

Resolutions - 2013 Report

Mayor Al Hawkins, MNL Vice President - Advocacy and Communications Committee Chair.

The Advocacy Committee of the Board of MNL is pleased to provide members with this report of the actions taken on resolutions adopted at the 2013 Resolutions Session.

CATEGORY A

1-2013 / Carried - Grants in-lieu of Taxes, (MNL Board of Directors)

Therefore Be It Resolved that Municipalities Newfoundland and Labrador lobby the provincial government and the Newfoundland and Labrador Liquor Corporation to reinstate the payments of grants-in-lieu of taxes to the municipalities in which it operates.

Response from the MNL Board of Directors:

This issue is included in MNL's Fiscal Framework Submission to the Department of Municipal and Intergovernmental Affairs.

Response from Municipal and Intergovernmental Affairs:

We understand Newfoundland and Labrador Liquor Corporation (NLC) was specifically approached about paying grants-in-lieu of taxes. In addition to NLC's response, it should be noted that grants-in-lieu are being reviewed and analyzed as part of the Provincial-Municipal Fiscal Framework Review.

2-2013 / Carried - Removal of Cap for Disposing of Municipal Property (Town of Lewisporte)

Therefore Be It Resolved that Municipalities Newfoundland and Labrador lobby the Department of Municipal Affairs to amend section 201.1 of the Municipalities Act, 1999, so that:

- A municipality will be required to sell all real property at fair market value and that a municipality will not have to go to auction or public notice if fair market value can be achieved through a private sale; and
- A municipality may dispose of real property for less than fair market value only when it is sold to nonprofit organization that the council considers to be carrying on an activity that is beneficial to the municipality or when the land is of no value except to an adjacent land owner; and
- The cap that triggers public auction or tender for personal property be increased to \$5000; and
- The disposal of personal property valued at less than \$5000 will not be governed by s. 201.1
- A municipality may sell real property at less than fair market value, in special circumstances, with the prior approval of the Minister of Municipal Affairs.

Response from Municipal and Intergovernmental Affairs:

Section 201.1 of the Municipalities Act, 1999 was introduced to ensure transparency and accountability with respect to the disposal of municipal real and personal property. MIGA is aware of a number of situations where municipalities have questioned the suitability of undertaking a public tender/auction due to perceived special circumstances where it is believed that a private sale is more appropriate. MIGA will commit to reviewing the legislation in light of the feedback received.

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3-2013 / Carried - Testing Times of Municipal Drinking Water (Town of Ferryland)

Therefore Be It Resolved that Municipalities Newfoundland and Labrador lobby the Department of Environment and Conservation to extend the testing hours for municipal water systems and water quality reporting to seven days a week.

Response from Environment & Conservation:

Municipalities play an important role in the province's drinking water safety framework as the owners and operators of drinking water systems. This Department welcomes the active role of municipalities in drinking water management.

Although the Department of Environment and Conservation (ENVC) is the lead agency with respect to drinking water, there are three other government departments involved in drinking water: Service NL, Municipal and Intergovernmental Affairs, and Health and Community Services. ENVC is responsible for the sampling, analysis and reporting of chemical and physical drinking water quality parameters. Service NL is the department responsible for the collection of bacteriological samples and Health and Community Services is the department responsible for their analysis through the public health testing facilities. Municipal and Intergovernmental Affairs is responsible for the provision of cost shared capital infrastructure funding related to system upgrading and construction.

The province shares your concerns over the length of time communities remain on boil water advisories. Over the years, the province has advanced a number of initiatives that have helped to reduce and shorten the length of boil water advisories. Municipalities also play a critical role in ensuring their water systems are properly operated and maintained. I am sure you can appreciate that the level of resources needed by all parties to minimize the incidence and duration of boil water advisories can, at times, be a challenge.

With respect to the specifics of resolution 3-2013, we would be pleased to coordinate a meeting of relevant officials from the responsible departments for further discussion with you. We look forward to working with MNL to help improve drinking water safety in municipalities throughout the province.

4-2013 / Carried - Review of Municipal Capital Works (Town of Bay Roberts)

Therefore Be It Resolved that Municipalities Newfoundland and Labrador lobby the Department of Municipal Affairs to partner with MNL and relevant industry representatives to review the municipal capital works process, particularly with respect to establish timelines for the approval of documents needed to move a project forward.

Response from Municipal and Intergovernmental Affairs:

MIGA recognized the need to establish project completion timelines and implemented a project timelines policy for various stages of project completion in April 2013. The policy applies to MIGA's Municipal Capital Works (MCW) and Multi-Year Capital Works (MYCW) funding programs and is now a condition of MCW and MYCW funding agreements. The recently formed Joint Municipal Infrastructure Committee (JMIC), consisting of representatives from the Construction and Engineering Consulting sectors, MNL, Professional Municipal Administrators and MIGA, plan to discuss and review this issue further. Two meetings of the JMIC have taken place to date.

