordinary measures to ensure that citizens were aware that the issue was to be discussed on February 14. Following normal practice, notice of the meeting was published in *The Telegram* Classified Display section, on Wednesday, January 25 and Saturday January 28. It was also posted on the City of St. John's website. In addition, at the request of the Ward Councillors, 2,500 notices were mailed to property owners and residents in the Southlands area and on Blackmarsh and Kenmount Roads, including the residents of Kenmount Terrace. A copy of the notice is attached to this report.

The issues of traffic, storm runoff and all other engineering-related questions will be dealt with by City staff if and when specific development proposals are received. The aesthetic question of whether development should be allowed to encroach on the top of the surrounding hills is a different matter. There is nothing in the Municipal or Regional plans that would preclude this. The proposed amendments would permit development right up to the crest of the hill. This brings me back to a consideration of what the reasons might have been for the original imposition of the 190m height restriction.

The 2007 Engineering report 'Potential Servicing Above the 190m contour' did not suggest that development would have been permitted right up to the highest elevation, because of issues related to water provision (City of St. John's, 2007: 4). I was told that this restriction was based on a concern that the regional water supply was not adequate to handle the demand that would result from development of the newly-opened areas, a concern that has been alleviated by

subsequent improvements in the system. But it also seems to have been based to some extent on the issue of how best to achieve the minimum required water pressure. In the case of Southlands, the report said:

The highest point of land in this area is elevation 245m where a new 5,300 cubic meter reservoir must be constructed to allow servicing to be extended to the 215m contour. This restriction is necessary because a vertical height of 30m is required to provide the minimum static pressure of 40 pounds per square inch.

In the case of the SWDA area it said:

The existing reservoirs at Kenmount Hill have a top water elevation of 225m and therefore can only service to the 195m contour. There is no significant developable lands between the 190m and 195m contour. The installation of a new 3,000 cubic meter reservoir at elevation 250m would allow servicing of 200 hectares of new developable land up to the 220m contour.

The height restrictions limited the amount of developable land to 292 hectares in the Southlands area and 200 hectares in the SWDA. (City of St. John's, 2007, Figures 3 and 4. See also the PowerPoint presentation used at the public briefing session on 14 April, 2009, a copy of which is attached).

The City's current proposal, and the estimates of developable land included in it, is apparently based on the assumption that developers might wish, or be forced by economic considerations, to develop above the 215m or 220m elevations. This must assume that the minimum required water pressure can be obtained in some other way. I believe that this could be accomplished in one of two ways: the use of high-pressure pumps or construction of a water tower or some other form of elevated reservoir. This is an important question, but one well beyond my competence to answer. However, it seems to me that the safer option is to require that the necessary water pressure derives from a head of water and gravity, rather than pumps.

The modified approach to the problem of water supply led to the disappearance of the original upper height restriction, and a concomitant increase in the amount of potentially developable land - to 885 hectares in the Southlands area to 382 hectares in the SWDA. It would also permit the forested hilltops to be encroached upon by development. Maintenance of the height restrictions outlined in the 2007 and 2009 documents would have left them undisturbed.

Regional Considerations

Two neighbouring municipalities raised objections which are of regional concern.

The Mayor of Conception Bay South expressed the concern of his Town Council that if the proposed amendments to the St. John's Municipal Plan are approved, and water use increases, the supply of potable water might be insufficient to support the future needs of CBS. He noted that to date, all growth in CBS has been below the 190m level, and therefore in line with the original design parameters of the Bay Bulls Big Pond water supply. However, if other municipalities are permitted to build above this line, CBS will not feel constrained to maintain the old limits. A free-for-all of this kind might very well require an expansion of the regional water supply system; something which CBS is not prepared to support. Nor is it willing to accept a share of an increased budget for maintenance of an expanded system which it had no part in requiring. He asks for a written assurance from the St. John's Regional Water Authority that CBS will not be responsible for any charges related to the operation and maintenance of any infrastructure which is required on account of development occurring above 190m.

It would exceed the limits of my mandate to try and elicit such an assurance. However I have examined all the relevant documents pertaining to the water supply situation, most particularly the 2007 update to the original 1994 St. John's regional water supply report. Despite my lack of expertise in this area, I am convinced by this report that the region is unlikely to face a shortage of potable water in the foreseeable future. The population estimates on which the projections were made seem reasonable, and perhaps even generous. By the time the Petty Harbour Long Pond reservoir is brought back on line in 2013 the regional supply will be 165,600 cm/d. The projected demand in 2056, assuming a 'medium' demand scenario, will be 142,100 cm/d, well within the available supply, assuming success in achieving a significant reduction in the current level of per capita use in St. John's and a moderate reduction in Mount Pearl. It is predicted that these reductions can be achieved by means of the current programs of leak detection and correction. (BAE-Newplan, 2009: Table 4-4; Mills, 2012). Even the amount of water required to satisfy the 'high demand' scenario, which assumes a continuation of present levels of usage in both cities, with a slight increase in per capita use in suburban and rural areas, is only 9100 cm/d in excess of current projected supply. While these are only estimates, based on parameters subject to change, there does not seem to be cause for concern.

The 2009 BAE-Newplan report was based on the comprehensive study carried out in 2007 by Newfoundland Design Associates Limited. The projections in that study are based on estimates of population increase in the region, especially in St. John's, that range from moderate growth in the period up to 2056 (approximately 17,400) to decline (approximately 4,700). In making decisions as significant as those involved in the present discussion, it should be borne in mind that the recently-observed rates of population growth and investment in St. John's and the

surrounding region cannot be expected to continue forever. Decisions made hastily or inadvisedly in the hope of capturing short-term benefits may have unfortunate long-term consequences.

The City of Mount Pearl:

As noted above, the City of Mount Pearl has no objections, in principle, to the proposed amendments to the SJURRP or the St. John's Municipal Plan. There is apprehension, however, about the proposed rezoning process for the Southlands area. The City has proposed to re-zone this area to Comprehensive Development Area (CDA). The conditions attached to this designation would permit existing uses to continue, but preclude any new development until the Department of Engineering determines that the areas are ready to support serviced urban development. At that time, City Council would consider rezoning the lands to appropriate zones capable of accommodating either the plans of a developer or, perhaps, the City's desired outcome. But because only a rezoning would be required, there would be no necessity for a public hearing chaired by an appointed Commissioner. The City of Mount Pearl has recommended

that the development regulations amendment should be revised to reflect that, when the detailed land use plan is prepared and information with respect to water and sewer services and the transportation network is available, the City of St. John's prepare and adopt a Comprehensive Development Scheme pursuant to the provisions of the Urban and Rural Planning Act.

The adoption of a Planning Area Development Plan (PADP), which would constitute a 'development scheme' under Sections 29 and 30 of the Urban and Rural Planning Act, would undoubtedly extend the review process but the requirement of another public hearing would provide the City of Mount Pearl with a formal opportunity to provide input to the process.

It is unlikely that the entire Southlands area will be developed all at once. In the absence of a conceptual development plan there is a legitimate concern that piecemeal rezoning of the entire area will cause incremental problems of traffic flow, retail demand, sewer and water construction, etc., for Mount Pearl, given the location of the Southlands parcel. The professional staff of the two cities already cooperate in matters of mutual concern, and there seems to be a new resolve, at least on the part of St. John's, to restore civility to the relations between the two City Councils (Barrett, 2012e). But given the history of relations between the governments of the two cities it is not surprising that the City of Mount Pearl would like to know that it will have a chance for meaningful input on events in an adjacent jurisdiction that might well have significant spill-over effects.

Recommendations

Given the absence of technical or engineering constraints which would, in and of themselves, preclude the possibility of urban development of various kinds being undertaken above the current limit of 190 metres above sea level, **I recommend that:**

1. St. John's Urban Regional Regional Plan Amendment Number 1, 2012 be approved;
2. St. John's Municipal Plan Amendment Number 69, 2011 be approved;
3. St. John's Development Regulations Amendment Number 457, 2011 'Development of lands above the 190 metre contour' be approved,

PROVIDED THAT

4. No changes in the CDA zoning in either of these two areas be considered until the City has adopted a comprehensive storm water policy. If any part of these areas were to be developed in a way that was not runoff-neutral – i.e. if the runoff was to exceed that which is currently generated by the land in its current natural state - the downstream costs, both physical and temporal, would be enormous.

5. No changes in the CDA zoning in either of these two areas should be considered until the City has adopted and promulgated a formal cost-recovery policy to ensure that none of the marginal costs of providing trunk water and sewer services or major transportation infrastructure to either of these two areas are borne by the City. All new developments must be capital-cost neutral to the City's taxpayers. In the event that it is decided that the City should undertake to provide interim financing for the installation of such services, the per-unit cost assessed to the developers must be high enough to ensure that both the direct and indirect costs of the financing are recovered from the developer(s).

If such policies are not drafted and incorporated into appropriate municipal legislation, either the Municipal Plan or the Development Regulations, my recommendation would be that none of the three proposed amendments be approved at this time.

I further recommend that:

6. The text of Municipal Plan Amendment No. 69, 2012, paragraph (3), be amended to indicate that the required map amendment will be made to Map IV-4 and not Map IV-3 as stated in the original document. I presume this is just a typographical error, but it should be corrected.

7. Section 1.2.16 (page III-6) of the St. John's Municipal Plan 'Development Restrictions: Land above the 190 metre contour' be amended to take account of the amendments to the St. John's Municipal Plan and the St. John's Development Regulations (i.e. number 2 and 3 above). This should be considered a subsidiary or 'housekeeping' change which will be necessitated if the proposed amendments are approved. City staff is already aware of the fact that reference to this section was inadvertently omitted from the original proposal.

8. Planning Area Development Plans be developed for both the SWDA and the Southlands area. At the moment, neither lie within a Planning Area. The portion of the SWDA considered by the proposed amendments lies immediately west of PA-9 (O'Leary/Southwest Development Area) and the Southlands area immediately west of PA-20 (Southlands). If the proposed amendments are approved, either the two existing PA's should be expanded to incorporate these areas, or new PA's designated to enclose them.

The Southlands development will be a 'legacy' development – of such a scale that it will have significant, long-term consequences for land use, transportation and commercial patterns and commuting. The City should be proactive in its planning for this area. Having a PADP in place before decisions that will affect the city for the next century are made would help to ensure that the needs of the school board, Eastern Health and other relevant agencies are accommodated. It would also provide an opportunity to ensure adequate provision for parks, trails, recreation facilities and floodplain mapping. Having a well-defined concept plan in place, in conjunction with clear and enforceable policies for cost recovery and storm water runoff would certainly help assuage some of the concerns voiced by the Board of Trade in their submission.

9. The City of St. John's address the question of whether urban development should be permitted to envelop the surrounding hilltops. The technical feasibility of providing water and sewer services to the highest elevations of these two areas should not preclude the possibility of a considered decision being made that they should not be.

10. If the new CDA Zones are approved for Southlands and the SWDA, no changes to the zoning should occur until the current review of the St. John's Municipal Plan has been completed. It would be inappropriate to contemplate the initiation of large-scale, long-term programmes of land use development in the absence of a Plan which takes them into account – as the current one does not. As already noted, the Plan review process has begun and the goal is to have it complete within 18 months.

11. The review of the SJURRP be taken in hand again as soon as possible. I understand that there are several reasons why development of the long-awaited and much-needed North-East Avalon Plan has stalled, and that it may not be easy to clear the obstacles. However, the

development pressures which may come to bear on the region's municipalities in the near future cannot be properly assessed using a 36-year-old Plan. One of the questions which an up-to-date regional plan should consider is 'which municipalities should be allowed to develop beyond the 190m contour' (BAE-Newplan, 2009: 18). As the attached map, prepared by Dr. Alvin Simms of the Department of Geography, Memorial University of Newfoundland, shows, there is a total of 11,730 hectares of land above the 190m contour within the St. John's Census Metropolitan Area, which includes all of the north-east Avalon region. Not all of this land could be developed, but the question of how much demand there might be for future development, and which municipalities should be allowed, or encouraged to accommodate it, is one which only a revised regional plan could help to answer. The map also shows that much of the land above 190m is also above 220 metres – and as indicated above, it might be appropriate to consider whether it would be beneficial for the region if a height restriction of some form was maintained.

Respectfully submitted,

Christopher Sharpe

8 March, 2012

Sources Consulted

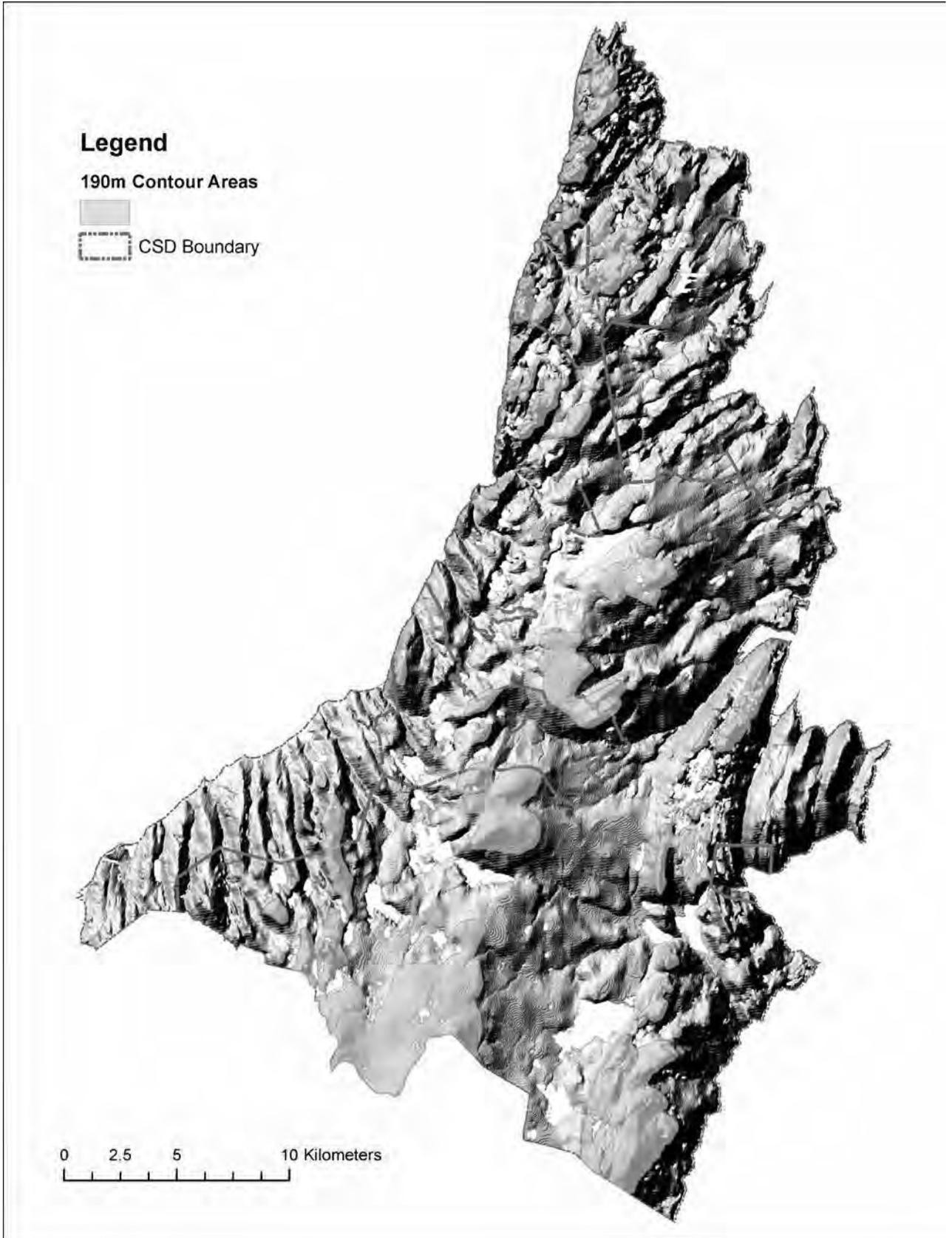
- BAE-Newplan Group (2009) 'Development above 190 metre contour. Final report'. Prepared for Mount Pearl and Paradise, April, 2009.
- City of St. John's, Department of Engineering (2012) 'Water servicing above the 190m elevation'.
- City of St. John's (2012) *Budget 2012*.
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- City of St. John's (2007) 'Potential servicing above the 190m metre contour' Department of Engineering, July, 2007.
- Mah, Julie and Jason Hackworth (2011) 'Local politics and inclusionary housing in three large Canadian cities'. *Canadian Journal of Urban Research* 20: 57-80.
- Municipal Plan Review Mayor's Symposium. Preliminary Report. 25 February, 2012.
- Newfoundland Design Associates Limited (2007) 'St. John's Regional Water Supply: Update to 1994 report'.
- 'St. John's Urban Region Regional Plan 1976 with Forestry Policy Amendment, 1978, Watershed Protected Areas Policy Amendment, 19080 and Subsequent Amendments'. An unofficial consolidation as of May 1, 2007 prepared by the Engineering and Land Use Planning Division, Department of Municipal Affairs.

Press Reports

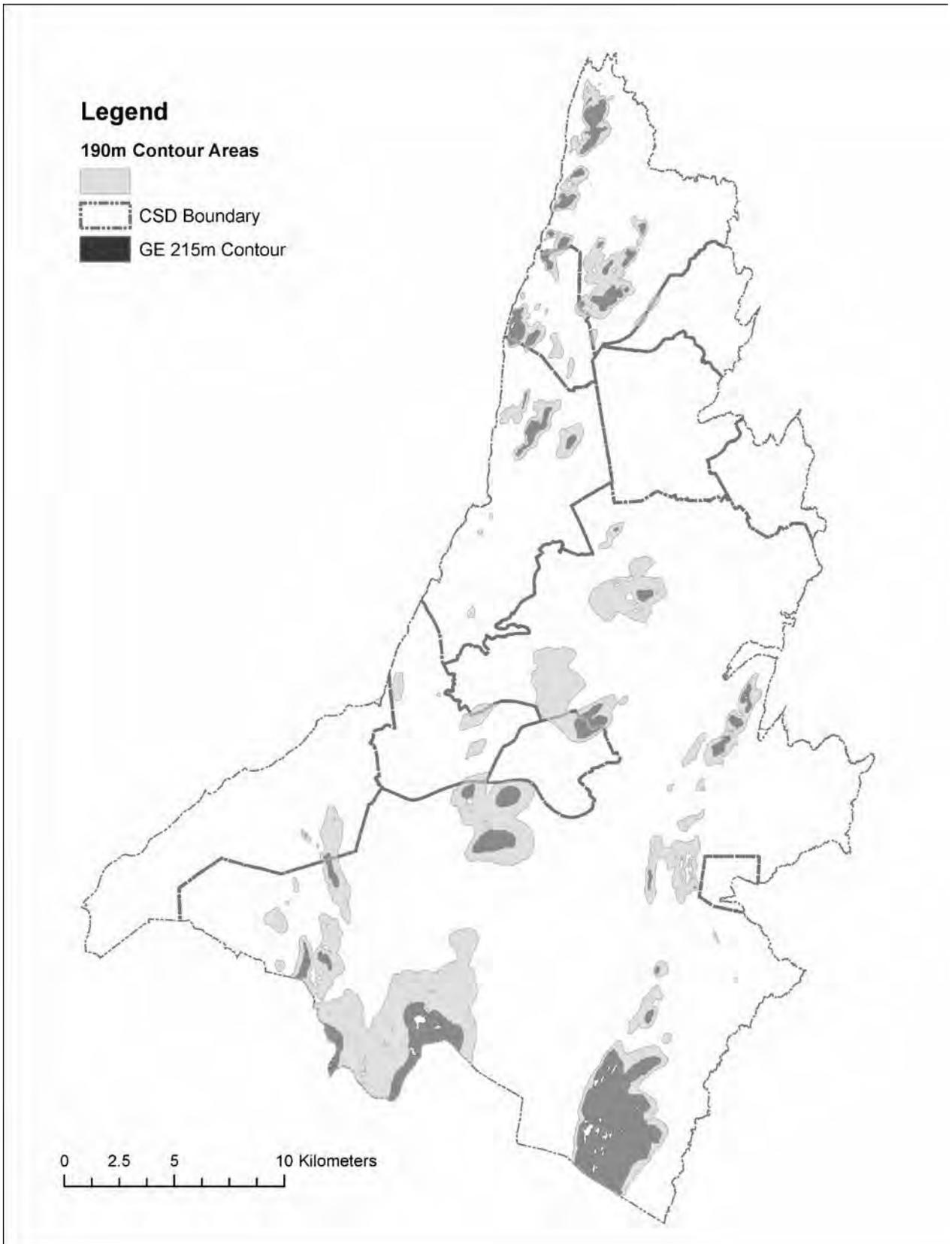
- Bartlett, Dave (2011a) 'The size of the town of Gander. City of St. John's hears pitch for \$5 billion, 20-year, multi-use development'. *The Telegram*, November 25, A1.
- Bartlett, Dave (2011b) 'Danny the developer: Former premier confirms he's behind major west end development'. *The Telegram*, December 14, A1.
- Bartlett, Dave (2012a) 'City working on water runoff policy'. *The Telegram* 16 January.
- Bartlett, Dave (2012b) 'Development above the 190 contour takes next step: City gets provincial blessing to move to public meeting'. *The Telegram*, January 17, A4.
- Bartlett, Dave (2012c) 'Restoring downtown to its past glory: St. John's mayor talks up city's future at Rotary Club' *The Telegram* January 27, A1.
- Bartlett, Dave (2012d) 'Reaching for the sky: City holds public hearing on allowing development above the 190 metre contour' *The Telegram* February 15, A4.
- Bartlett, Dave (2012e) 'Stop the sniping: City councilors say it's time St. John's, Mount Pearl worked together'. *The Telegram*, 5 March, A1.
- Robinson, Andrew (2012) 'Simms sees opportunities. Mount Pearl Mayor says his city has plenty of room to grow' *The Telegram*, 24 February, A3.

Attachments

1. Copies of all written submissions
2. Copies of all relevant press reports
3. CD containing:
 - Copies of the submissions from:
 - Bergon Holdings
 - Empire Theatres
 - KMK Capital
 - Anne Newhook (and the reply from the City Manager)
 - Newfoundland and Labrador Construction Association
 - G.H. Investments
 - City of Mount Pearl
 - Town of Conception Bay South
 - Newfoundland and Labrador Federation of Labour
 - Newfoundland and Labrador Oil and Gas Industries Association
 - The St. John's Board of Trade
 - BMT Fleet Technology
 - Copies of consultants' and background reports
 - Powerpoint presentation from the public meeting of 14 April, 2009
 - BAE-Newplan Group (2009) 'Development above 190 metre contour. Final Report'. Prepared for the City of Mount Pearl and the Town of Paradise.
 - Newfoundland Design Associates Limited (2007) 'St. John's Regional Water Supply: Update to 1994 report'.
 - City of St. John's, Department of Engineering (2012) 'Water servicing above the 190m elevation'.
 - Preliminary Report, Mayor's Symposium on the Municipal Plan Review. 25 February, 2012.
 - Copies of the proposed amendments.
 - Provincial release of the proposed amendments.
 - Letter of appointment as Commissioner.
 - Two maps prepared by Dr. Alvin Simms showing the extent of lands above 190m on the north-east Avalon peninsula.



Land above 190 metre contour



Land above 190m contour and above 215m contour

**AGENDA
REGULAR MEETING
MARCH 26, 2012
4:30 p.m.**

- 1. Call to Order**
- 2. Approval of the Agenda**
- 3. Adoption of the Minutes**
 - a. Minutes of March 12th, 2012
- 4. Business Arising from the Minutes**
 - A. Included in the Agenda**
 1. Memorandum dated March 23, 2012 from the City Manager
Re: Development Above the 190 Mete Contour Elevation
Southwest Development Area (Wards 3 & \$) & Southlands Area (Ward 5)
 2. Memorandum dated March 22, 2012 from the Director of Planning
Re: Proposed Rezoning of Property-Kenmount Road/Nautilus Drive Area **(Ward 4)**
Applicant: Bristol Development
 3. Memorandum dated March 21, 2012 from the Director of Planning
Re: Application to Rezone Property, Stavanger Drive **(Ward 1)**
Applicant: Cabot Development Corporation
 - B. Other Matters**
 - C. Notices Published**
 1. An application has been submitted by Bell Mobility requesting permission to install a Monopole Tower on property situated at the end of **Autumn Drive in Airport Heights**. The proposed tower will stand 30 metres in height and will mount cell phone antennas. (Ward 4)

One (1) Submission of concern
- 5. Public Hearings**
- 6. Committee Reports**

ST. JOHN'S

- a. Development Committee Report dated March 20, 2012
- b. Planning & Housing Standing Committee Report dated March 13, 2012
- c. Heritage Advisory Committee Report dated March 21, 2012
- d. Joint Committee of Council and Downtown St. John's Report dated March 14, 2012
- e. Arts Advisory Committee Report dated March 22, 2012

7. Resolutions

8. Development Permits List

Development Permits List for the period March 16 to 22, 2012

9. Building Permits List

10. Requisitions, Payrolls and Accounts

11. Tenders

- a. Tender – Open Order for Rental of Cars and Trucks
- b. Tender – Open Order for Supply of Chlorine Bulk
- c. Tender – Open Order for Supply of Building Materials
- d. Tender – Water Meters
- e. Tender – Auctioneering Services

12. Notices of Motion, Written Questions and Petitions

13. Other Business

A. Correspondence

1. Memorandum dated March 15, 2012 from the Director of Building and Property Management Re: Redevelopment of Upper Stories in the Downtown
2. Memorandum dated March 21, 2012 from the City Solicitor Re: 124 Circular Road, Dr. High Whitney
3. Snow Clearing Report for the period January 1st to March 23rd, 2012
4. **Correspondence from the Mayor's Office**

B. Items Added By Motion

C. Other Matters

14. Adjournment

ST. JOHN'S

March 26th, 2012

The Regular Meeting of the St. John's Municipal Council was held in the Council Chamber, City Hall, at 4:30 p.m. today.

His Worship the Mayor presided.

There were present also: Deputy Mayor Duff, Councillors O'Leary, Hickman, Hann, Colbert, Breen, Galgay, Tilley, and Collins.

Regrets: Councillor Hanlon.

City Manager, Deputy City Manager/Director of Corporate Services & City Clerk; Deputy City Manager/Director of Public Works & Parks, Director of Planning, Director of Engineering, City Solicitor, and Manager, Corporate Secretariat were also in attendance.

Call to Order and Adoption of the Agenda

SJMC2012-03-26/176R

It was decided on motion of Councillor Tilley; seconded by Councillor Collins: That the Agenda be adopted as presented.

Adoption of Minutes

SJMC2012-03-26/177R

It was decided on motion of Councillor Breen; seconded by Councillor O'Leary: That the minutes of March 20th, 2012 meeting be adopted as presented.

Development Above the 190 Metre Contour Elevation

Southwest Development Area (Wards 3 & 4 & Southlands Area (Ward 5)

Under business arising, Council considered a memorandum dated March 23, 2012 from the City Manager regarding development above the 190 metre contour elevation, Southwest Development Area, (Wards 3 and 4) and Southlands Area (Ward 5). Copies of the proposed

Municipal Plan and Development Regulations amendments as adopted by Council on January 16, 2012 pertaining to the proposed potential future development of lands on the basis of piped municipal water and sewer services that are located above the 190 metre contour elevation in the Southwest Development Area were provided for Council's information, along with a copy of the Regional Plan Amendment Number 2, 2012. Also provided for Council's consideration was a copy of Commissioner Sharpe's report of the public hearing held to deal with both the proposed amendments to the Regional Plan and the Municipal Plan and the Development Regulations.

It is noted that the Commissioner has recommended approval of the St. John's Urban Regional Plan Amendment Number 2, 2012 and the St. John's Municipal Plan Amendment Number 69, 2012 and St. John's Development Regulations Amendment Number 457, 2012 subject to Recommendations Numbers 4 and 5 as set out on page 26 of his report. The Commissioner has also set out six other recommendations in his report which are listed as Recommendations 6 through 11 on Pages 26 to 28 of his report.

SJMC2012-03-26/178R

It was moved by Councillor Hann; seconded by Councillor Galgay: That the following recommendations put forth by staff following review of the Commissioner's report be approved:

1. That Council now approve the St. John's Municipal Plan Amendment Number 69, 2012 and the St. John's Development Regulations Amendment Number 457, 2012 as adopted by Council on January 16, 2012, subject to Council agreeing not to make any future changes to the Comprehensive Development Area zoning designation proposed for both the Southwest Development Area and the Southlands Area until such time as Council adopts a comprehensive storm water policy. This is in accordance with Recommendation Number 4 listed in the Commissioner's report;
2. That approval of the St. John's Municipal Plan Amendment Number 69, 2012 be subject to the change in the map reference as noted in Recommendation Number 6 of the Commissioner's report and the deletion of Part III-Section 1.2.16 of the Municipal Plan ("Development Restriction Above the 190 Metre Contour") as noted in Recommendation Number 7 of the Commissioner's report;

3. That approval of the St. John's Development Regulations Amendment Number 457, 2012 be subject to the deletion of the reference in Section 5.1.4 of the Development Regulations ("Development Above the 190 Metre Contour Line") to the prohibition of development utilizing municipal water and sewer services for lands located above the 190 metre contour line;
4. That the other recommendations in the Commissioner's report be taken under advisement by the City for consideration at the appropriate future stages in the City's development review process of lands located above the 190 metre contour in the Southwest Development Area and the Southlands Area but that these other recommendations of the Commissioner not be considered as pre-conditions to the approval of the St. John's Municipal Plan Amendment Number 69, 2012 and the St. John's Development Regulations Amendment Number 457, 2012; and
5. That Council now request the Minister of Municipal Affairs to approve the St. John's Urban Region Regional Plan Amendment Number 2, 2012 to enable the Provincial registration of the St. John's Municipal Plan Amendment Number 69, 2012 and the St. John's Development Regulations Amendment Number 457, 2012.

During discussion it was noted that, while recommendation #1 concerning a comprehensive storm water policy is in accordance with the Commissioner's recommendation #4, the Commissioner's recommendation #5, for a revenue neutral approach to any infrastructure development that will take place in the areas, is not recommended by staff to be imbedded in the Municipal Plan.

Following discussion, the motion being put was unanimously carried.

Proposed Rezoning of Property-Kenmount Road/Nautilus Drive
Applicant: Bristol Development

Under business arising, Council considered a memorandum dated March 22, 2012 from the Director of Planning regarding the above noted.

SJMC2012-03-26/179R

It was moved by Councillor Tilley; seconded by Deputy Mayor Duff: That the following Resolutions for St. John's Municipal Plan Amendment Number 105, 2012 and St. John's Development Regulations Amendment Number 537, 2012 be adopted; and further, that Mr. Jason Thistle, a member of the City's

commissioner list, be appointed as the commissioner for the public hearing, the proposed date being April 25, 2012.

**RESOLUTION
ST. JOHN'S MUNICIPAL PLAN
AMENDMENT NUMBER 105, 2012**

WHEREAS the City of St. John's wishes to allow the development of property in the area of Kenmount Road and Nautilus Street in order to permit the development of residential building lots for single-detached houses.

BE IT THEREFORE RESOLVED that the City of St. John's hereby adopts the following map amendment to the St. John's Municipal Plan in accordance with the provisions of the Urban and Rural Planning Act.

Redesignate land in the area of Kenmount Road and Nautilus Street from the Open Space Land Use District to the Residential Low Density Land Use District as shown on Map III-1A attached.

BE IT FURTHER RESOLVED that the City of St. John's requests the Minister of Municipal Affairs to register the proposed amendment in accordance with the requirements of the Urban and Rural Planning Act, 2000.

IN WITNESS THEREOF the Seal of the City of St. John's has been hereunto affixed and this Resolution has been signed by the Mayor and the City Clerk on behalf of Council this 26th day of March, 2012.

Mayor

City Clerk

Provincial Registration

I hereby certify that this Amendment has been prepared in accordance with the Urban and Rural Planning Act, 2000.

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**RESOLUTION
ST. JOHN'S DEVELOPMENT REGULATIONS
AMENDMENT NUMBER 537, 2012**

WHEREAS the City of St. John's wishes to allow the development of property in the area of Kenmount Road and Nautilus Street in order to permit the development of residential building lots for single-detached houses.

BE IT THEREFORE RESOLVED that the City of St. John's hereby adopts the following map amendment to the St. John's Development Regulations in accordance with the provisions of the Urban and Rural Planning Act.

Rezone land in the area of Kenmount Road and Nautilus Street from the Open Space (O) Zone to the Residential Kenmount (RK) Zone as shown on Map Z-1A attached.

BE IT FURTHER RESOLVED that the City of St. John's requests the Minister of Municipal Affairs to register the proposed amendment in accordance with the requirements of the Urban and Rural Planning Act, 2000.

IN WITNESS THEREOF the Seal of the City of St. John's has been hereunto affixed and this Resolution has been signed by the Mayor and the City Clerk on behalf of Council this 26th day of March, 2012.

Mayor

City Clerk

Provincial Registration

I hereby certify that this Amendment has been prepared in accordance with the Urban and Rural Planning Act, 2000.

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The motion being put was unanimously carried.

Application to Rezone Property, Stavanger Drive
Applicant: Cabot Development Corporation

Under business arising, Council considered a memorandum dated March 21, 2012 from the Director of Planning regarding the above noted.

SJMC2012-03-26/180R

It was moved by Councillor Breen; seconded by Deputy Mayor Duff: That Resolutions for St. John's Municipal Plan Amendment Number 100, 2012 and St. John's Development Regulations Amendment Number 526, 2012 be approved as adopted, which will be referred to the Department of Municipal Affairs with a request for Provincial registration.

The motion being put was unanimously carried.

Business Arising

Under business arising, Councillor Colbert referenced his remarks concerning legislation governing disabled parking spaces and Parking Enforcement Officers' ability to issue tickets. He thanked Minister Davis and staff for clarifying the situation noting that the City has the authority to issue a ticket if a sign and/or blue space is visible, and the Parking Enforcement Officers were given direction to issue tickets accordingly. Councillor Colbert noted that the minister and staff will look at the cost of having the fine for parking illegally in a blue space posted on the signage.

Notices Published

1. An application has been submitted by Bell Mobility requesting permission to install a Monopole Tower on property situated at the end of **Autumn Drive in Airport Heights**. The proposed tower will stand 30 metres in height and will mount cell phone antennas. (Ward 4)

One (1) Submission of concern

SJMC2012-03-26/181R

It was moved by Councillor Tilley; seconded by Councillor Galgay: That the application be approved.

The motion being put was unanimously carried.

Committee Reports

Development Committee Report dated March 20, 2012

Council considered the following Development Committee Report dated March 20, 2012:

- 1. Proposed Restaurant/Lounge
Civic No. 177 – 179 Duckworth Street (Ward 2)
Applicant: Chris Andrews**

The Committee recommends that the application for the proposed Restaurant/Lounge at Civic No. 177-179 Duckworth Street be rejected as Section 7.22 (1) of the St. John's Development Regulations states that no lounge shall be permitted within 50 metres of the Newfoundland War Memorial and the site of the proposed lounge is located within 50 metres of the War Memorial.

SJMC2012-03-26/182R

It was moved by Councillor Hann; seconded by Deputy Mayor Duff: That the Committee's recommendation be approved.

The motion being put was carried with Councillor Galgay abstaining due to a potential conflict of interest.

Planning & Housing Standing Committee Report dated March 13, 2012

Council considered the Planning and Housing Standing Committee Report dated March 13, 2012.

SJMC2012-03-26/183R

It was moved by Councillor Hann; seconded by Councillor Tilley: That the Committee's recommendation that the following proposed standards for drive-thru operations be incorporated within the text of the St. John's Development Regulations, be approved:

15 Metre Separation Distance

Under this standard, the minimum separation distance, measured from the edge of the drive-thru facility stacking lane or by-pass lane (whichever is closer) to the closest property line of any abutting residentially occupied or residentially zoned property would be 15 metres. A noise attenuation barrier designed by a qualified acoustical consultant and reviewed and approved by City staff, will be required to be installed at the expense of the proponent for the drive-thru. Any landscaping requirements associated with the drive thru operation would be included within the 15 metre separation distance.

Stacking Spaces for Vehicles

The proposed number of required stacking spaces for a drive-thru facility shall be determined by the Director of Engineering or their designate and shall not be less than the following:

- a) Donut/Coffee Shop/Fast Food Eating Establishment - Minimum of 12 spaces
- b) Other types of Drive-Thru Facility - Minimum of 5 spaces

Designation as Discretionary Use Applications

Applications for drive-thrus are to be processed as Discretionary Use Applications wherever a drive-thru is proposed to be located within 150 metres of a residential property, a Residential Zone, an Apartment Zone, or a School or a Church.

SJMC2012-03-26/184R

It was then moved by Councillor Breen; seconded by Councillor Hickman: That the motion be amended to include the following:

1. That Designation as Discretionary Use Applications be expanded to include Daycare Centres and,
2. Where an application for a proposed drives-thru abuts residential property that is not zoned residential, that a 3 metre buffer be required along with sound attenuation barrier with Council having discretion to increase the buffer to 15 metres, when deemed necessary.

The motion to amend being put was carried.

SJMC2012-03-26/185R

It was then moved by Councilor O'Leary; seconded by Councillor Collins: That the main motion be amended as follows:

That the minimum separation distance, measured from the edge of the drive-thru facility stacking lane or by-pass lane (whichever is closer) to the closest property line of any abutting residentially occupied or residentially zoned property would be 10 metres instead of the recommended 15 metre separation distance.

The motion to amend being put there voted for it the mover, seconder and Councillors Hickman and Colbert. Voting against the amendment were Deputy Mayor Duff, Councillors Tilley, Breen, Hann, Galgay and His Worship the Mayor.

The motion to amend was lost.

SJMC2012-03-26/186R

The main motion to approve the recommendations put forth by staff following review of the commissioner's report, and as amended (to include (1) That Designation as Discretionary Use Applications be expanded to include Daycare Centres; and (2) Where an application for a proposed drives-thru abuts residential property that is not zoned residential, that a 3 metre buffer be required along with sound attenuation barrier with Council having discretion to increase the buffer to 15 metres, when deemed necessary) being put there voted for it the mover, seconder, Deputy Mayor Duff, Councillors Breen, Hickman, O'Leary and His Worship the Mayor. Voting against the motion were Councillors Galgay, Collins and Colbert.

The motion was carried, with the Department of Planning to draft the amendments in conjunction with the City's Legal Department and the Department of Engineering. Upon completion of this process, the proposed amendments would then be referred to an upcoming Regular Meeting of Council for consideration of adoption/approval.

Heritage Advisory Committee Report dated March 21, 2012

Council considered the following Heritage Advisory Committee Report dated March 21, 2012:

In Attendance: Deputy Mayor Shannie Duff, Chairperson
Wayne Purchase, Downtown St. John's
Anne Hart, Resident Representative
David Kelland, NL Association of Architects
Tony Lockyer, Canadian Homebuilders (NL Region)
Gerard Hayes, Citizen Representative
Taryn Sheppard, Next Up! Representative
Ken O'Brien, Manager of Planning & Information
Peter Mercer, Heritage Officer
Karen Chafe, Recording Secretary

1. **383 Duckworth Street (former Newfoundland Saddlery): Proposed Deck**

The Committee considered an application for a roof-top deck to be situated on the lower, second floor rear roof of 383 Duckworth St. The deck will face George Street. The application is submitted by the Rock House Club and copies of the elevations are attached to this report. Committee member Tony Lockyer advised that he is the contractor for the deck's construction and as such abstained from voting on this matter.

The Committee with the abstention of Tony Lockyer, recommends approval of the design attached, noting that the deck's railing and exit will be set back two feet from the edge of the roof and will not be highly visible from Duckworth St. The proposed deck also fits in with the eclectic vernacular of George St. where a number of roof-top decks of various size and dimension are found.

2. 148 Duckworth St. – Proposed New Exterior and EIFS Cladding (former Brass Rack)

The Committee considered the above noted application, the elevations of which are attached to this report. The applicant proposes to re-clad the exterior with a parged EIFS treatment. The front façade is also proposed to consist of four over-sized windows that appear to be retractable or of a garage door style. The side elevation will consist of four casement windows and a main entry relocated from the building's front.

The Committee recommends deferral of the application so that the Committee can consult with the proponent to address the following issues:

- **the elevations which are two dimensional do not adequately illustrate the building's proper dimensions, nor how these dimensions relate to the surrounding streetscape. The side elevations which appear flat for example, should reflect the slope of Cochrane St.;**
- **the over-sized windows proposed for the front appear to be garage doors or retractable windows, particularly as the elevation shows them to be flush with the sidewalk, i.e. the trim at the top of the windows is missing from the bottom;**
- **With regard to the general design of the building, the Committee expressed concern that the treatment proposed, which is reminiscent of contemporary retail store design (examples may be found in the Stavanger Drive and Kelsey Drive areas), may not be appropriate in this location, as it is not reflective of or complementary to the vernacular of the heritage area.**

3. Sub-Committees

The Committee recommends that the following two sub-committees be established with the following general purpose and membership:

a. Design Guidelines for Construction of New Modern Architecture in Heritage Areas

- **General Purpose: to develop draft design standards for new buildings in the heritage area.**
- **Members:**

- David Kelland, NL Association of Architects
- Taryn Sheppard, Next Up! Representative (and architect)
- Deputy Mayor Shannie Duff
- Ken O'Brien, Manager of Planning & Information
- Peter Mercer, Heritage Officer

b. Review of Existing mid 20th Century Architecture for Heritage Designation

- General Purpose: to recognize the architectural merit of mid 20th century architecture in the City by developing criteria for the evaluation and heritage designation of such.
- Members:
 - Gerard Hayes, Citizen Representative
 - Wayne Purchase, Downtown St. John's
 - Debbie O'Rielly, NL Historic Trust
 - George Chalker, Heritage Foundation
 - Taryn Sheppard, Next Up! Representative
 - Ann Hart, Resident Representative
 - Peter Mercer, Heritage Officer
 - Shane O'Dea

Deputy Mayor Shannie Duff
Chairperson

SJMC2012-03-26/187R

It was moved by Deputy Mayor Duff; seconded by Councillor Galgay: That the Committee's recommendations be approved.