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Response from MNL's Board of Directors:

A Terms of Reference for the JMIC has been prepared and approved by the MNL Board of Directors and other committee partners.

5-2013 / Carried - Mapping of Crown Lands within Municipal Boundaries (MNL Board of Directors)

Therefore Be It Resolved that Municipalities Newfoundland and Labrador lobby the Department of Environment and Conservation to commission the creation of updated maps of every municipality in the province that clearly defines the boundaries of Crown land within each municipality.

Response from Environment and Conservation:

"I write in response to your letter in which Municipalities Newfoundland and Labrador approved resolution 5-2013-Mapping of Crown Lands within municipal boundaries. The resolution requests the Department of Environment and Conservation update Departmental mapping to identify the boundaries of all Crown Lands within municipal boundaries within the Province.

The Lands Branch of the Department of Environment and Conservation currently has base mapping for the entire Province in various scales and resolution depending upon the location. In addition to base mapping, the Department has an extensive air photo library of the populated areas of the Province. The Lands Branch also has mapping that was compiled many decades ago for a number of communities that identified potential land claimants but these maps are not to be construed as an acknowledgement of private land ownership by the Crown.

The Province does not have a mandatory land registration system and Departmental mapping only identifies titles issued under the Lands Act such as licenses, leases, grants and transfers. Under the current land registration system it is not possible to quantify the location of every parcel of Crown land under municipal jurisdiction with the Province in part because of the numerous claims of ownership of land, unregistered claims and others based on adverse possession.

The Lands Branch does not have both hard copy and digital mapping available and these products can be purchased by visiting the Howley Building, Higgins Line, St. John's, or visiting the website <http://www.env.gov.nl.ca/env/maps>

Unfortunately, the Department of Environment and Conservation will not be able to commit to the undertaking and would recommend any municipality in the Province that has questions regarding the identification of Crown lands to visit any of the Regional Lands offices throughout the province, <http://www.env.gov.nl.ca/env/department/contact/crownlands.html>

If you have any other questions or concerns you may contact Mr. Darren Moore, Director, Land Management Division, Howley Building, Higgins Line, St. John's, phone – 729-3844 or dmoore@gov.nl.ca

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6-2013 / Defeated - Alternative Revenue Raising Tools for Municipal Government (Town of Bishop's Falls)

7-2013 / Carried - Improper Bridges and Trails within Protected Water Supply Areas (Town of Flower's Cove)

Therefore Be It Resolved that Municipalities Newfoundland and Labrador urge the Department of Environment and Conservation and the Department of Tourism, Culture and Recreation to have these improper bridges and trails corrected by the Newfoundland Snowmobile Federation or by these provincial government departments.

Response from the MNL Board of Directors:

Municipalities Newfoundland and Labrador has spoken with the Department of Environment and Conservation concerning this issue. The Department asserts that it is the responsibility of the municipality to force individuals or organizations to remove anything that obstructs or puts their water supply areas at risk. The Department has also stated that the bridge in question in Flower's Cove was donated by the Department of Tourism, Culture and Recreation to the Snowmobilers' Federation in order to ensure that the organization saved money, the industry in the local area was developed, and the bridge was safe and secure.

This is a clear example of the need for much greater protection and control of watershed areas by the Provincial Government. After-the-fact enforcement of local regulations cannot be seen as an appropriate remedy when the Province allowed such a bridge to be placed in this area without consulting the affected municipality.

Given the serious concerns detailed in The Harris Centre's forthcoming Rural Drinking Water report, instances such as this placement of a bridge within a municipal watershed area cannot be tolerated. The responsibility for the bridge's removal clearly sits with the Departments of Environment and Conservation and Tourism, Culture and Recreation who granted permission for the placement and donation of the bridge in the first place.

Correspondence has been sent to both Ministers noting the implications that such actions can have on watershed areas and asking that both Departments act immediately to remove the bridge.

8-2013 / Carried with a friendly amendment - Committee to Review the Municipalities Act (2001) (Town of Flower's Cove)

Therefore Be It Resolved that Municipalities Newfoundland and Labrador request that the Department of Municipal Affairs strike a committee from various affiliations to reform the Municipalities Act and that the Department of Municipal Affairs consult with Municipalities Newfoundland and Labrador prior to any changes are made to the Act.