Following discussion, the motion being put was unanimously carried.

Joint Committee of Council and Downtown St. John's Report dated March 14, 2012

Council considered the following Joint Committee of Council and Downtown St. John's Report dated March 14, 2012:

Attendees: City of St. John's Representatives:
Deputy Mayor Shannie Duff, Chairperson
Councillor Sheilagh O'Leary
Councillor Bruce Tilley
Paul Mackey, Deputy City Manager/Director of Public Works & Parks
Dave Blackmore, Director of Building & Property Management
Robin King, Transportation Engineer
Kevin Breen, Manager of Streets & Parks

Karen Chafe, Recording Secretary

Downtown St. John's Representatives:

Susan LeDrew, Board Chair

Kim Saunders, Vice-Chair

Dave Marshall, Treasurer

John McCarthy, Past Chair

Wayne Purchase

Brad Burness

Robert Seymour

Dave Lane

Scott Cluney, Executive Director

Report:

1. **LED Lighting**

Downtown St. John's questioned if the City investigated the possible conversion of downtown street lighting to LED lighting. The matter had been referred to a meeting of the Public Works & Environment Standing Committee, at which time it was noted that Newfoundland Power was doing some research on the matter and had yet to conclude its findings. The Transportation Engineer advised that should the City and Downtown St. John's wish to convert to LED lighting, it would likely require a change in poles as LED lighting requires luminaries that face downward, rather than upward as is the case with the existing decorative lighting.

The Committee recommends that the Transportation Engineer develop an issue paper outlining the options for conversion of street lighting to LED lighting and the costs associated with such.

2. **Street Sign for Angels Corner**

Councillor O'Leary referenced the recently developed Angels Corner at the north/east intersection of Prescott and Duckworth St. She commended Downtown St. John's for their partnership with the City of St. John's, the Grand Concourse Authority and the St. John's Native Friendship Center in realizing this project's completion. It would now be in order for a street sign to be installed at the location with the wording "Angels Corner" similar to the City sign installed at the Constabulary Court.

The Committee on motion of Councillor O'Leary; seconded by Dave Marshall recommends that Council make arrangements to have a street sign named "Angels Corner" installed at the north/west intersection of Prescott and Duckworth St.

3. **Sidewalk Snow Clearing Downtown**

The Manager of Streets and Parks advised the Committee that the City has a meeting scheduled with Mile One to discuss the possibility of partnering with them to combine their snow clearing contract with the Downtown sidewalk snow clearing

contract. The purpose of such is to provide a more reliable service for both areas. If an arrangement can be worked out, tenders will be published in time for the next winter season.

Downtown St. John's expressed no objection to the proposed partnering with Mile One Stadium.

4. Litter Problems in Downtown

The Committee referenced the problems with the proliferation of litter in the Downtown and the challenges with keeping ahead of the clean-up particularly during weekends, as well as the enforcement of the by-laws which are meant to offset such. The following was proposed:

- That Downtown St. John's provide a comprehensive written submission outlining their major areas of concern as well as suggested solutions.
- That the Deputy City Manager/Director of Public Works & Parks develop an issue paper outlining the costs associated with enhancing the handcart and madvac programs in the Downtown area, and that this issue be referred to a future meeting of the Finance and Administration Standing Committee to determine how such costs may be allocated. Downtown St. John's is to be consulted on the deliberations that take place with the Finance and Administration Standing Committee.
- With regard to enforcement of the litter by-law, it was agreed that a sub-committee be established to develop a communication strategy advising businesses of the litter by-law and encouraging them to be more proactive by maintaining and cleaning their own property frontages. The sub-committee is proposed to consist of the following:
 - Councillor Sheilagh O'Leary
 - Scott Cluney, Downtown St. John's
 - Karen Hickman, St. John's Clean & Beautiful
 - Jennifer Mills, Communications Officer
 - Kim Saunders, Downtown St. John's

With regard to beautification, Downtown St. John's requested that the City investigate the possibility of hanging more flower baskets in various high profile areas where they are lacking and that garbage receptacles are emptied on a more regular basis. Downtown St. John's agreed to consult with the City on problem areas.

5. Communications Plan for Fine Increase

Representatives of Downtown St. John's referenced Council's recent approval to increase parking meter fines from \$15.00 to \$25.00. They expressed concern about this action, particularly since the Downtown St. John's Board of Directors had previously and unanimously agreed that the ticket increase should coincide with the

implementation of the electronic ticket writer devices. Such devices would enable people who pay early to receive a discount.

The City advised, however, that Council will have to borrow approximately \$8.5 million with an annual debt service payment of \$790,000 for parking facilities downtown. Thus, there is an immediate need to generate revenue from the ticket increase which will be redirected into the parking facility reserve fund. The more money that can be accumulated in that reserve fund, the less money the City needs to borrow. The City is also continuing to work toward the implementation of the ticket writer technology and a request for proposals is in the process of being developed. It is anticipated that within the next 4 – 6 months, the technology will be fully operational

Despite the differences expressed, the Committee did agree that there is a need for a communication plan to educate the general public about the basis for and timing of the fine increase, the revenues from which will be reinvested back into the Downtown area for parking and traffic initiatives and facilities.

6. **Request from Eastport Properties to Close Harbour Drive**

The City has received a request from Eastport Properties for permission to temporarily close Harbour Drive for a three day period. This will allow for the assembly of a construction crane which will remain on site during construction at 351 Water St. The dates for closure are March 26, 27 and 28th. The proposed closure will take place from Steers Cove to Bishop's Cove. Proper advance notification will take place prior to the closure.

The Committee recommends approval of the closure of Harbour Drive as outlined above.

Deputy Mayor Shannie Duff
Chairperson

SJMC2012-03-26/188R

It was moved by Deputy Mayor Duff; seconded by Councillor O'Leary: That the Committee's recommendations be approved.

Following discussion, the motion being put was unanimously carried.

Arts Advisory Committee Report dated March 22, 2012

Council considered the following Arts Advisory Committee Report dated March 22, 2012:

Attendees: Deputy Mayor Shannie Duff, Chairperson
Councillor Sandy Hickman

Ken Murphy, Newfoundland and Labrador Arts Council Rep.
Danielle Devereaux, WANL
Peter Rompkey, RCA Theatre
Calla Lachance, Dance NL
Michelle Bush, Visual Arts Representative
Paul Pope, Film Industry Representative
Michelle Haire, Heritage Canada
Mary Bishop, Citizen Representative
Elizabeth Lawrence, Director of Economic Development, Tourism & Culture
Dave Blackmore, Director of Building and Property Management
Kay Anonsen, Arts & Cultural Development Coordinator
Rhonda Rose-Colbert, Project Assistant
Karen Chafe, Recording Secretary

(Mac Furlong with CBC Radio's Weekend Arts Magazine was also present)

Report:

1. Meeting with Sheppard Case Architects re: Cultural Facility Study

The Committee met with Jim Case and Taryn Sheppard of Sheppard Case Architects to discuss the parameters for the *Demand and Needs Analysis and Business Plan for a Multi-Purpose Arts Facility*. Sheppard Case Architects was awarded the RFP by Council during its regular meeting of February 13, 2012. As part of the consultation process that will ensue, the following forum has been scheduled.

*Multi-Purpose Arts Space
Supply & Demand Forum*

Sheppard Case Architects and the City of St. John's invite local practitioners of visual art, theatre, performance, dance, music, multimedia arts, film, craft, writing etc., to attend a public forum on the current condition of arts space in the City.

The purpose of the forum is to determine the demand for, and supply of, rehearsal, production, office and workshop space that is suitable, accessible and affordable for local artists.

The forum will be one of the avenues by which input will be gathered to identify considerations for a possible multi-purpose arts facility.

The Forum will be held in the Foran Room at St. John's City Hall on April 19, 2012 at 7:00 p.m.

2. Next Up! Representative

Arising from the recommendations of the "Roadmap 2021" report approved by Council which included the goal to attract "a magnetic and desirable city for newcomers and young professionals" with the establishment of Nexter (19-35 years) representatives on City advisory committees, the Arts Advisory Committee has received twenty-six (26) applications. The Committee reviewed the applications and

short-listed them to five members. By private ballot, Committee members then voted for their individual preferred candidates.

The Committee recommends the appointment of Sara Tilley as the Committee's first "Nexter" representative.

The Committee further recommends that the Arts Advisory Committee Terms of Reference be revised to reflect the addition of one "Nexter" representative.

3. Business Representative

The Committee's business representative, Ms. Margot Bruce-O'Connell has resigned from the Committee due to heavy work commitments.

The Committee wishes to thank Ms. Bruce O'Connell for her contribution to the Committee and recommends that His Worship the Mayor send her a letter of appreciation.

The Committee has advertised the position of business representative to replace Ms. Bruce O'Connell and has received a total of two applications.

The Committee having reviewed the applications submitted recommends that Ms. Deborah Inkpen be appointed as the Committee's next business representative.

**Deputy Mayor Shannie Duff
Chairperson**

SJMC2012-03-26/189R

**It was moved by Deputy Mayor Duff; seconded by Councillor O'Leary:
That the Committee's recommendations be approved.**

Following discussion, the motion being put was unanimously carried.

Development Permits List

Council considered as information the following Development Permits List for the period March 16, 2012 to March 22, 2012:

BELL ALIANT	47 PENNEY CRES	NC COMMUNICATIONS USE
BELL ALIANT	49 SGT. CRAIG GILLAM AVE	NC COMMUNICATIONS USE
BELL ALIANT	14 STAVANGER DR	NC COMMUNICATIONS USE
BELL ALIANT	3 STENLAKE CRES	NC COMMUNICATIONS USE
BELL ALIANT	54 STIRLING CRES	NC COMMUNICATIONS USE
J & B ENGINEERING INC.	26-28 O'LEARY AVE	CR RETAIL STORE
DEAN CALLAHAN	165 WATER ST	CR RESTAURANT
COUGAR HELICOPTERS INC.	40 CRAIG DOBBIN'S WAY	NC TRANSPORTATION TERMINAL
		THIS WEEK \$ 555,500.00

CLASS: INDUSTRIAL

THIS WEEK \$.00

CLASS: GOVERNMENT/INSTITUTIONAL

THIS WEEK \$.00

CLASS: RESIDENTIAL

KENNETH SOOLEY	38 OUTER BATTERY RD	NC ACCESSORY BUILDING
KARWOOD CONTRACTING	34 SPRUCE GROVE AVE, LOT 138	NC SINGLE DETACHED DWELLING
PETER WHITE AND ANNE WHITE	142 CHEESEMAN DR	NC SWIMMING POOL
MARNELL ENTERPRISES LTD.	31 CYPRESS ST, LOT 137	NC SINGLE DETACHED DWELLING
MARNELL ENTERPRISES	69 CYPRESS ST - LOT 121	NC SINGLE DETACHED DWELLING
JASON BARRETT	51 GLENLONAN ST, LOT 7	NC SINGLE DETACHED DWELLING
HOMEWORX	136 GREAT EASTERN AVE, LOT 107	NC SINGLE DETACHED & SUB.APT
TERRY WALSH CONTRACTING LTD.	16 HAMLET ST, LOT 67	NC SINGLE DETACHED DWELLING
TERRY WALSH CONTRACTING LTD.	18 HAMLET ST, LOT 68	NC SINGLE DETACHED & SUB.APT
TERRY WALSH CONTRACTING LTD.	20 HAMLET ST, LOT 69	NC SINGLE DETACHED & SUB.APT
TERRY WALSH CONTRACTING LTD.	22 HAMLET ST, LOT 70	NC SINGLE DETACHED & SUB.APT
BLUEWATER PROPERTY AND	17 MIRANDA ST, LOT 94	NC SINGLE DETACHED DWELLING
LORI MITCHELL	8 NAUTILUS ST, LOT 119	NC SINGLE DETACHED & SUB.APT
FAIRVIEW INVESTMENTS LIMITED	7 OBERON ST - LOT 142	NC SINGLE DETACHED & SUB.APT
TRIPLE L CONTRACTING	18 ROSALIND ST, LOT 391	NC SINGLE DETACHED & SUB.APT
ANTHONY H. GUEST	5 THISTLE PL	NC ACCESSORY BUILDING
NORM PHANEUF	97 ST. CLARE AVE	CO HOME OFFICE
HANN CONSTRUCTION LIMITED	115 BLUE PUTTEE DR, LOT 87	RN SINGLE DETACHED DWELLING
JOSHUA K. TAYLOR	132 BOND ST - 2ND & 3RD FLOORS	RN SEMI-DETACHED DWELLING
DAVID REDDY	32 CAPE PINE ST	RN SINGLE DETACHED DWELLING
NFLD & LABRADOR HOUSING CORP.	175 CASHIN AVE EXTEN	RN TOWNHOUSING
NFLD & LABRADOR HOUSING CORP.	177 CASHIN AVE EXTEN	RN TOWNHOUSING
NFLD & LABRADOR HOUSING CORP.	179 CASHIN AVE EXTEN	RN TOWNHOUSING
NFLD & LABRADOR HOUSING CORP.	181 CASHIN AVE EXTEN	RN TOWNHOUSING
PETER SOUCY	18 CATHEDRAL ST	RN SINGLE DETACHED & SUB.APT
PHILIP W OSBORNE	1 DAVIDSON PL	RN SINGLE DETACHED & SUB.APT
PAUL DUNNE	68 FLOWER HILL	RN TOWNHOUSING
ANTHONY PIKE	2 GILBERT ST	RN MIXED USE
DAVID G. FAGNER	42 HAYWARD AVE	RN SINGLE DETACHED DWELLING
NFLD & LABRADOR HOUSING CORP	13 HEATHERTON PL	RN TOWNHOUSING
KEITH G.& LUCINDA BRADBURY	37 HOWLEY AVE EXTEN	RN SINGLE DETACHED DWELLING
NEW VICTORIAN HOMES	6 MCCRAE ST	RN SINGLE DETACHED DWELLING
JOHN J. HARRIS	19 POWER ST	RN SEMI-DETACHED DWELLING
DONALD MACDONALD	6 STEWART AVE	RN TOWNHOUSING
SULLIVAN'S CONTRACTING LIMITED	74 TEAKWOOD DR, LOT 9	RN SINGLE DETACHED DWELLING
HARRY & PATRICIA STONE	80 TOPSAIL RD	RN SINGLE DETACHED & SUB.APT
NFLD & LABRADOR HOUSING CORP.	2 VIMY AVE	RN TOWNHOUSING
NFLD & LABRADOR HOUSING CORP.	4 VIMY AVE	RN TOWNHOUSING
NFLD & LABRADOR HOUSING CORP.	6 VIMY AVE	RN TOWNHOUSING

NFLD & LABRADOR HOUSING CORP. 8 VIMY AVE
LLEWELLYN KELLOWAY AND 16 CANSO PL

RN TOWNHOUSING
SW SINGLE DETACHED & SUB.APT

THIS WEEK \$ 3,435,200.00

CLASS: DEMOLITION

PRINCIPAL HOLDINGS LIMITED 65 STAVANGER DR (INT. DEMO) DM CAR SALES LOT

THIS WEEK \$ 15,000.00

THIS WEEK'S TOTAL: \$ 4,005,700.00

REPAIR PERMITS ISSUED: 2012/03/15 TO 2012/03/21 \$ 145,000.00

LEGEND

CO CHANGE OF OCCUPANCY	SN SIGN
CR CHNG OF OCC/RENOVTNS	MS MOBILE SIGN
EX EXTENSION	CC CHIMNEY CONSTRUCTION
NC NEW CONSTRUCTION	CD CHIMNEY DEMOLITION
OC OCCUPANT CHANGE	DV DEVELOPMENT FILE
RN RENOVATIONS	WS WOODSTOVE
SW SITE WORK	DM DEMOLITION
TI TENANT IMPROVEMENTS	

REJECTION:

16 Toby McDonald Street – Your application for the extension of an attached garage has been rejected as per Section 14 & 18 of the City of St. John’s Building By-Law.

Payrolls and Accounts

SJMC2012-03-26/191R

**It was decided on motion of Councillor Colbert; seconded by Councillor Tilley:
That the following Payrolls and Accounts for the week ending March 22, 2012
be approved:**

**Weekly Payment Vouchers
For The
Week Ending March 22, 2012**

Payroll

Public Works	\$ 439,571.95
Bi-Weekly Casual	\$ 17,978.33
Accounts Payable	\$ 4,137,276.03
Total:	\$ 4,594,826.31

Tenders

- a. Tender – Open Order for Rental of Cars and Trucks
- b. Tender – Open Order for Supply of Chlorine Bulk
- c. Tender – Open Order for Supply of Building Materials
- d. Tender – Water Meters
- e. Tender – Auctioneering Services

SJMC2012-03-26/192R

It was moved by Councillor Colbert; seconded by Councillor Tilley: That the recommendations of the Director of Finance and City Treasurer be approved and the tenders awarded as follows:

- a. **Discount Car & Truck; Thrifty Car Rental; Practicar Car & Truck Rentals; Enterprise Rent A Car, as per recommendations presented in memorandum dated March 21, 2012, fully meeting specifications as per the Public Tendering Act
(The lowest bidder of items required will be approached first to supply)**
- b. **Brenntag Canada Inc. @ \$414,700.00 (taxes not included)**
- c. **Kent Building Supplies @ \$65,219.50
Rona @ \$66,648.28 (Taxes not included)**
- d. **G & M Project Management @ \$92,008.65 (taxes not included)**
- e. **Fitzpatrick’s Auctioneering Services Ltd. @ 18.5 percent of sales
(Taxes Extra)**

The motion being put was unanimously carried.

Redevelopment of Upper Stories in the Downtown

Council considered a memorandum dated March 15, 2012 from the Director of Building & Property Management regarding the above noted.

SJMC2012-03-26/193R

It was moved by Councillor Colbert; seconded by Councillor Tilley: That staff be directed to proceed with commissioning a study of fire exiting equivalencies for downtown properties at an estimated cost of \$65,000.00 (HST Included).

The motion being put was unanimously carried.

124 Circular Road, Dr. Hugh Whitney

Council considered a memorandum dated March 21, 2012 from the City Solicitor regarding the above noted.

SJMC2012-03-26/194R

It was moved by Councillor Colbert; seconded by Councillor Hickman: That Dr. Hugh Whitney's request to purchase City land located at the rear of his property at 124 Circular Road, and the street right-of-way at Empire Avenue be granted at a rate of \$2 per sq. ft. plus usual administration fees and HST and subject to a water line and fire hydrant easements, as per the recommendation of the City Solicitor.

The motion being put was unanimously carried.

Snow Clearing Report for the period January 1st to March 23rd, 2012

Council considered as information the snow clearing report for the period January 1st to March 23, 2012.

Councillor Collins

Councillor Collins reminded residents that the Mandatory Covering of Garbage comes into effect April 1, 2012

Councillor Galgay

Councillor Galgay reminded residents of an open house to be held Monday April 2 from 2:00 to 4:30 p.m. and 6:30 to 9:00 p.m. in the Foran/Greene Room, Fourth Floor, City Hall to view the City's proposed Traffic Calming Plan for Old Topsail Road.

Councillor O'Leary

Councillor O’Leary advised that she attended a presentation at the Harris Centre, MUN, conducted by Dr. Donald Shiner, called Seniors Housing Challenges and Possible Solutions for Atlantic Canada. The issue concerned the need for a universal design within the regulations, which are mainly controlled at the Provincial level, and what role the City can play. Discussion involved the fears and desires of seniors which include the desire to stay in their own homes, fear of loss of independence and residing in a nursing home. The presentation outlined the need to start looking at international models on how seniors can remain in their own homes as long as possible in the most efficient and cost effective manner. Councillor O’Leary asked that the matter be referred to the Mayor’s Advisory Committee on Seniors for discussion. His Worship the Mayor noted that he would like to see society and the Province look at finding solutions to the challenges of seniors preferring to live independently rather than being institutionalized.

Deputy Mayor Duff

Deputy Mayor Duff advised that Government House is looking for information on the location of horse troughs that used to be located throughout the City. She asked anyone with information to contact her.

Adjournment

There being no further business, the meeting adjourned at 6:15 p.m.

MAYOR

CITY CLERK

MEMORANDUM

Date: March 23, 2012

To: His Worship the Mayor and Members of Council

From: Robert Smart, City Manager

Re: **Council Directive R2012-01-16/8**
Development Above the 190 Metre Contour Elevation
Southwest Development Area (WARDS 3& 4) & Southlands Area (WARD 5)

At the Regular Meeting of Council held on January 16, 2012, Council agreed to adopt the resolutions for St. John's Municipal Plan Amendment Number 69, 2012 and St. John's Development Regulations Amendment Number 457, 2012. These amendments pertain to the proposed potential future development of lands on the basis of piped municipal water and sewer services that are located above the 190 metre contour elevation in the Southwest Development Area, generally described for the purpose of these amendments as lands located on either side of Kenmount Road towards the western boundary of the City of St. John's that is shared with the Town of Paradise, and in the Southlands area, generally described for the purpose of these amendments as lands bound by the existing Southlands residential development to the east, Pitts Memorial Drive to the north and the Trans Canada Highway to the west. Copies of these proposed Municipal Plan and Development Regulations amendments as adopted by Council are attached for Council's information.

At the same Regular Meeting, Council agreed to appoint Dr. Chris Sharpe, a member on the City's commissioner list, as the commissioner to conduct a public hearing on the amendments. It was agreed in conjunction with the Department of Municipal Affairs, that Dr. Sharpe would also be appointed by the Minister of Municipal Affairs to conduct a public hearing on the proposed St. John's Urban Region Regional Plan Amendment Number 2, 2012 which deals with the same area that are under consideration by the City's proposed amendments. Map amendments to the Regional Plan to re-designate the subject areas to "Urban Development" are required in order to accommodate the City's proposed amendments. A copy of the Regional Plan Amendment Number 2, 2012 is attached for Council's information.

A joint public hearing to deal with both the proposed amendments to the Regional Plan and the Municipal Plan and the Development Regulations was conducted by Dr. Sharpe at St. John's City Hall on the evening of February 14, 2012.

Commissioner Sharpe has now submitted his report on the public hearing to both the Department of Municipal Affairs and the City. A copy of Commissioner Sharpe's report is attached for Council's information and review. Copies of the written public representations that were submitted to Dr. Sharpe are available from the Department of Planning.

ST. JOHN'S

CITY MANAGER

Commissioner Sharpe's recommendations regarding the proposed Regional Plan amendment and the proposed amendments to the St. John's Municipal Plan and the St. John's Development Regulations are set out on Pages 26 to 28 of his report.

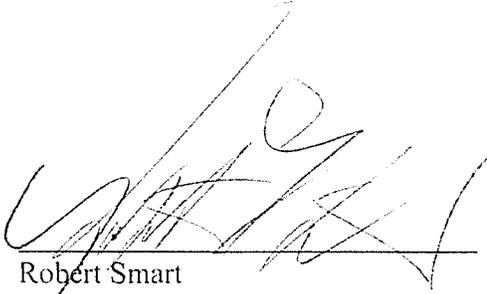
The Commissioner has recommended approval of the St. John's Urban Regional Plan Amendment Number 2, 2012 and of the St. John's Municipal Plan Amendment Number 69, 2012 and the St. John's Development Regulations Amendment Number 457, 2012 subject to Recommendation Numbers 4 and 5 as set out on Page 26 of his report. The Commissioner has also set out six other recommendations in his report which are listed as Recommendations 6 through 11 on Pages 26 to 28 of his report.

Recommendations

City staff have reviewed the Commissioner's report and its recommendations and now make the following recommendations to Council.

1. It is recommended that Council now approve the St. John's Municipal Plan Amendment Number 69, 2012 and the St. John's Development Regulations Amendment Number 457, 2012 as adopted by Council on January 16, 2012, subject to Council agreeing not to make any future changes to the Comprehensive Development Area zoning designation proposed for both the Southwest Development Area and the Southlands Area until such time as Council adopts a comprehensive storm water policy. This is in accordance with Recommendation Number 4 listed in the Commissioner's report;
2. It is recommended that approval of the St. John's Municipal Plan Amendment Number 69, 2012 be subject to the change in the map reference as noted in Recommendation Number 6 of the Commissioner's report and the deletion of Part III-Section 1.2.16 of the Municipal Plan ("Development Restriction Above the 190 Metre Contour") as noted in Recommendation Number 7 of the Commissioner's report;
3. It is recommended that approval of the St. John's Development Regulations Amendment Number 457, 2012 be subject to the deletion of the reference in Section 5.1.4 of the Development Regulations ("Development Above the 190 Metre Contour Line") to the prohibition of development utilizing municipal water and sewer services for lands located above the 190 metre contour line;
4. It is City staff's recommendation that the other recommendations in the Commissioner's report should be taken under advisement by the City for consideration at the appropriate future stages in the City's development review process of lands located above the 190 metre contour in the Southwest Development Area and the Southlands Area but that these other recommendations of the Commissioner not be considered as pre-conditions to the approval of the St. John's Municipal Plan Amendment Number 69, 2012 and the St. John's Development Regulations Amendment Number 457, 2012; and

5. It is recommended that Council now request the Minister of Municipal Affairs to approve the St. John's Urban Region Regional Plan Amendment Number 2, 2012 to enable the Provincial registration of the St. John's Municipal Plan Amendment Number 69, 2012 and the St. John's Development Regulations Amendment Number 457, 2012.



Robert Smart
City Manager

/amh

Attachment(s)

**PROPOSED RESOLUTION
ST. JOHN'S MUNICIPAL PLAN
AMENDMENT NUMBER 69, 2012**

WHEREAS the City of St. John's wishes to make provision for potential future urban development of lands located above the 190 metre contour in the Southlands area and the Kenmount Road area.

IT THEREFORE RESOLVED that the City of St. John's hereby adopts the following text and map amendments to the St. John's Municipal Plan pursuant to the provisions of the Urban and Rural Planning Act, 2000:

1. Introduce a new Land Use District to Part III of the Municipal Plan to read as follows:

"Urban Development – Southlands/Kenmount Land Use District

This Land Use District identifies lands in the Southlands area and the Kenmount Road area located above the 190 metre contour which have the potential to be developed in the future for a range of land uses utilizing municipal water and sewer services. No development utilizing municipal water and sewer services or on-site water and sewer services shall be permitted in these areas until such time as the City's Department of Engineering determines that the areas are available for serviced development. The range of Permitted Zones and Conditional Zones in this Land Use District shall be determined by Council."

2. Delete Part IV – Section 5.2.4 – "Servicing Limits – Planning Area 9 – South West Expansion Area".
3. Redesignate lands in the Southlands area and the Kenmount Road area from the Rural Land Use District and the Restricted Land Use District to the Urban Development – Southlands/Kenmount Land Use District as shown on Map III-1A and amend Map IV-3 ("Southwest Expansion Area Development Concept") to reflect the new designations proposed to be set out in Map III-1A.

BE IT FURTHER RESOLVED that the City of St. John's requests the Minister of Municipal Affairs to register the proposed amendment in accordance with the requirements of the Urban and Rural Planning Act, 2000.

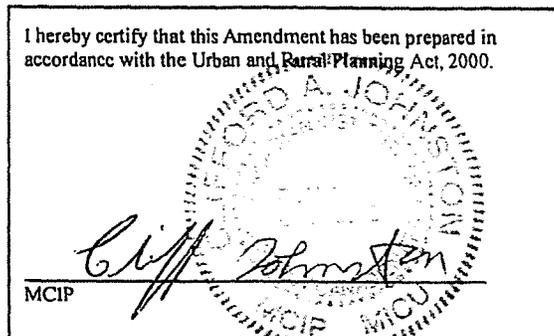
IN WITNESS THEREOF the Seal of the City of St. John's has been hereunto affixed and this Resolution has been signed by the Mayor and the City Clerk on behalf of Council this 16th day of January, 2012.



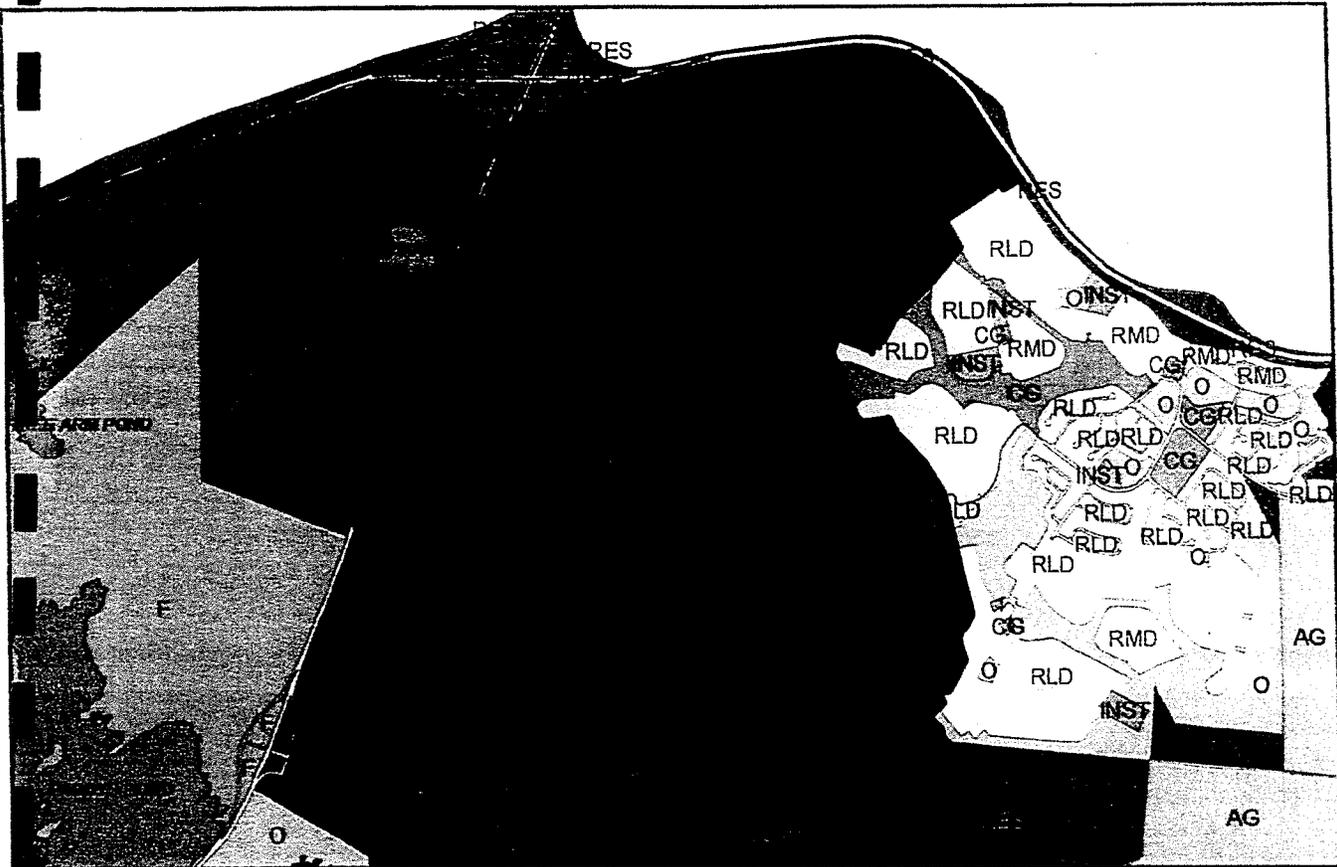
Mayor



City Clerk



Provincial Registration



**CITY OF ST. JOHN'S
MUNICIPAL PLAN
Amendment No. 69, 2012
[Map III-1A] Map 1 of 2**

2012 17 01 SCALE: 1:35000
CITY OF ST. JOHN'S
DEPARTMENT OF PLANNING

I hereby certify that this amendment
has been prepared in accordance with the
Urban and Rural Planning Act.



AREA PROPOSED TO BE REDESIGNATED FROM
RURAL (R) LAND USE DISTRICT TO
URBAN DEVELOPMENT - SOUTHLANDS/
KENMOUNT LAND USE DISTRICT

Dennis O'Keefe

Mayor

Phyllis Bantle

City Clerk

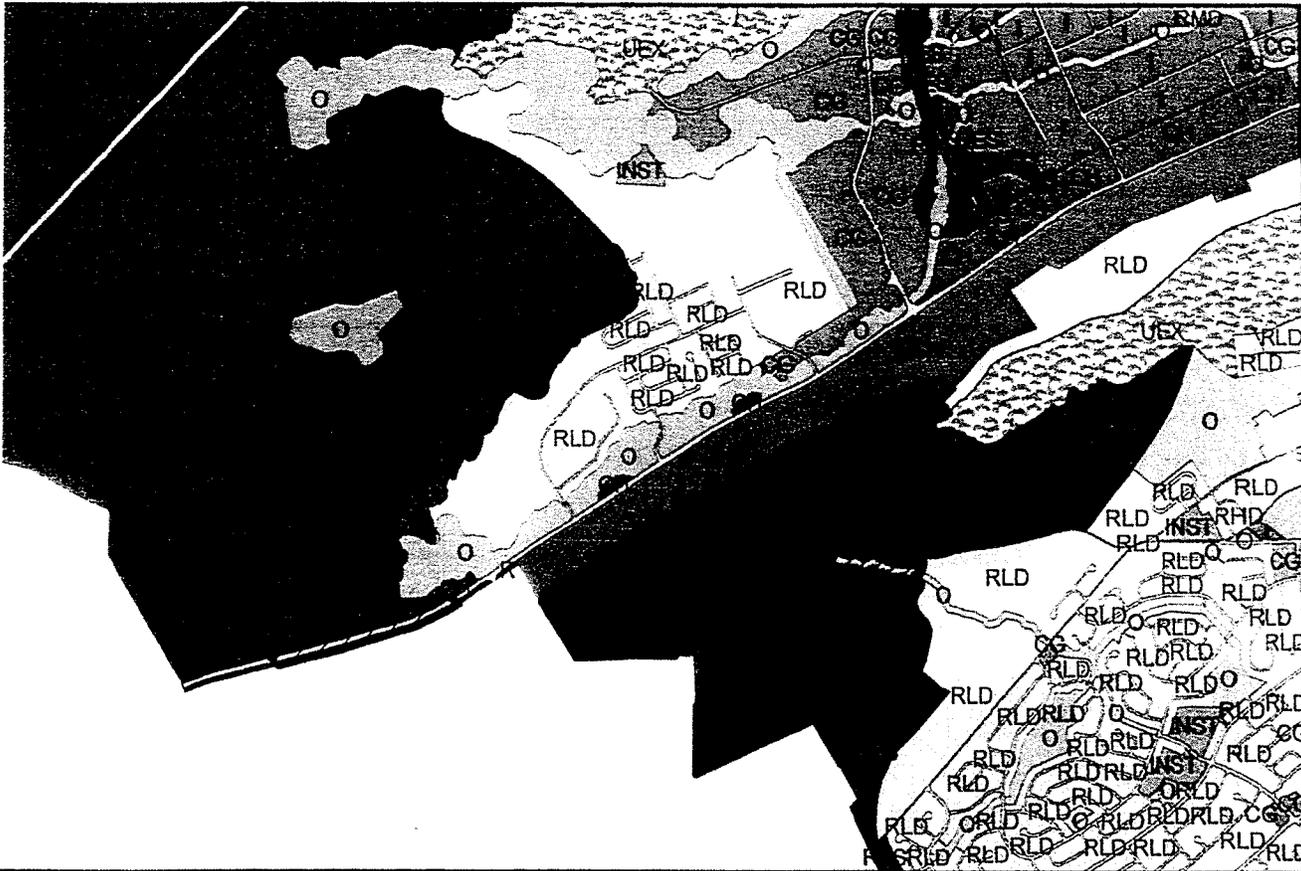
January 16, 2012

Council Adoption

Cliff Johnston

M.C.I.P. signature and seal

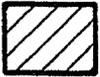
Provincial Registration



**CITY OF ST. JOHN'S
MUNICIPAL PLAN
Amendment No. 69, 2012
[Map III-1A] Map 2 of 2**

2012 17 01 SCALE: 1:30000
CITY OF ST. JOHN'S
DEPARTMENT OF PLANNING

I hereby certify that this amendment
has been prepared in accordance with the
Urban and Rural Planning Act.



AREA PROPOSED TO BE REDESIGNATED FROM
RURAL (R) LAND USE DISTRICT TO
URBAN DEVELOPMENT - SOUTHLANDS/
KENMOUNT LAND USE DISTRICT



AREA PROPOSED TO BE REDESIGNATED FROM
RESTRICTED (RES) LAND USE DISTRICT TO
URBAN DEVELOPMENT - SOUTHLANDS/
KENMOUNT LAND USE DISTRICT



Cliff Johnson

M.C.I.P. signature and seal

Dennis O'Keefe

Mayor

Rhonda Bartlett

N City Clerk

January 16, 2012

Council Adoption

Provincial Registration

**PROPOSED RESOLUTION
ST. JOHN'S DEVELOPMENT REGULATIONS
AMENDMENT NUMBER 457, 2012**

WHEREAS the City of St. John's wishes to make provision for potential future urban development of lands located above the 190 metre contour in the Southlands area and the Kenmount Road area.

BE IT THEREFORE RESOLVED that the City of St. John's hereby adopts the following text and map amendments to the St. John's Development Regulations pursuant to the provisions of the Urban and Rural Planning Act, 2000:

1. Repeal Section 5.1.4 – Development Above the 190 Metre Contour Line and replace it with the following new Section.

“5.1.4 Development Above the 190 Metre Contour Line

Notwithstanding the provisions of Section 10 – the Comprehensive Development Area – Southlands (CDA – Southlands) Zone and the Comprehensive Development Area – Kenmount (CDA – Kenmount) Zone, no residential development utilizing municipal water and/or sewer services or on-site water and/or sewer services, shall be permitted above the 190 metre contour line.”

2. Add two new Zones to Section 10 of the Regulations.

- a) **“Comprehensive Development Area – Southlands (CDA – Southlands) Zone.**

Permitted Uses

- (a) Existing Uses
- (b) Reconstruction and replacement of and additions to existing buildings provided that Council may refuse permission for a replacement or reconstruction or addition if Council is of the opinion that such a Development would adversely affect the development of the Comprehensive Development Area.

With the exception of uses listed above, no Development may be permitted in this Comprehensive Development Area until such time as the City's Department of Engineering determines that the area is available for serviced urban development. Council will consider the rezoning of lands in this Comprehensive Development Area to an appropriate zone to accommodate a development.”

- b) **“Comprehensive Development Area – Kenmount Road (CDA – Kenmount) Zone**

Permitted Uses

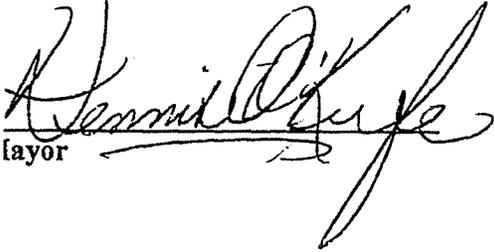
- (a) Existing Uses
- (b) Reconstruction and replacement of and additions to existing buildings provided that Council may refuse permission for a replacement or reconstruction or addition if Council is of the opinion that such a Development would adversely affect the development of the Comprehensive Development Area.

With the exception of uses listed above, no Development may be permitted in this Comprehensive Development Area until such time as the City's Department of Engineering determines that the area is available for serviced urban development. Council will consider the rezoning of lands in this Comprehensive Development Area to an appropriate zone to accommodate a development."

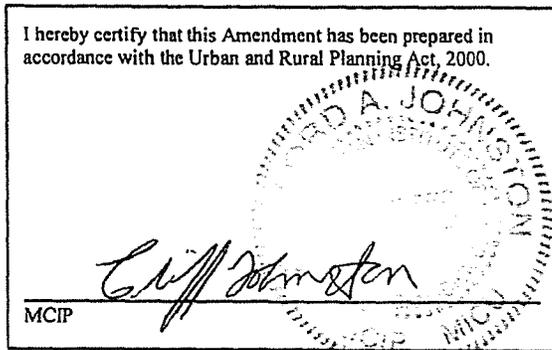
3. Rezone lands in the Southlands area from the Rural (R) Zone to the Comprehensive Development Area – Southlands (CDA-Southlands) Zone as shown on the Map Z-1A attached.
4. Rezone lands in the Kenmount Road area from the Rural (R) Zone, the Open Space Reserve (OR) Zone and the Open Space (O) Zone to the Comprehensive Development Area – Kenmount (CDA-Kenmount) Zone as shown on Map Z-1A attached.

IT FURTHER RESOLVED that the City of St. John's requests the Minister of Municipal Affairs to register the proposed amendment in accordance with the requirements of the Urban and Rural Planning Act, 2000.

WITNESS THEREOF the Seal of the City of St. John's has been hereunto affixed and this Resolution has been signed by the Mayor and the City Clerk on behalf of Council this 16th day of January, 2012.


Mayor


City Clerk



Provincial Registration



**CITY OF ST. JOHN'S
DEVELOPMENT REGULATIONS
Amendment No. 457, 2012
[Map Z-1A] Map 2 of 2**

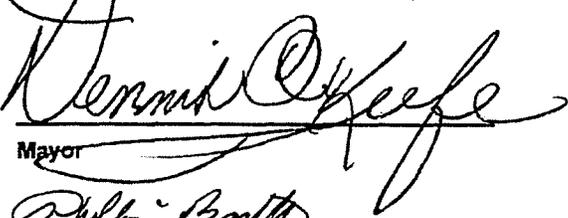
2012 17 01 SCALE: 1:25000
CITY OF ST. JOHN'S
DEPARTMENT OF PLANNING

I hereby certify that this amendment
has been prepared in accordance with the
Urban and Rural Planning Act.

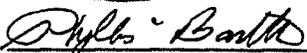
 AREA PROPOSED TO BE REZONED FROM
RURAL (R) LAND USE ZONE TO
COMPREHENSIVE DEVELOPMENT AREA -
KENMOUNT (CDA-KENMOUNT) LAND USE ZONE

 AREA PROPOSED TO BE REZONED FROM
OPEN SPACE RESERVE (OR) LAND USE ZONE TO
COMPREHENSIVE DEVELOPMENT AREA -
KENMOUNT (CDA-KENMOUNT) LAND USE ZONE

 AREA PROPOSED TO BE REZONED FROM
OPEN SPACE (O) LAND USE ZONE TO
COMPREHENSIVE DEVELOPMENT AREA -
KENMOUNT (CDA-KENMOUNT) LAND USE ZONE



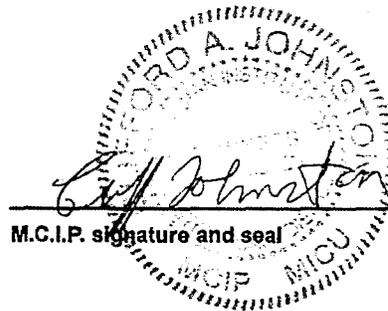
Mayor



City Clerk

January 16, 2012

Council Adoption



M.C.I.P. signature and seal

Provincial Registration

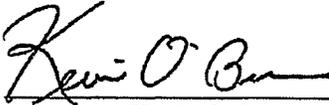
**ST. JOHN'S URBAN REGION REGIONAL PLAN
PLAN AMENDMENT No. 2, 2012**

January 2012

URBAN AND RURAL PLANNING ACT
RESOLUTION TO ADOPT
ST. JOHN'S URBAN REGION REGIONAL PLAN AMENDMENT No. 2, 2012

I, Kevin O'Brien, Minister of Municipal Affairs, under the authority of Section 16 of the *Urban and Rural Planning Act 2000* adopt the St. John's Urban Region Regional Plan Amendment No. 2, 2012.

Signed at St. John's Newfoundland and Labrador this 16th day of January, 2012.



Kevin O'Brien
Minister of Municipal Affairs

ST. JOHN'S URBAN REGION REGIONAL PLAN

AMENDMENT No. 2, 2012

BACKGROUND

The City Council of the City of St. John's is proposing to implement Municipal Plan Amendment No. 69, 2011 and Development Regulations Amendment No. 457, 2011. The proposed amendments are intended to accommodate comprehensive urban developments. There are two primary areas proposed for future comprehensive development. The first area sits either side of Kenmount Road towards the western boundary of the City of St. John's that is shared with the Town of Paradise. The second area proposed for comprehensive urban development is bound by the existing Southlands residential development to the east, Pitts Memorial Drive to the north, and the Trans Canada Highway to the west. It is intended that development in these areas would be serviced with municipally piped water and sewer services.

St. John's Municipal Plan Amendment No.69, 2011 would re-designate lands from the Rural and Restricted Land Use Districts to the new Urban Development – Southlands/Kenmount Land Use District.

St. John's Development Regulations Amendment No. 457, 2011 would re-zone lands from Rural, Open Space and Open Space Reserve to the Comprehensive Development Area – Southlands and Comprehensive Development Area – Kenmount Land Use Zones.

The St. John's Urban Region Regional Plan (SJURRP) sets out a framework for growth and development within the St. John's Urban Region. Municipal Plans prepared by municipalities in the St. John's Urban Region must be consistent with the Regional Plan. In order to accommodate the proposed amendments to the City of St. John's Municipal Plan, amendments to land use designations on three areas of the Regional Plan Map are required to bring the amendments into compliance: Southlands Area, Kenmount Road Area (North), and Kenmount Road Area (South). The implications of amending the SJURRP for each of these three areas are as follows:

Southlands Area:

The Regional Plan designates land in the area of the proposed urban development area primarily as Rural with a small overlay of Productive Forest. While the Regional Plan Map illustrates that there is a small parcel of land designated "Productive Forest", this designation was previously superseded and the change in designation is purely a mapping exercise as the policy remains pertinent only to Crown Lands. In accordance with the SJURRP, "whilst it is the intent of the SJURRP to conserve and protect the limited forestry resources in the Region, it is not intended that Forestry use should be enforced on

any private lands in the St. John's Region".

Comprehensive urban development that is serviced with municipally piped water and sewerage services is not permitted in the SJURRP Rural designation. To accommodate the proposed amendment, the lands designated "Rural" and "Productive Forest" in the Regional Plan would require amendment to "Urban Development".

Kenmount Road area (North):

The Regional Plan designates land in the area of the proposed urban development area primarily as Rural. Comprehensive urban development that is serviced with municipally piped water and sewerage services is not permitted in the SJURRP Rural designation.

Three small parcels of land in this area are designated "Restricted" by the Regional Plan. This designation is intended to restrict development of lands with physical constraints, such as steep slopes, wet soil conditions, watercourses or other hazards. Provincial interests in this regard can be addressed through regulatory controls in the development process.

The Regional Plan Map illustrates a general designation boundary for Watershed Protection and does not accurately reflect the area contained within the City's designated watershed area. The amendments to the Regional Plan Map are to reflect more accurately the area designated "Watershed Protection".

To accommodate the proposed amendment, the lands designated "Rural", "Restricted", and "Watershed Protection" in the Regional Plan would require amendment to "Urban Development".

Kenmount Road area (South):

The Regional Plan designates land in the area of the proposed urban development area primarily as Rural. A block of land contained within the parcel was previously amended to Urban Development. Comprehensive urban development that is serviced with municipally piped water and sewerage services is not permitted in the SJURRP Rural designation. To accommodate the proposed amendment, the lands designated "Rural" in the Regional Plan would require amendment to "Urban Development".

PUBLIC CONSULTATION

During the preparation of this amendment the City of St. John's Council undertook a public consultation process, seeking comments or representations from the public on the proposed amendments to the Municipal Plan and the Regional Plan as part of a simultaneous process. As part of the process, the City provided consultation opportunity for the other municipalities in the Northeast Avalon subject to the St. John's Urban Region Regional Plan, as well as for CBCL Limited, a consulting company engaged in

the Regional Plan review. Public notices were published in *The Telegram* newspaper on April 1 and 4, 2009, posted on the City's website, and the draft amendment was on display at St. John's City Hall. A public information session was held at St. John's City Hall on April 14, 2009.

AMENDMENT No. 2, 2012

Southlands Area: The St. John's Urban Region Regional Plan is amended by re-designating land east of the Trans Canada Highway and south of Pitts Memorial Drive from "Rural" and "Productive Forest" to "Urban Development" as shown on the attached map.

Kenmount Road Area (North): The St. John's Urban Region Regional Plan is amended by re-designating land in the Kenmount Road Area (North) (located to the north of Kenmount Road and west of the Kenmount Terrace residential area) from "Rural", "Restricted" and "Watershed Protection" to "Urban Development" as shown on the attached map.

Kenmount Road Area (South): The St. John's Urban Region Regional Plan is amended by re-designating land in the Kenmount Road Area (South) (located to the south of Kenmount Road, just east of the boundary with the City of Mount Pearl) from "Rural" to "Urban Development" as shown on the attached map.

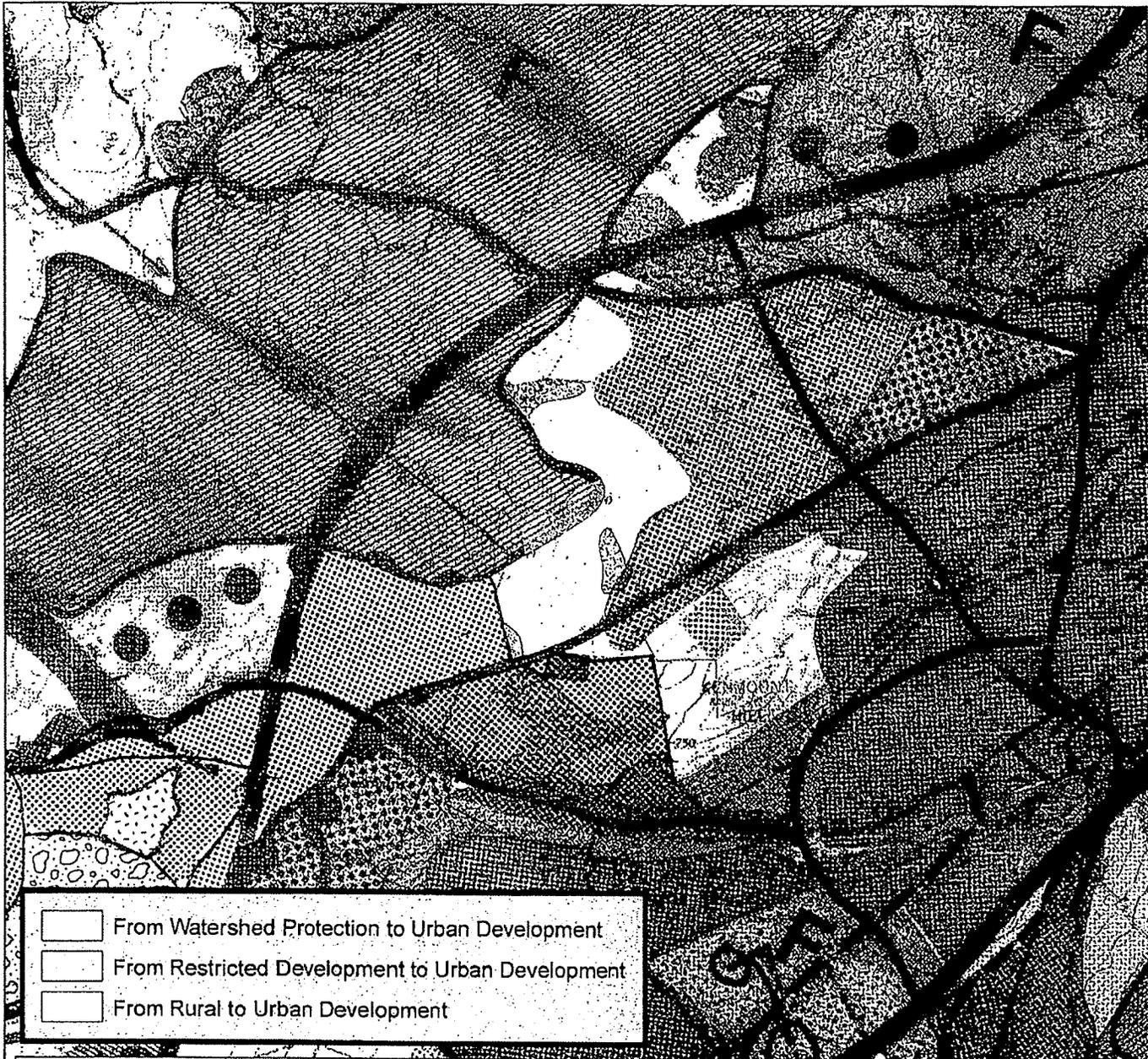
CANADIAN INSTITUTE OF PLANNERS CERTIFICATION

I certify that the attached St. John's Urban Region Regional Plan Amendment No. 2, 2012 has been prepared in accordance with the requirements of the Urban and Rural Planning Act, 2000.

MCIP:



(MCIP Seal)

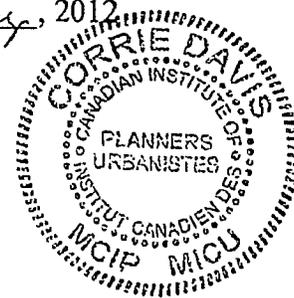


St. John's Urban Region Regional Plan

Amendment No. 2, 2012

Dated at St. John's this 16th day of January, 2012

Kevin O'Brien, Minister of Municipal Affairs



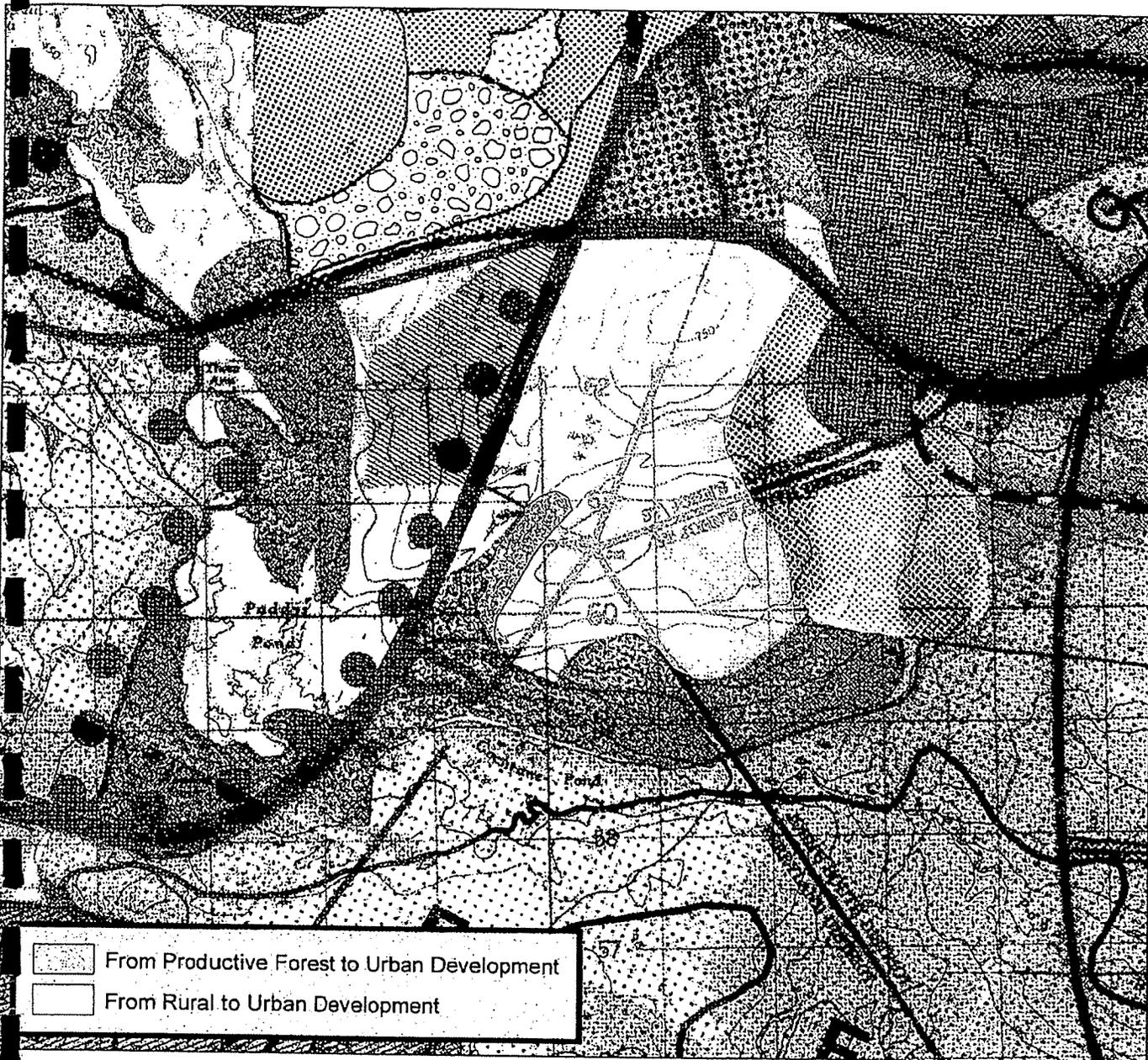
CANADIAN INSTITUTE OF PLANNERS CERTIFICATION:

I certify that the attached St. John's Urban Regional Plan Amendment No. 2, 2012 has been prepared in accordance with the requirements of the Urban and Rural Planning Act.

MCIP:



1:50,000



St. John's Urban Region Regional Plan

Amendment No. 2, 2012

Dated at St. John's this 16th day of January, 2012

Kevin O'Brien

Kevin O'Brien, Minister of Municipal Affairs

CANADIAN INSTITUTE OF PLANNERS CERTIFICATION:

certify that the attached St. John's Urban Regional Plan Amendment No. 2, 2012 has been prepared in accordance with the requirements of the Urban and Rural Planning Act.

MCIP: *Alison*



1:50,000

St. John's Urban Region Regional Plan Amendment
Number 2, 2012

St. John's Municipal Plan Amendment Number 69, 2011

St. John's Development Regulations Amendment
Number 457, 2011

Development of Lands Above the 190 Metre Contour

Report on the Public Hearing
14 February, 2012

Christopher Sharpe
Commissioner

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General Intent of the Proposed Amendments

The general intent of the amendments which were adopted by the Municipal Council at its regular meeting of 16 January, 2012, and which the City now wishes to have registered, is to permit future urban development serviced with municipal water and sewer, in two areas where such development is prohibited at present. The two areas, one referred to as the Southlands area and the other, on Kenmount Road, as the South-West Development Area (hereafter SWDA), are currently off-limits to urban development because they lie above the 190 metre elevation which defines the upper limit of development. The provenance of this restriction is unknown but it has been in effect for many years. There is no reference to it in the text of the 1976 St. John's Urban Region Regional Plan (hereafter SJURRP), but it is implicit. The maps which form part of the SJURRP designate all lands above this height in such a way as to prohibit urban development. The St. John's Municipal Plan was amended to include a reference to this development prohibition in 2003.

The proposed changes to the St. John's Municipal Plan and Development Regulations would require two Map Amendments to the SJURRP, the introduction of a new Land Use District to the Municipal Plan and the addition of a two new Comprehensive Development Areas to the Development Regulations.

Proposed Amendments

St. John's Urban Region Regional Plan Amendment No. 2, 2012.

1. Re-designate land east of the Trans-Canada Highway, south of Pitts Memorial Drive from 'Rural' and 'Productive Forest' to 'Urban Development';
2. Re-designate land south of Kenmount Road, east of the boundary with the City of Mount Pearl from 'Rural' to 'Urban Development';
3. Re-designate land north of Kenmount Road, east of the boundary with the Town of Paradise from 'Watershed Protection' and 'Restricted Development' to 'Urban Development'.

St. John's Municipal Plan Amendment No. 69, 2011:

1. Introduce a new Land Use District entitled 'Urban Development-Southlands/Kenmount Land Use District' to Part III of the Municipal Plan;
2. Delete Section 5.2.4, Part IV 'Servicing Limits – Planning Area 9 – South West Expansion Area'; and
3. Re-designate lands in the Southlands and Kenmount Road areas from 'Rural' and 'Restricted' Land Use Districts to 'Urban Development', and amend Map IV-3 ('Southwest Expansion Area Development Concept') to reflect the new designations.

St. John's Development Regulations Amendment No. 457, 2012.

1. Repeal Section 5.1.4 'Development above the 190 metre contour line' and replace it with the following:

'Notwithstanding the provisions of Section 10 – the Comprehensive Development Area – Southlands (CDA-Southlands) Zone and the Comprehensive Development Area – Kenmount (CDA-Kenmount) Zone, no residential development utilizing municipal water and/or sewer services or on-site water and/or sewer services, shall be permitted above the 190 metre contour line'.

2. Add two new Zones to Section 10 of the Regulations:

a) Comprehensive Development Area – Southlands (CDA-Southlands Zone)

Permitted Uses:

- a) Existing uses
- b) Reconstruction and replacement of and additions to existing buildings provided that Council may refuse permission for a replacement or reconstruction or addition if Council is of the opinion that such a Development would adversely affect the development of the CDA.

With the exception of uses listed above, no Development may be permitted in this CDA until such time as the City's Department of Engineering determines that the area is available for serviced urban development. Council will consider the rezoning of lands in the CDA to an appropriate zone to accommodate a development.

b) Comprehensive Development Area – Kenmount Road (CDA-Kenmount) Zone

Permitted Uses:

- a) Existing uses
- b) Reconstruction and replacement of and additions to existing buildings provided that Council may refuse permission for a replacement or reconstruction or addition if Council is of the opinion that such a Development would adversely affect the development of the CDA.

With the exception of uses listed above, no Development may be permitted in this CDA until such time as the City's Department of Engineering determines that the area is available for serviced urban development. Council will consider the rezoning of lands in the CDA to an appropriate zone to accommodate a development.

3. Rezone lands in the Southlands area from the 'Rural' (R) Zone to the CDA – Southlands (CDA-Southlands) Zone.
4. Rezone lands in the Kenmount Road area from the Rural (R) Zone, the Open Space Reserve (OR) Zone and the Open Space (O) Zone to the CDA – Kenmount (CDA-Kenmount) Zone.

Provincial Release

In a letter dated 16 January, 2012, Mr. Corrie Davis, Manager, Land Use Planning, Department of Municipal Affairs, Engineering and Land Use Planning Division informed the Director of Planning for the City of St. John's that the three proposed amendments did not conflict with any stated provincial policies. He therefore released them from Provincial review.

Appointment of the Commissioner

On January 16, 2012 I was appointed by the City as the Commissioner to hold a public hearing and write the subsequent report. On the same day the Minister of Municipal Affairs, Mr. Kevin O'Brien, appointed me his Commissioner to conduct a public hearing regarding the proposed amendment to the St. John's Urban Region Regional Plan. He and City staff had agreed that a joint hearing to consider both the Provincial and Municipal amendments should be held, and a single report written. His letter also included the following authorization:

Although the proposed amendment to the St. John's Urban Region Regional Plan is localized in nature, I recognize that the magnitude of the proposal may have broader regional implications. Should you wish to explore those regional implications and provide comment or recommendation on how the regional impacts could be addressed or mitigated, I would welcome such advice.

Advertisement of the Public Hearing

All requirements of the Urban and Rural Planning Act regarding the notification of potentially affected parties and public advertisement were met. Two advertisements were placed in the *St. John's Telegram* on January 25 and 28 and a notice of meeting was posted on the City's website. In addition, 2,500 notices were mailed to property owners and residents in the Southlands area and on Blackmarsh and Kenmount Roads, including those in the Kenmount Terrace development.

Planning Issues

The planning issues raised by the City's proposed amendments can be summarized under two headings. First, if development above the 190m contour was once thought either to be so undesirable, or impossible, that it was proscribed, what has changed? Second, how would the

development of one or both of the Kenmount and Southlands areas relate to the goals of the St. John's Urban Region Regional Plan and of the St. John's Municipal Plan?

1. Development above the 190m contour.

Three major issues need to be considered here: the supply of potable water, the disposal of sanitary sewage, and the disposition of storm water. Because I am not an engineer, I cannot definitively assess the validity of the several relevant reports, some prepared by the Engineering Department of the City, and some by external consultants, which deal with questions related to the provision of water and sewer services to these areas. But, having read the reports carefully, and having sought expert advice to clarify some of the issue, I offer the following observations.

Water Supply:

The conclusion reached by a recent report on the water supply situation is that 'there is no technical reason why areas above the 190 metre contour cannot be serviced with water'. (BAE-Newplan, 2009: 18) Water usage in St. John's is in the medium to high range when compared with other municipalities which have metered supply. However, conservative yield estimates, based on data from the driest periods (and assuming no drastic changes in precipitation regime in the near future) indicate that there is a plentiful supply. The current supply from Bay Bulls Big Pond, plus the yield from Petty Harbour Long Pond, when it comes back on stream in 2013, will be approximately 124,000 cubic metres per day (cm/d). Taking projected population growth in areas currently zoned for development into account, there are almost 46,000 cm/d surplus to current requirements. Full development of the Southlands and SWDA will require an estimated 24,000 cm/d. (Newfoundland Design Associates, 2007 and BAE-NewPlan, 2009).

It is worth noting the consultant's statement that '...development above the 190 metre contour will not change water demand. It just means you have more areas available for development, thus competing for the population growth.' (BAE-Plan, 2009: 18) The question of whether opening these lands for urban development would lead to new population growth, or merely redistribute it is one to which I will return later.

Sanitary Sewers:

The sewage that would be generated by new developments in Southlands would be accommodated by the Waterford Valley Sanitary Trunk sewer. The current estimate, based on all land zoned for urban development in 2009 as well as all the land over 190 metres that could be developed if these amendments are registered, a residential density of 40 persons/gross hectare, and a production rate of 275 litres/capita/day, indicate a surplus capacity of 668 litres/second (l/s).

There are about 55 hectares of developable land above 190m in Mount Pearl and about 50 hectares in Paradise. The combined sewage output from these areas would be about 52 l/s. The

estimated output from the Southlands area, when developed, would be about 140 l/s. There is, then 'sufficient capacity in the Waterford Valley system to allow the zoning request desired by the City and to rezone all areas between 190 and 220 metres in Mount Pearl and Paradise'. (BAE-Newplan, 2009: 7)

The areas in the SWDA above 190m would generate an additional flow into the Rennie's River catchment area of about 107 l/s, according to current design criteria. A 2007 report by the City of St. John's Engineering Department concluded that there is adequate capacity to accommodate this flow. (City of St. John's, 2007: 5).

Storm Sewers:

The developable lands above the 190m contour in Southlands are in the Waterford River catchment area, and those in the SWDA in that of Learys Brook/Rennie's River. The City's report on the potential to provide services to lands above the 190m contour contains the following statement: 'It is assumed that new developments above 190m would direct storm water to the nearest watercourse, and would not place any strain on the existing storm sewer system.' (City of St. John's, 2007: 6).

The implications of this statement, which are at odds with admonitions made elsewhere in this, and other reports, are dealt with in more detail below. For now I will simply emphasize the point made in several reports, that *there is no downstream capacity in the Waterford River or Leary's Brook/Rennie's River catchments to handle any increase in storm water runoff*. All the bridges and culverts in the system were designed to handle only the runoff from areas below 190m and runoff from lands above 190m cannot exceed the current rate. All new developments must be held to a zero-net runoff increase policy. The need for legislation to control stormwater runoff was highlighted by the City Engineer in his presentation at the 2009 public meeting (City of St. John's, 2009: 2) and reiterated since, but no policy has yet been proposed. To accomplish the desired outcome will require either the construction of underground concrete chambers or above-ground detention ponds. It is noted that ponds would be the more economical alternative, but that they 'require large areas of land and have safety and aesthetic issues'. (City of St. John's, 2007: 6).

The controlled management of stormwater in St. John's was not a high priority item in the past, and trying to ameliorate some of the most serious problems which have resulted from this neglect has been an expensive business. The designs for the Avalon Mall, the O'Leary Avenue Industrial Park and both the Kelsey Drive and Stavanger Drive power centres apparently did not factor it in. As a result, Leary's Brook and Rennie's Mill River have essentially become channelized storm sewers. The rapid intake of peak stormwater influx causes them to rise, and then fall, quickly – and overtopping of their banks is not uncommon. However, when Sobey's built their new store on the Howley Estate site, they were required to build underground cisterns

to collect all the rainwater from the roof and the parking lot, store it, and then mete it out slowly into the storm sewer on Torbay Road and Kenna's Hill. This has apparently helped to alleviate the problem, although the aged infrastructure is still not always able to cope with the demands placed upon it. The recent problems caused by the failure of some segments of the old underground system, on Portugal Cove Road and elsewhere, have drawn attention to one part of the problem. Unfortunately the heavy load placed by heavy runoff on the natural watercourses in the city is less commonly appreciated.

If development above the 190m contour is to be permitted *the requirements for stormwater management must be legislated in advance*. In fact, although it exceeds my mandate to write this, I believe the City should develop a policy which requires that for *any* new development in the City, the man-made surfaces should contribute no more to stormwater run-off than the pre-development natural ground surfaces. How this could be accomplished is a matter for the City's engineering staff to consider – something that I think they would be pleased to do.

Infrastructure Costs:

A recent briefing paper says 'it is the present policy of the City that the cost of all infrastructure required to service any lands located above the 190m elevation that are developed will be the responsibility of persons developing those lands' (City of St. John's, 2007: 7). I believe that the reference to a 'policy' is premature. While it is the recommendation of city staff that this be the case, and may well be the current practice, I do not believe that a formal policy exists. I will return to this issue in a later section of this report.

2. Compliance with Planning Policies

a) The St. John's Urban Region Regional Plan

Redesignation of these two areas for urban development would comply with several of the Plan's objectives, notably:

B.5 To prevent development that will require disproportionately expensive public services because of location or use ...

B.6 To prevent the continuation of 'ribbon development' along the main roads and highways of the region;

B.11(e) To allow for and to encourage the fullest growth and development of individual communities within the Region within limits set by: the amount of infilling possible within presently developed areas;

B.12 To encourage development to concentrate within defined urban areas;

B.13 To recognize the position of St. John's as the region's dominant centre.

It will also support the model on which the Plan is based, namely the creation and maintenance of a concentrated form of development, 'recognizing the advantages of developing areas adjacent to St. John's as opposed to directing significant additional growth beyond the infilling level to existing settlements outside the present urban area (i.e. the 1971 boundaries).

Finally, it would comply with the fundamental aim of creating a strong regional centre. The Plan considers (p. 8) that the 'Mount Pearl/New Town area ... is essentially an extension of St. John's itself and is therefore considered as part of the Regional Centre'. It goes on to say (p. 11) that several areas within the Centre but outside the 1971 boundaries 'are effectively natural extensions of the City that are to be supplied with full urban services'. Both the SWDA and the Southlands area are such areas.

Most of the land in question is currently designated for 'Rural Uses' in the SJURRP. Removing it from this designation would suggest that it is no longer reasonable or necessary to maintain the existing restrictions. This is the case. The 'Rural Use' designation is intended to provide for residential and other forms of development in a rural environment, so long as they do not lead to an erosion of rural quality. Specifically, development dependent on piped water and sewer services is not permitted. In the words of the Plan (Section F (b), p. 14) 'not everyone wants to live close to their neighbours, and ... some people value an area of open space around their home more than the availability of piped water supply and sanitary sewers.' Amendment no. 4 (1994) added a 'rural residential' policy to the Plan but prohibited residential development sufficiently dense 'to exceed that which may be considered to be inconsistent with the traditional rural use of the area concerned, or that which could conceivably lead to a requirement, on public health grounds, for the installation of municipal services'. (p. 15). Furthermore it is required that any site developed for residential uses must have 'adequate soil conditions and a supply of groundwater to ensure safe and sanitary operation of on-site wells and sewage disposal for each lot in the development for all time' (F.B (d), p. 16). Thus, if the City is to have the opportunity in future to consider development proposals for the two areas in question, their designation as 'Rural' must be amended.

The proposed amendments to the SJURRP require that small parcels of land be taken out of the 'Watershed Protection', 'Productive Forest' and 'Restricted' districts. This does not mean that productive forest areas will be destroyed, or that watersheds will be imperiled. The Forestry Policy statement (1978), now incorporated in the Plan as Section F (f) clearly states that Forestry use was never intended to be enforced on any private lands in the Region 'since there are no areas of privately owned land of sufficient size to form the basis for a forestry industry'. So the removal of the one small designated area will not violate the intent of the Plan.

One small area is to be removed from the 'Watershed Protection' district. This simply reflects the more accurate mapping which has been undertaken since the original Plan maps were

produced. Areas designated as 'Restricted' in the Plan are those that have physical constraints which make development for urban purposes impossible. The Minister has agreed that 'Provincial interests in this regard can be addressed through regulatory controls in the development process'.

b) The St. John's Municipal Plan

Designation of a new Land Use District covering the two areas in question would comply with some of the general objectives of the Plan, and would give Council the ability to meet several others in the future, if and when specific development proposals have been submitted. In particular these are:

- 1.1 encourage compact urban form (and) ensure orderly development in new areas;
- 1.2.2 encourage increased density in all areas where appropriate;
- 1.2.3 (2) encourage a compatible mix of residential buildings of varying densities in all zones;
- 1.2.3.(4) minimize sprawl by encouraging large-scale integrated development in all expansion areas; and
- 1.2.4 encourage a mixture of land uses in all areas.

Part of the area in the SWDA, originally defined in 1973 (City of St. John's, 2007: 2) is already incorporated in Planning Area 9 – 'Southwest Expansion Area' (Section IV (5) of the Plan), and a conceptual Planning Area Development Plan (PADP) has been developed. However this plan does not include any areas above the 190m contour, and would therefore have to be amended to bring them in.

In 1987 the Newfoundland and Labrador Housing Corporation began planning for future development of that part of the Southlands area lying below the 190m contour. At that time about two-thirds of the area was inside the boundaries of the City of Mount Pearl, but in 1992, Provincial modification of municipal boundaries led to the entire area being transferred to St. John's. The total Southlands area covers about 1800 hectares, and the existing Southlands residential area takes up about 13 percent (240 hectares) of it. About 73 percent of the total area (approximately 1300 hectares) remains designated as 'rural'.

Planning Area 20 (Southlands) does not incorporate the lands which would be designated as 'Urban Development-Southlands/Kenmount' District. As in the case of PA 9, they were not included because they are out of bounds for development due to their elevation. For the same reason, the NLHC never developed a conceptual plan for the area. The potential future development of this area, assuming the proposed amendments are approved, should provide an incentive to expand the boundaries of PA 20 and prepare a conceptual plan for the area, well in advance of its development.

The Hearing

The hearing took place in the Foran Room of St. John's City Hall on Valentine's Day, Tuesday, 14 February, 2012. Approximately 80 people were in attendance, including four members of City Council (Councillors Hann, Galgay, Duff and Hickman) and several members of City staff (Robin King, Walt Mills and Dave Wadden from the Department of Engineering, Cliff Johnston, Ken O'Brien and Joe Sampson from the Department of Planning and Lynann Winsor from the Office of the City Solicitor).

The hearing began at 1900 hours. I made some introductory remarks, stressing that this was not a public briefing session, nor an opportunity for members of the audience to engage in debate with members of City staff. I also made it clear that the proposed amendments were not intended to permit a specific development to proceed, since no such application had been received by the City. If approved, the amendments would simply permit urban development in areas where it is currently proscribed. I then asked Mr. Johnston to outline the nature and implications of the City's proposed amendments. He presented a very thorough explanation, using a clean and comprehensive PowerPoint presentation.

Fourteen written submissions were received prior to the commencement of the hearing. Copies are attached to this report. I called on the authors of each of these submissions in turn, asking whether they wished to add any additional comments to those which I already had in my possession. A few did so. I then opened the floor to oral representations, and four people took the opportunity to make their concerns known.

Both the written and oral representations and objections are summarized in the following section of this report.

Objections and Representations

Written Objections and Representations Received Prior to the Hearing (in chronological order):

1. Ann Newhook .

Ms. Newhook wrote to the City Manager on 22 January, in response to a newspaper article. She asked that consideration be given to releasing her 18 acres of undeveloped land in Airport Heights from the prohibition on development above the 190 metre contour. Since consideration of her land was outside the scope of this hearing, I have taken no notice of this representation. The City Manager, Robert Smart, replied to her on 20 February, 2012. A copy of his letter is attached to this report.

2. Acreage Investments (Steve Saunders and Nevin Hollett).

This one-sentence letter informed the City Clerk that Messrs. Saunders and Hollett would attend the hearing 'as we have lands that are affected by this rezoning'. They were present, but declined my offer of the opportunity to make an oral representation.

3. Berjon Holdings (Bert Hickman).

Mr. Bert Hickman's letter, dated 8 February, expresses support for the proposed re-designation and rezoning of the land in the South-West Development Area. He believes that it would 'benefit the overall economy and development potential of St. John's and the region.' He is the co-owner, along with GH Investments, of a 68-acre parcel of land on the north side of Kenmount Road, just west of the intersection of Wyatt Boulevard. He wrote that land for 'properly zoned and accessible commercial and light industrial sites is depleting in the City of St. John's area'. Opening this land for development would 'complete the current planning land use gap between the Topsail Road development areas and the commercial/residential developments existing more east on Kenmount Road. This would result in "infilling" and containing future development, therefore, preventing urban sprawl'.

He noted that Berjon Holdings Inc. and GH Investments Limited had submitted a formal application for development of a parcel of land above the 190 metre contour on 1 September, 2011.

He and Mr. Glenn Hickey were present at the hearing, but declined my offer of an opportunity to provide any further explication of their representation.

4. G.H. Investments (Glenn Hickey).

See the preceeding notes re Berjon Holdings. The letter from Mr. Hickey was identical to Mr. Hickman's.

5. Malcolm Jewer, concerned resident of Kenmount Terrace.

Mr. Jewer wrote to express his concern at what he characterizes as the 'gravel wasteland' that has been created to the west of Kenmount Terrace. He complains that the land has been clear-cut and that no buffer zone, walking trails or playgrounds have been planned. He asks that if the land above 190 metres is opened for development, that the City 'require the developers to include and pay for green spaces, a park and suitable playgrounds. I also implore the planners to leave some existing trees'.

Mr. Jewer did not attend the hearing.

6. City of Mount Pearl.

On February 10 the Chief Administrative Officer of the City of Mount Pearl wrote to say that the City would be making a submission. Mr. Stephen Jewcyk, Director of Planning and Development sent a letter on February 14, and made an oral representation during the hearing. The City of Mount Pearl has no objections, in principle, to the proposed amendment to the SJURRP, or to the proposed amendments to the St. John's Municipal Plan. However, in the absence of a specific development proposal it is impossible for his office to make a final determination of whether Mount Pearl could support the proposed changes to the Development Regulations. For this reason the City Council of Mount Pearl does not support the rezoning process proposed by the City of St. John's. He reiterated the point made in his letter that this site could accommodate a development that would be approximately 60% of the current size of Mount Pearl, and that its implications – for water and sewer provision and road infrastructure – will need to be fully assessed when details become available. If the City's proposed amendments to the Municipal Plan are approved and registered, subsequent zoning amendments could be undertaken in the absence of a public hearing. The crux of his argument is:

Considering the size and scale of the Southlands development and the limited information available at this stage of the process, the City Council of Mount Pearl is of the view that the rezoning process as proposed by St. John's as part of this amendment is an insufficient mechanism for further meaningful input by the City of Mount Pearl. It is the Mount Pearl Council's recommendation that, when additional land use, servicing, and transportation information is available, a secondary plan or comprehensive development scheme for the Southlands area be prepared and adopted for the lands pursuant to the provision of the Urban and Rural Planning Act. While this process would include the need for the holding of a further public hearing, and thereby an extended review process, this approach would provide the City Council of Mount Pearl with sufficient detailed information to review, which would provide a planning process involving more meaningful discussion and input by the City.

7. Town of Conception Bay South.

Mayor Woodrow French of the Town of Conception Bay South wrote on 10 February to outline several considerations. Some of the points he raises in his letter are based on the fact that in my letter of appointment, the Minister of Municipal Affairs gave me the authority to consider 'the broader regional implications' of the amendments proposed by the City of St. John's. In this context, Mayor French's concerns are:

- a) opening land above the 190 metre contour may accelerate the need for an expansion to the regional water system;
- b) on-going service and maintenance costs for the new water infrastructure required in the Southlands and Southwest Development Area would normally be shared among the members of the St. John's Regional Water Authority. Mayor French asks for a written assurance that the Town of CBS will not be responsible for any charges related to the operation and maintenance of this new infrastructure.
- c) registration of the proposed amendments will remove an existing limit to urban development in the region, thereby modifying growth patterns throughout the region. He notes that 'the Town is already hearing concerns from local developers that projects in CBS may be negatively impacted by the substantial development proposed about the 190 metre contour'.

8. Empire Theatres.

In a letter dated 10 February, Ms. Valerie Ryan, Vice-President, Real Estate and Development for Empire Theatres expressed her support for the proposed amendments. 'Enabling such development to occur will result in new and strategic locations for national retailers, such as our company, to invest in your capital City.' She makes specific reference to the 'proposed Glencrest development' which she characterizes as a 'strategic location for retail development in the City's west end. It is located in a densely populated area and is accessible via major thoroughfares. In addition it provides for a mix of residential, retail and industrial development which is crucial to such a site's success. As a national retailer, I encourage this progressive approach to development and look forward to future investment opportunities in St. John's.'

9. KMK Capital.

Mr. Kevin King, the President of KMK Capital, wrote to me on 10 February to indicate his support of the proposed amendments. He noted that opening of lands above the 190 metre contour 'is necessary to ensure the continued growth and development of St. John's. This approach is both progressive and practical in that it recognized the need for developable land within city boundaries and supports responsible planning and development. ... (otherwise) future development will need to occur in areas far removed from the city's core or beyond the city's boundaries. Such sprawl within municipal boundaries places pressure on municipal service provision and costs, is not environmentally friendly and flies in the face of planning and development best practices.' Mr. King specifically mentions the 'proposed Southlands development, hereafter referred to as Glencrest' and notes that since the east end of St. John's 'is rapidly becoming built-out ... the future expansion of St. John's lies in the west end.' A

summary of the anticipated economic benefits of the Glencrest development is attached to his letter, but as they are irrelevant to the issue before me I will not refer to them further.

10. Newfoundland and Labrador Construction Association.

Mr. Brad Sheppard, First Vice-Chair wrote on 10 February to express strong support for new development in the city. He refers specifically to the potential for new opportunities for growth and development which 'will' result from the Glencrest project, because of the 46,000 person-years of direct and indirect employment which it will create. I note that this same figure was included in Mr. Kevin King's oral presentation.

11. BMT Fleet Technology.

Mr. William Earle wrote on 10 February, representing Messrs. J.V. and Harold Butler who own approximately 81 hectares of land on Kenmount Hill, and who 'fully support' the proposed amendments. A number of the positive aspects which would derive from opening land above 190 metres are:

- a) an opportunity to expand the city's residential base and reduce the population drain to outlying communities. 'Over the past several years less than half of the new house development in the urban region occurred within St. John's. ... The Kenmount Hill area can accommodate approximately 3600 dwelling units providing housing for about 12,600 people.
- b) reduction in travel distance for people living in a development on this land – a reduction of about 7.5 km. daily, or 3,750 km. annually compared with a trip from Paradise. If 3,000 vehicles were to make this trip, it would reduce fuel consumption by 1.35 million litres, thereby eliminating 2,700 tonnes of greenhouse gases. Please note that these data are from Mr. Earles's letter – I have made no effort to validate them.)
- c) there would be a possible increase of \$900 million in assessed residential value, for an annual tax yield of \$91 million.

12. St. John's Board of Trade.

Mr. Steve Power, Chair of the Board of Trade wrote on 10 February to indicate his wish to submit a written representation at the hearing, and to add oral commentary. In his letter and oral comments the following points were made:

- a) The 850-member Board is 'the voice of business' in the city, and strongly supports the City's initiative in lifting the 190m restriction on development, believing it will be of direct benefit to the City, business and residents.
- b) The economy is doing well and the members are confident of significant future demand for developable land.
- c) Land is in increasingly short supply and development of the two areas in question, but especially Southlands, will support the growth of warehousing, light industry and housing.
- d) The parcels of land in question are large, and this will permit comprehensive, well-planned development in the context of regional-scale provision of basic service infrastructure.
- e) Development of these lands will permit the orderly growth of population, and consequent increases in the tax base.

However, the Board noted that any development in the two areas will extend beyond the current limitations of the City's water supply, both in capacity and physical delivery. Because any future development must be of net fiscal benefit to the City, it is important that the City 'demand more from new development' so that it will benefit not only the lifestyles, transportation needs and land-use goals of present, but also future generations.

The Board's submission included a list of what it considers the essential needs to be considered when any development above the 190m level is considered. Such development should:

- be used as an opportunity to promote regionalism of services and infrastructure;
- have strong business case with benefits outweighing the costs to the city and its residents;
- be well-planned and address livability;
- provide access to multiple kinds of transportation;
- consider the interconnectivity of all modes of transportation
- follow clear development regulations with all infrastructure requirements clearly laid out well in advance of development.

The brief concludes by making two recommendations. One is that the City seize this opportunity to fill in a land-use gap along Kenmount Road and to add to the synergy of the existing industrial areas adjoining Southlands. The second struck me as particularly important, considering by whom it was made:

A lack of clarity in current development regulations has hindered project development in the past. Information about the responsibilities of developers related

to providing water and sewer infrastructure, stormwater management, transportation networks and any other amenities required as a part of such development needs to be consistent, defined early in the process and outlined clearly on paper prior to shovels in the ground.

13. Newfoundland and Labrador Oil and Gas Industries Association

In a letter dated February 10, Robert Cadigan, President and CEO of NOIA wrote in support of the proposed amendments. He noted that there is already a shortage of industrial land in the St. John's area, particularly large lots which can accommodate the need for lay-down areas for equipment and containers. The anticipated development of the Hebron field will exacerbate the current shortage. He goes on to say that the proposed Glencrest development

will result in a new industrial site meeting many of the prerequisites of our members. The location of this proposed development promotes the safe and effective use of our road networks. The Glencrest site will not only have direct entry/exit to the Trans Canada Highway but also provides a direct route, via Pitts Memorial Drive, to the capital city's offshore supply base at St. John's harbour.

14. Newfoundland and Labrador Federation of Labour.

Ms. Lana Payne, President of the NLFL wrote on 13 February to express the general support of her organization for the proposed amendments 'as long as the project meets any issues that may arise from such a large-scale development'. She says that opening the two areas for development would provide the land necessary 'to accommodate "Glencrest" and other land development above 190 including Kenmount Road". She notes that

- a) the proposed development will deliver more than 35,000 person-years of employment during construction and will result in a \$4 billion direct investment
- b) St. John's is facing challenges with respect to available, especially 'affordable' housing, as well as space for industrial space. The additional housing 'may serve to somewhat temper (sic) skyrocketing housing prices given the current demand and low vacancy rates.

She raises two points for future consideration:

- a) given the size and scope of the project it makes sense that an affordable housing component be included.

b) given the need to ensure green spaces within the development 'something we understand the developers are more than aware of – we would hope that the urban forest master plan is taken into consideration.

15. Sam Bromley.

Sam Bromley (54 Gil Eannes Drive) is opposed to the lifting of the 190m restriction against development. He reiterated some of the points which he and others raised during the April 14, 2009 public meeting on the issue, i.e. that allowing development above the current maximum elevation will result in increased noise and light pollution, increased traffic with attendant safety problems, flooding and erosion, wind problems, sewer backup problems and the destruction of wildlife habitat. He argued that the green spaces along the tops of the hills which constitute the frame which contains St. John's and its neighbouring communities is a vital component of the city's visual trademark, and contributes in a significant way to its attractiveness to tourists. He pointed out that there have already been two breaches of the height restriction, one in Paradise and one in Mount Pearl, and that there is an undesirable cumulative effect of incremental violations. Development choices made now are forever, but the current economic and population boom is likely to be finite, and that this reality should be borne in mind. He referred specifically to the 'Smart Growth' philosophy which holds that there must be a balance between short-term needs and long-term strategies.

He provided copies of the images found on the 'protectstjohns.wordpress.com' website which suggest what the hills above Kenmount Road might look like if development is permitted to expand to the highest elevations. He did not provide any information about the criteria used in the creation of these images, or the assumptions on which they were based. He also provided a copy of a petition expressing opposition to the lifting of the 190m ban, signed by 49 people, most of them residents of the Kenmount Terrace development. There is also a copy of an on-line petition ('Protect St. John's Hill-tops) bearing 56 names of people whose place of residence is not known. Copies of all this material are attached to this report.

Oral Objections and Representations

1. Ms. Gaylyne Lambert.

Ms. Lambert spoke on behalf of her family who has owned land on Kenmount Road, some of it above the 190m contour. Their family home has been located here, opposite the site of Kenmount Terrace, for more than 60 years. She and her family fully support the City's proposed amendments, and look forward to the opportunity of developing some of their land.

Commenting on the concern that development of land in this area would alter the viewplane of those living in Kenmount Terrace, she pointed out that her family once had an unobstructed vista of the forested land north of Kenmount Road – a vista that was considerably altered by recent construction. Her comment reminded those present that all development comes with costs and compromises.

2. Bernard Healy.

Mr. Healy (of 42 Densmore Lane in Kilbride) asked whether the water transmission line from Petty Harbour Long Pond would have a negative impact on property in his area. I told him that I would get the answer to his question and include it in my report.

3. Bruce Pearson, St. John's Community Advisory Council on Homelessness and President of the Canadian Housing and Renewal Association.

Mr. Pearson expressed the hope that new development on lands above 190m would provide an opportunity for competing interests to 'meet in the middle'. By doing so, he argued, it should be possible to satisfy the demands of sustainable development and long-term economic prosperity. He noted that Malmo, a once-struggling industrial and port city in southern Sweden has managed to effect such a compromise in an effective and attractive way.

4. Ms. Kimberley Yetman-Dawson, Newfoundland and Labrador Housing and Homelessness Network.

Ms. Yetman-Dawson noted that several members of Council expressed support for the idea of '1 in 10' housing during the last municipal election. The aim would be to ensure that 10 percent of the units in any new housing development would be 'affordable'. She wondered whether those Councillors still believed in the idea, and would work to make it a reality.

Consideration of Objections and Representations

General considerations:

In writing this report I am facing an unusual situation. It is obvious that many people expect that these amendments will be approved. The mayors of both cities have indicated that to some extent the future economic prosperity of their communities depends on being allowed to pursue development opportunities on lands located about the 190m contour.

The City of St. John's began to consider this possibility as early as 2007, when the Engineering Department carried out a feasibility study. The report concluded that it would be possible to

bring municipal water and sewer services to the undeveloped parts of the SWDA and Southlands. Based on this, the City's Budget 2012 contained the following statement:

The City also anticipates provincial government approval for an amendment to the SJURRP which will permit development above the 190 meter contour. When approved, thousands of acres of new land will open for commercial and residential development. There is enough land above the 190 meter contour to sustain development for 15 to 20 years and contribute billions of dollars to the economy. This potentially represents a major expansion to the City's tax base.

I note, with apprehension, the use of the word 'when' and not 'if' at the beginning of the second sentence.

On 25 November, 2011, while addressing the public hearing on the Hebron development, the Mayor of St. John's said that, although no formal application had been received by Council, it had been briefed two weeks previously on a 'proposed \$5 billion development for the city's west end'. In the absence of a formal application, the Mayor said he could not identify the developer, but said that the proposal outlined a 20-year concept plan, with a proposed starting date of 2012, on a site about the same size as the town of Gander. (Bartlett, 2011a). On 14 December former Premier Danny Williams confirmed that he is the developer behind the project, on which he has been working 'for the past 15-plus years', since he bought the land from the NLHC in the late 1990s (Bartlett, 2011b). The story continued to 'have legs' because when Mayor O'Keefe gave the 'state of the City' speech to the Rotary Club in January, he referred to the city's application for permission to breach the 190m restriction. Referring to the project as 'Dannyville' he said that this development, worth \$5 billion over the 15- to 20- year development period, is dependent on the province changing legislation to allow development above the 190m elevation. (Bartlett, 2012c). The Mayor of Mount Pearl recently entered the debate. During his annual Mayor's Address, he talked about the things the city could look forward to. One is

opportunities that may arise from former premier Danny Williams' major development project planned for a sprawling area near Southlands. In order for it to go ahead, the provincial government will have to change legislation to allow development above the 190 meter contour. Simms noted Mount Pearl has 69 hectares of land it cannot develop on Kenmount Road as a result of the same legislation. "If they say you can go above the 190, we're going to make somebody really, really rich, and we're going to tax the beejesus out of it" said Simms to roars of laughter from attendees at the Mount Pearl-Paradise Chamber of Commerce luncheon'. (Robinson, 2012).

The Telegram responded with this editorial cartoon.



The 'Dannyville' development, which is apparently to be called 'Glencrest' was the elephant in the room during the February 14 hearing, and no doubt influenced the number and tone of representations I received.

While references have been made to the potential benefits of opening the land above 190m to development, there has not yet been any public discussion of the possible negative consequences of such a huge development. According to current estimates by the City's Planning Department, the total potentially developable area in the two areas is about 1200 hectares. This is four times the area expropriated in 1942 for the Churchill Park development, which doubled the area of the existing city. Applying the City's usual density estimate of 40 people/gross hectare, an area this large could potentially house 50,000 people – almost half of the City's 2011 population of 106,000. Assuming that the growth rate of 1.1% *per annum*, which prevailed during the most recent inter-censal period, were to continue, and discounting the effects of compound growth, these areas could accommodate the next forty years of population growth in the city. This is only a rough calculation, which ignores the proportion of the two sites that would be devoted to streets and open spaces, or the proportion that might be taken over for light industrial and commercial uses. But it serves to emphasize that a decision to open these lands for development will have very significant long-term consequences, and must not be taken lightly.

Mr. Bernard Healey

Mr. Healey came to ask a question, and not to raise an objection. He wanted to know if bringing Petty Harbour Long Pond back on stream as a source of water for the regional system would

have any impact on property in his area. The Director of Engineering informs me that it will not. The water main from the Pond is already in place, and no further work will need to be done on it.

Support for the proposed amendments

Not surprisingly there was strong support for the proposed amendments from the Newfoundland and Labrador Construction Association, the St. John's Board of Trade, the Newfoundland and Labrador Federation of Labour, the Newfoundland and Labrador Offshore Oil and Gas Industries Association, Empire Theatres and those who own land above the 190m contour (Acreage Investments, Berjon Holdings, GH Investments, Gaylyne Lambert and BMT Fleet Technology). Several of these submissions argued that there was a shortage of various types of developable land in the city that these amendments would help to alleviate. The Director of Planning has confirmed that such shortages do exist. In the case of residential land, there is still some available in Kilbride, the Clovelly development and Southlands. There are also about 19 hectares in the SWDA, in the existing Kenmount Terrace subdivision. The most critical shortages are in light industrial and commercial lands. About 27 hectares remain below 190m in the SWDA, but none in the O'Leary Avenue Industrial Park. A shortage of land appropriate for the uses now in high demand would clearly have unfortunate consequences for the City's current economy and future growth.

Mr. Bruce Pearson:

Mr. Pearson didn't object to the amendments, but made a heartfelt plea that the goal of ensuring sustainable development should be considered as of equal importance to that of economic prosperity when it came time for the detailed planning of new developments in either of the two areas. He is not alone in thinking that this should be a matter of urgent concern. The participants in the Mayor's Symposium on the Municipal Plan Review, held on February 25, 2012, ranked 'maintenance of a balance between development and environmental sustainability' as the fifth of the top ten environmental concerns.

Ms. Kimberley Yetman-Dawson:

Ms. Yetman-Dawson was another intervenor who did not object to the amendments, but who took the opportunity to remind Council of the commitment made by some its members to promote the idea of 'inclusionary housing', specifically the '1 in 10' idea that has been adopted by some smaller Canadian municipalities'. (Mah and Hackworth, 2011) The idea is laudable, but in the absence of a federal housing policy supporting the idea, difficult to achieve. One might also quibble with the current definition of 'affordable'. Most organizations have based have adopted a definition based on CMHC's concept of 'core housing need', defined as a situation where a household must pay more than 30 percent of its gross income to obtain decent quality housing. For many low-income households such a percentage is far too high. Questions about the definition notwithstanding, this is an important issue. I noted with interest that the subject of

affordable housing was one that generated a great deal of discussion at the recent Mayor's Symposium on the Municipal Plan Review, and the forum's top-ranked idea relating to housing was to 'mandate the inclusion of affordable housing in new and existing development'. (Preliminary Report, Municipal Plan Review Mayor's Symposium. February 25, 2012)

Both Mr. Pearson and Ms. Yetman-Dawson brought legitimate concerns to the hearing. However, my mandate was to consider the general question of whether lands above the 190m contour should be opened for development, and not to evaluate the qualities of a specific development proposal. For this reason I can do no more than bring their concerns to the attention of the Council and the Minister.

Opposition to the Proposed Amendments

Only one intervenor, Dr. Sam Bromley, opposed the amendments. It is difficult to respond to some of the issues he raised, but not to one of them. His letter contains a section entitled 'strong sampling bias' in which he expresses surprise that he was the only resident to raise an objection to the proposed amendment, and wonders 'how the forum could change to allow passionate individuals greater comfort in expressing opposing views. He goes on to say 'I feel that the city has not acted in good faith', basing this conclusion on the fact that many of his neighbours were apparently unaware of the hearing. In my opinion the City took extraordinary measures to ensure that citizens were aware that the issue was to be discussed on February 14. Following normal practice, notice of the meeting was published in *The Telegram* Classified Display section, on Wednesday, January 25 and Saturday January 28. It was also posted on the City of St. John's website. In addition, at the request of the Ward Councillors, 2,500 notices were mailed to property owners and residents in the Southlands area and on Blackmarsh and Kenmount Roads, including the residents of Kenmount Terrace. A copy of the notice is attached to this report.

The issues of traffic, storm runoff and all other engineering-related questions will be dealt with by City staff if and when specific development proposals are received. The aesthetic question of whether development should be allowed to encroach on the top of the surrounding hills is a different matter. There is nothing in the Municipal or Regional plans that would preclude this. The proposed amendments would permit development right up to the crest of the hill. This brings me back to a consideration of what the reasons might have been for the original imposition of the 190m height restriction.

The 2007 Engineering report 'Potential Servicing Above the 190m contour' did not suggest that development would have been permitted right up to the highest elevation, because of issues related to water provision (City of St. John's, 2007: 4). I was told that this restriction was based on a concern that the regional water supply was not adequate to handle the demand that would result from development of the newly-opened areas, a concern that has been alleviated by

subsequent improvements in the system. But it also seems to have been based to some extent on the issue of how best to achieve the minimum required water pressure. In the case of Southlands, the report said:

The highest point of land in this area is elevation 245m where a new 5,300 cubic meter reservoir must be constructed to allow servicing to be extended to the 215m contour. This restriction is necessary because a vertical height of 30m is required to provide the minimum static pressure of 40 pounds per square inch.

In the case of the SWDA area it said:

The existing reservoirs at Kenmount Hill have a top water elevation of 225m and therefore can only service to the 195m contour. There is no significant developable lands between the 190m and 195m contour. The installation of a new 3,000 cubic meter reservoir at elevation 250m would allow servicing of 200 hectares of new developable land up to the 220m contour.

The height restrictions limited the amount of developable land to 292 hectares in the Southlands area and 200 hectares in the SWDA. (City of St. John's, 2007, Figures 3 and 4. See also the PowerPoint presentation used at the public briefing session on 14 April, 2009, a copy of which is attached).

The City's current proposal, and the estimates of developable land included in it, is apparently based on the assumption that developers might wish, or be forced by economic considerations, to develop above the 215m or 220m elevations. This must assume that the minimum required water pressure can be obtained in some other way. I believe that this could be accomplished in one of two ways: the use of high-pressure pumps or construction of a water tower or some other form of elevated reservoir. This is an important question, but one well beyond my competence to answer. However, it seems to me that the safer option is to require that the necessary water pressure derives from a head of water and gravity, rather than pumps.

The modified approach to the problem of water supply led to the disappearance of the original upper height restriction, and a concomitant increase in the amount of potentially developable land - to 885 hectares in the Southlands area to 382 hectares in the SWDA. It would also permit the forested hilltops to be encroached upon by development. Maintenance of the height restrictions outlined in the 2007 and 2009 documents would have left them undisturbed.

Regional Considerations

Two neighbouring municipalities raised objections which are of regional concern.

The Mayor of Conception Bay South expressed the concern of his Town Council that if the proposed amendments to the St. John's Municipal Plan are approved, and water use increases, the supply of potable water might be insufficient to support the future needs of CBS. He noted that to date, all growth in CBS has been below the 190m level, and therefore in line with the original design parameters of the Bay Bulls Big Pond water supply. However, if other municipalities are permitted to build above this line, CBS will not feel constrained to maintain the old limits. A free-for-all of this kind might very well require an expansion of the regional water supply system; something which CBS is not prepared to support. Nor is it willing to accept a share of an increased budget for maintenance of an expanded system which it had no part in requiring. He asks for a written assurance from the St. John's Regional Water Authority that CBS will not be responsible for any charges related to the operation and maintenance of any infrastructure which is required on account of development occurring above 190m.

It would exceed the limits of my mandate to try and elicit such an assurance. However I have examined all the relevant documents pertaining to the water supply situation, most particularly the 2007 update to the original 1994 St. John's regional water supply report. Despite my lack of expertise in this area, I am convinced by this report that the region is unlikely to face a shortage of potable water in the foreseeable future. The population estimates on which the projections were made seem reasonable, and perhaps even generous. By the time the Petty Harbour Long Pond reservoir is brought back on line in 2013 the regional supply will be 165,600 cm/d. The projected demand in 2056, assuming a 'medium' demand scenario, will be 142,100 cm/d, well within the available supply, assuming success in achieving a significant reduction in the current level of per capita use in St. John's and a moderate reduction in Mount Pearl. It is predicted that these reductions can be achieved by means of the current programs of leak detection and correction. (BAE-Newplan, 2009: Table 4-4; Mills, 2012). Even the amount of water required to satisfy the 'high demand' scenario, which assumes a continuation of present levels of usage in both cities, with a slight increase in per capita use in suburban and rural areas, is only 9100 cm/d in excess of current projected supply. While these are only estimates, based on parameters subject to change, there does not seem to be cause for concern.

The 2009 BAE-Newplan report was based on the comprehensive study carried out in 2007 by Newfoundland Design Associates Limited. The projections in that study are based on estimates of population increase in the region, especially in St. John's, that range from moderate growth in the period up to 2056 (approximately 17,400) to decline (approximately 4,700). In making decisions as significant as those involved in the present discussion, it should be borne in mind that the recently-observed rates of population growth and investment in St. John's and the surrounding region cannot be expected to continue forever. Decisions made hastily or

inadvisedly in the hope of capturing short-term benefits may have unfortunate long-term consequences.

The City of Mount Pearl:

As noted above, the City of Mount Pearl has no objections, in principle, to the proposed amendments to the SJURRP or the St. John's Municipal Plan. There is apprehension, however, about the proposed rezoning process for the Southlands area. The City has proposed to re-zone this area to Comprehensive Development Area (CDA). The conditions attached to this designation would permit existing uses to continue, but preclude any new development until the Department of Engineering determines that the areas are ready to support serviced urban development. At that time, City Council would consider rezoning the lands to appropriate zones capable of accommodating either the plans of a developer or, perhaps, the City's desired outcome. But because only a rezoning would be required, there would be no necessity for a public hearing chaired by an appointed Commissioner. The City of Mount Pearl has recommended

that the development regulations amendment should be revised to reflect that, when the detailed land use plan is prepared and information with respect to water and sewer services and the transportation network is available, the City of St. John's prepare and adopt a Comprehensive Development Scheme pursuant to the provisions of the Urban and Rural Planning Act.

The adoption of a Planning Area Development Plan (PADP), which would constitute a 'development scheme' under Sections 29 and 30 of the Urban and Rural Planning Act, would undoubtedly extend the review process but the requirement of another public hearing would provide the City of Mount Pearl with a formal opportunity to provide input to the process.

It is unlikely that the entire Southlands area will be developed all at once. In the absence of a conceptual development plan there is a legitimate concern that piecemeal rezoning of the entire area will cause incremental problems of traffic flow, retail demand, sewer and water construction, etc., for Mount Pearl, given the location of the Southlands parcel. The professional staff of the two cities already cooperate in matters of mutual concern, and there seems to be a new resolve, at least on the part of St. John's, to restore civility to the relations between the two City Councils (Barrett, 2012e). But given the history of relations between the governments of the two cities it is not surprising that the City of Mount Pearl would like to know that it will have a chance for meaningful input on events in an adjacent jurisdiction that might well have significant spill-over effects.

Recommendations

Given the absence of technical or engineering constraints which would, in and of themselves, preclude the possibility of urban development of various kinds being undertaken above the current limit of 190 metres above sea level, **I recommend that:**

1. St. John's Urban Regional Plan Amendment Number 1, 2012 be approved;
2. St. John's Municipal Plan Amendment Number 69, 2011 be approved;
3. St. John's Development Regulations Amendment Number 457, 2011 'Development of lands above the 190 metre contour' be approved,

PROVIDED THAT

4. No changes in the CDA zoning in either of these two areas be considered until the City has adopted a comprehensive storm water policy. If any part of these areas were to be developed in a way that was not runoff-neutral – i.e. if the runoff was to exceed that which is currently generated by the land in its current natural state - the downstream costs, both physical and temporal, would be enormous.
5. No changes in the CDA zoning in either of these two areas should be considered until the City has adopted and promulgated a formal cost-recovery policy to ensure that none of the marginal costs of providing trunk water and sewer services or major transportation infrastructure to either of these two areas are borne by the City. All new developments must be capital-cost neutral to the City's taxpayers. In the event that it is decided that the City should undertake to provide interim financing for the installation of such services, the per-unit cost assessed to the developers must be high enough to ensure that both the direct and indirect costs of the financing are recovered from the developer(s).

If such policies are not drafted and incorporated into appropriate municipal legislation, either the Municipal Plan or the Development Regulations, my recommendation would be that none of the three proposed amendments be approved at this time.

I further recommend that:

6. The text of Municipal Plan Amendment No. 69, 2012, paragraph (3), be amended to indicate that the required map amendment will be made to Map IV-4 and not Map IV-3 as stated in the original document. I presume this is just a typographical error, but it should be corrected.

7. Section 1.2.16 (page III-6) of the St. John's Municipal Plan 'Development Restrictions: Land above the 190 metre contour' be amended to take account of the amendments to the St. John's Municipal Plan and the St. John's Development Regulations (i.e. number 2 and 3 above). This should be considered a subsidiary or 'housekeeping' change which will be necessitated if the proposed amendments are approved. City staff is already aware of the fact that reference to this section was inadvertently omitted from the original proposal.

8. Planning Area Development Plans be developed for both the SWDA and the Southlands area. At the moment, neither lie within a Planning Area. The portion of the SWDA considered by the proposed amendments lies immediately west of PA-9 (O'Leary/Southwest Development Area) and the Southlands area immediately west of PA-20 (Southlands). If the proposed amendments are approved, either the two existing PA's should be expanded to incorporate these areas, or new PA's designated to enclose them.

The Southlands development will be a 'legacy' development – of such a scale that it will have significant, long-term consequences for land use, transportation and commercial patterns and commuting. The City should be proactive in its planning for this area. Having a PADP in place before decisions that will affect the city for the next century are made would help to ensure that the needs of the school board, Eastern Health and other relevant agencies are accommodated. It would also provide an opportunity to ensure adequate provision for parks, trails, recreation facilities and floodplain mapping. Having a well-defined concept plan in place, in conjunction with clear and enforceable policies for cost recovery and storm water runoff would certainly help assuage some of the concerns voiced by the Board of Trade in their submission.

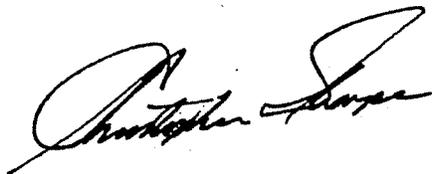
9. The City of St. John's address the question of whether urban development should be permitted to envelop the surrounding hilltops. The technical feasibility of providing water and sewer services to the highest elevations of these two areas should not preclude the possibility of a considered decision being made that they should not be.

10. If the new CDA Zones are approved for Southlands and the SWDA, no changes to the zoning should occur until the current review of the St. John's Municipal Plan has been completed. It would be inappropriate to contemplate the initiation of large-scale, long-term programmes of land use development in the absence of a Plan which takes them into account – as the current one does not. As already noted, the Plan review process has begun and the goal is to have it complete within 18 months.

11. The review of the SJURRP be taken in hand again as soon as possible. I understand that there are several reasons why development of the long-awaited and much-needed North-East Avalon Plan has stalled, and that it may not be easy to clear the obstacles. However, the

development pressures which may come to bear on the region's municipalities in the near future cannot be properly assessed using a 36-year-old Plan. One of the questions which an up-to-date regional plan should consider is 'which municipalities should be allowed to develop beyond the 190m contour' (BAE-Newplan, 2009: 18). As the attached map, prepared by Dr. Alvin Simms of the Department of Geography, Memorial University of Newfoundland, shows, there is a total of 11,730 hectares of land above the 190m contour within the St. John's Census Metropolitan Area, which includes all of the north-east Avalon region. Not all of this land could be developed, but the question of how much demand there might be for future development, and which municipalities should be allowed, or encouraged to accommodate it, is one which only a revised regional plan could help to answer. The map also shows that much of the land above 190m is also above 220 metres – and as indicated above, it might be appropriate to consider whether it would be beneficial for the region if a height restriction of some form was maintained.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christopher Sharpe", written in a cursive style.

Christopher Sharpe

8 March, 2012

Land above 190 metre contour

Legend

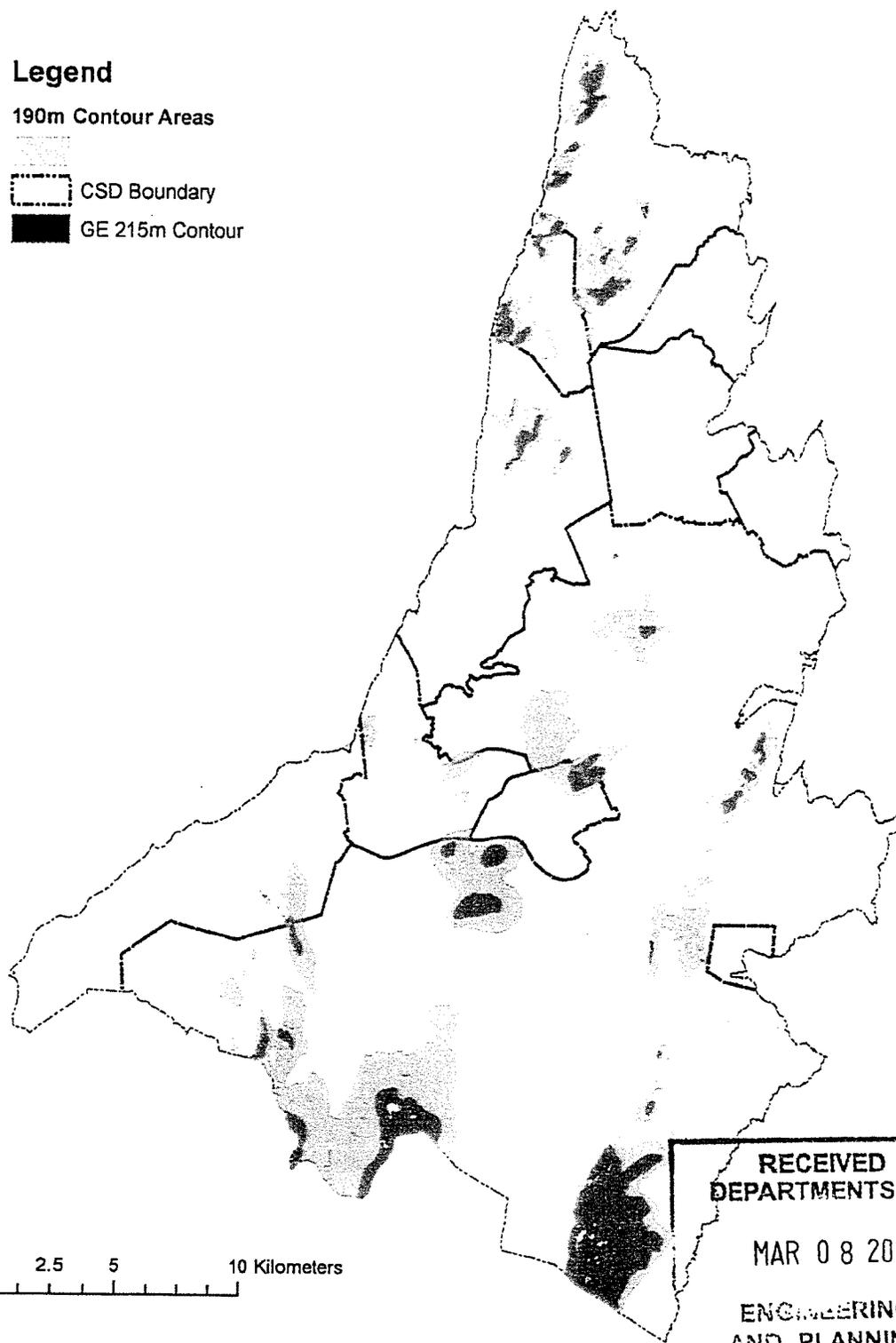
190m Contour Areas



CSD Boundary



GE 215m Contour



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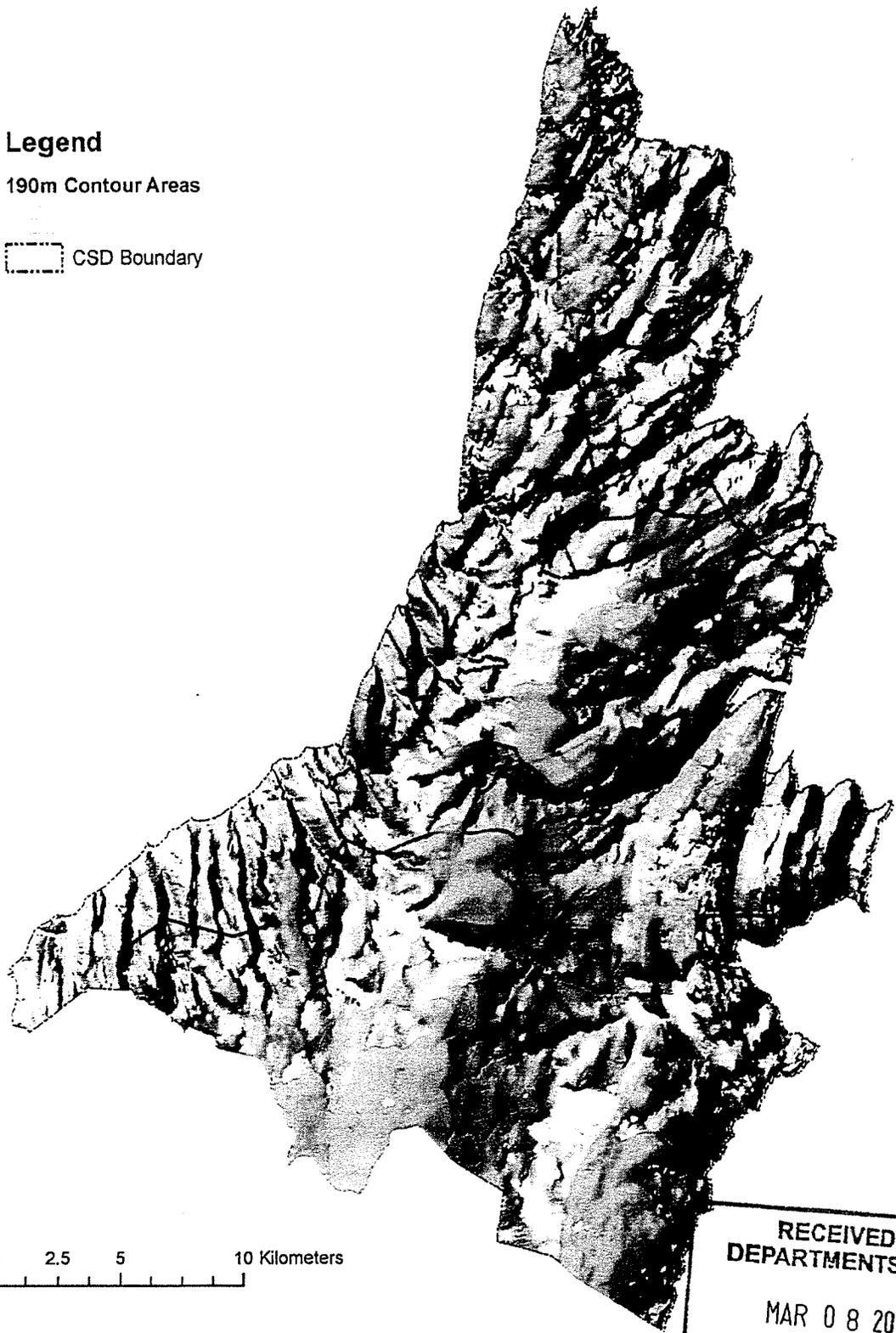
MAR 08 2012

ENGINEERING
AND PLANNING

Legend

190m Contour Areas

 CSD Boundary



0 2.5 5 10 Kilometers

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MAR 08 2012
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AND P.



Re: Revised Agenda of Development Committee for March 13 

Cliff Johnston to: Karen Chafe

2012/03/12 06:10 PM

Cc: Development Committee Agenda Distribution List

Message for the Members of the Development Committee

Please note that the Commissioner's report regarding the 190 contour amendments is not yet a public document.

Cliff Johnston, MCIP
Director of Planning
City of St. John's
St. John's, NL, Canada
A1C 5M2
Telephone (709) 576-8383
Fax (709) 576-8625

Karen Chafe

[Disregard previous agenda - one addition attach...](#)

2012/03/12 02:21:40 PM

From: Karen Chafe/CSJ
To: Development Committee Agenda Distribution List
Date: 2012/03/12 02:21 PM
Subject: Revised Agenda of Development Committee for March 13

Disregard previous agenda - one addition attached re: Commissioner's report re 190 meter contour. The report itself is incorporated within the attached pdf should you wish to peruse this in advance of the meeting.

Hard copies will be made available during the meeting:



March 13, 2012.pdf

Karen Chafe
Recording Secretary
City Clerk's Department
City of St. John's
PO Box 908
St. John's, NL A1C 5M2
work: (709) 576-8619
fax: (709) 576-8474
www.stjohns.ca



Fw: The SHARPE Report on development above the 190 contour

Elaine Henley to: Kenessa Cutler

2017/06/19 10:21 AM

ELAINE A. HENLEY
City Clerk
Office of the City Clerk
10 New Gower Street
P.O. Box 908
St. John's NL A1C 5M2
Telephone - (709) 576-8202
Cell - (709) 691-0451

----- Forwarded by Elaine Henley/CSJ on 2017/06/19 10:21 AM -----

From: Elaine Henley/CSJ
To: [REDACTED]
Cc: Karen Chafe/CSJ@CSJ
Date: 2017/06/01 02:55 PM
Subject: Re: The SHARPE Report on development above the 190 contour

Good Afternoon:

The minutes of the meeting in which the report was presented was attached.

Can you elaborate on what information you are looking for so that I can ensure we provide the same.

Thanks
Elaine

ELAINE A. HENLEY
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[REDACTED] No you did not provide the info I requested. I wa...

2017/06/01 02:31:50 PM

From: [REDACTED]
To: Elaine Henley <Ehenley@stjohns.ca>
Date: 2017/06/01 02:31 PM
Subject: Re: The SHARPE Report on development above the 190 contour

No you did not provide the info I requested. I want to know what Council did with the report. Read my request and comply please [REDACTED]

On 2017-06-01, at 12:03 PM, Elaine Henley wrote:

Good Morning:

We are not dealing with your request under the ATIPPA legislation as we were able to obtain the information quite easily.

Below is the information sought. If you require anything further, please advise.

The commissioner's report from Feb. 14, 2012, is posted on the City website - City Hall - Publications - Area Development Plans. Here is the direct link:

<http://www.stjohns.ca/sites/default/files/files/publication/Commissioner%27s%20Report%20on%20the%20190%20Metre%20Contour%20-%20March%208%2C%202012.pdf>

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Cell - (709) 691-0451

From: [REDACTED]
To: Elaine Henley <Ehenley@stjohns.ca>
Date: 2017/06/01 08:20 AM
Subject: The SHARPE Report on development above the 190 contour

This is an ATIPPA request. I want an immediate answer to a very simple question. If you people take your legal maximum of 20 days to respond I will assume procedural harassment on your part. Did Council adopt or reject the Sharpe Report on the amendment to permit development above the 190 contour. Provide all minutes of any motions of Council related to same. [REDACTED]

<#003 June 2017 - March 26, 2012 Reg Agenda - 190m contour.pdf><Minutes - March 26, 2012.doc>



Fw: The SHARPE Report on development above the 190 contour

Elaine Henley to: Kenessa Cutler

2017/06/19 10:19 AM

ELAINE A. HENLEY
City Clerk
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10 New Gower Street
P.O. Box 908
St. John's NL A1C 5M2
Telephone - (709) 576-8202
Cell - (709) 691-0451

----- Forwarded by Elaine Henley/CSJ on 2017/06/19 10:19 AM -----

From: [REDACTED]
To: Elaine Henley <Ehenley@stjohns.ca>
Date: 2017/06/02 02:04 AM
Subject: Re: The SHARPE Report on development above the 190 contour

Does this mean the report in its entirety. I want the exact motion or motions that were adopted by Council re this matter

On 2017-06-01, at 3:01 PM, Elaine Henley wrote:

Good Afternoon:

Ken O'Brien, Municipal Planner, also added the following:

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From: [REDACTED]
To: Elaine Henley <Ehenley@stjohns.ca>
Date: 2017/06/01 02:31 PM

Subject: Re: The SHARPE Report on development above the 190 contour

No you did not provide the info I requested. I want to know what Council did with the report. Read my request and comply please [REDACTED]

On 2017-06-01, at 12:03 PM, Elaine Henley wrote:

Good Morning:

We are not dealing with your request under the ATIPPA legislation as we were able to obtain the information quite easily.

Below is the information sought. If you require anything further, please advise.

The commissioner's report from Feb. 14, 2012, is posted on the City website - City Hall - Publications - Area Development Plans. Here is the direct link:

<http://www.stjohns.ca/sites/default/files/files/publication/Commissioner%27s%20Report%20on%20the%20190%20Metre%20Contour%20-%20March%208%2C%202012.pdf>

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fyi

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----- Forwarded by Elaine Henley/CSJ on 2017/06/19 10:18 AM -----

From: Elaine Henley/CSJ
To: [REDACTED]
Cc: Karen Chafe/CSJ@CSJ
Date: 2017/06/02 10:34 AM
Subject: Re: The SHARPE Report on development above the 190 contour

Good Morning:

The motion was included in the minutes forwarded to you via email yesterday and read as follows:

**Development Above the 190 Metre Contour Elevation
Southwest Development Area (Wards 3 & 4 & Southlands Area (Ward 5))**

Under business arising, Council considered a memorandum dated March 23, 2012 from the City Manager regarding development above the 190 metre contour elevation, Southwest Development Area, (Wards 3 and 4) and Southlands Area (Ward 5). Copies of the proposed Municipal Plan and Development Regulations amendments as adopted by Council on January 16, 2012 pertaining to the proposed potential future development of lands on the basis of piped municipal water and sewer services that are located above the 190 metre contour elevation in the Southwest Development Area were provided for Council's information, along with a copy of the Regional Plan Amendment Number 2, 2012. Also provided for Council's consideration was a copy of Commissioner Sharpe's report of the public hearing held to deal with both the proposed amendments to the Regional Plan and the Municipal Plan and the Development Regulations.

It is noted that the Commissioner has recommended approval of the St. John's Urban Regional Plan Amendment Number 2, 2012 and the St. John's Municipal Plan Amendment Number 69,

2012 and St. John's Development Regulations Amendment Number 457, 2012 subject to Recommendations Numbers 4 and 5 as set out on page 26 of his report. The Commissioner has also set out six other recommendations in his report which are listed as Recommendations 6 through 11 on Pages 26 to 28 of his report.

SJMC2012-03-26/178R

It was moved by Councillor Hann; seconded by Councillor Galgay: That the following recommendations put forth by staff following review of the Commissioner's report be approved:

1. That Council now approve the St. John's Municipal Plan Amendment Number 69, 2012 and the St. John's Development Regulations Amendment Number 457, 2012 as adopted by Council on January 16, 2012, subject to Council agreeing not to make any future changes to the Comprehensive Development Area zoning designation proposed for both the Southwest Development Area and the Southlands Area until such time as Council adopts a comprehensive storm water policy. This is in accordance with Recommendation Number 4 listed in the Commissioner's report;
2. That approval of the St. John's Municipal Plan Amendment Number 69, 2012 be subject to the change in the map reference as noted in Recommendation Number 6 of the Commissioner's report and the deletion of Part III-Section 1.2.16 of the Municipal Plan ("Development Restriction Above the 190 Metre Contour") as noted in Recommendation Number 7 of the Commissioner's report;
3. That approval of the St. John's Development Regulations Amendment Number 457, 2012 be subject to the deletion of the reference in Section 5.1.4 of the Development Regulations ("Development Above the 190 Metre Contour Line") to the prohibition of development utilizing municipal water and sewer services for lands located above the 190 metre contour line;
4. That the other recommendations in the Commissioner's report be taken under advisement by the City for consideration at the appropriate future stages in the City's development review process of lands located above the 190 metre contour in the Southwest Development Area and the Southlands Area but that these other recommendations of the Commissioner not be considered as pre-conditions to the approval of the St. John's Municipal Plan Amendment Number 69, 2012 and the St. John's Development Regulations Amendment Number 457, 2012; and

5. That Council now request the Minister of Municipal Affairs to approve the St. John's Urban Region Regional Plan Amendment Number 2, 2012 to enable the Provincial registration of the St. John's Municipal Plan Amendment Number 69, 2012 and the St. John's Development Regulations Amendment Number 457, 2012.

During discussion it was noted that, while recommendation #1 concerning a comprehensive storm water policy is in accordance with the Commissioner's recommendation #4 , the Commissioner's recommendation #5, for a revenue neutral approach to any infrastructure development that will take place in the areas, is not recommended by staff to be imbedded in the Municipal Plan.

Following discussion, the motion being put was unanimously carried.

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