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Response from the MNL Board of Directors:

Amendments to the Act rarely enjoy any sort of mandated consultation with either municipalities or with affected residents. Although the staff of Municipalities Newfoundland and Labrador has been invited in the past to consult on legislation, this has been at the department's invitation and has neglected to include the leadership of the municipalities themselves. These exercises are usually one-time occurrences with follow-up consultations seldom occurring.

This is certainly the exception among Canadian provinces rather than the norm. In Nova Scotia, for example, the requirement to consult is enshrined in s. 518 of the Municipal Government Act. As well, s. 3.1 of Ontario's Municipal Act requires the province to consult with municipalities, in accordance with agreements made with the Association of Municipalities of Ontario, in matters of mutual interest. As well, Manitoba's Municipal Act sets out requirements for negotiations on certain items.

The MNL Board of Directors has approved the creation of an MNL Legislative Review Committee to prepare a comprehensive assessment of changes required in key provincial legislation relating to municipal governments, including the Municipalities Act, 1999. This committee will hold its first meeting by December 2014 and will immediately begin reviewing the Municipalities Act, 1999 in preparation for any review by the Department of Municipal and Intergovernmental Affairs.

Response from Municipal and Intergovernmental Affairs:

The objective of the Provincial-Municipal Fiscal Framework Review is to identify and recommend options to change the way services are delivered, paid for, and shared, to better position local governments in the province to meet the needs of citizens and into the future. An identified task of this review is to assess potential legislative amendments that will be required to implement any recommendations, as well as other amendments that may be identified that increase operational flexibility/autonomy for municipalities. MIGA anticipates that a comprehensive review of the Municipalities Act, 1999 will be required as a result of the outcome of the Provincial-Municipal Fiscal Framework Review. Consultations with MNL and other stakeholders will be an important component of reviewing the Municipalities Act, 1999.

9-2013 / Carried - Payment of property taxes on behalf of those on income support (Town of Wabana)

Therefore Be It Resolved that Municipalities Newfoundland and Labrador lobby the Department of Advanced Education and Skills to establish a joint committee with municipalities to review the property tax payment process for those on income support to identify difficulties in the process and to recommend solutions.

Response from the MNL Board of Directors:

The Department of Advanced Education and Skills had approached MNL regarding this resolution to discuss current practice and look at alternatives that both protect the privacy of clients on whose behalf the Department is remitting taxes, and expedite the payment of those taxes to the municipalities.

Further updates on this issue will be communicated to our members in the coming months. We hope to have a resolution to this issue, which will see our members receiving payment in a more timely manner.

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10-2013 / Carried - First Lien on Property in addition to Taxes (Town of Carbonear)

Therefore Be It Resolved that Municipalities Newfoundland and Labrador urge the provincial government to make changes to the Municipalities Act, 1999, the City of Corner Brook Act, the City of Mount Pearl Act, and the City of St. John's Act so that the cost of work is first lien where a council of a municipality lawfully causes work to be done pursuant to the Municipalities Act, the cost of the work, with interest, at a rate determined by the council, by policy, from the date of the completion of the work until the date of payment, is first lien on the property upon which, or for the benefit of which, the work was done.

Response from Municipal and Intergovernmental Affairs:

Typically a lien is used when costs have been incurred in the provision of services, which enhance someone's personal property. Currently, the ability to use a statutory lien in the City of Corner Brook Act, the City of Mount Pearl Act, the City of St. John's Act and the Municipalities Act, 1999 is related to the non-payment of municipal taxes. Council orders can currently be issued for both property and non-property offences. Therefore, further research needs to be undertaken to determine whether the proposed amendment is appropriate for recovering costs relating to the currently prescribed property and non-property Council Orders.

11-2013 / Carried with a friendly amendment - Increase of Fines for Littering (City of Mount Pearl)

Therefore Be It Resolved that Municipalities Newfoundland and Labrador lobby the Provincial Government to take action to increase the fines for littering in the Province of Newfoundland and Labrador and create regulations to enforce the fines and offences.

Response from Environment and Conservation:

"The Environmental Protection Act provides for fines of up to \$1,000,000 for a first and subsequent conviction for a corporation, including a municipality, and up to \$10,000 for an individual for a first or subsequent conviction for a person found guilty of an offence. Section 16 of the Act is a prohibition on illegal waste disposal including littering. Consequently specific anti-littering regulations are not necessary.

The Municipalities Act provides for fines of \$500 for a first offence and \$1000 for a second offence. I have copied the Minister of Municipal and Intergovernmental Affairs for consideration of your request to increase fines.

The enforcement component is important in addressing the littering issue and will involve efforts by all concerned parties."

Response from the MNL Board of Directors:

MNL has written to the Minister of Municipal and Intergovernmental Affairs asking that the Municipalities Act fines for littering be harmonized with those defined in the Environmental Protection Act.

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12-2013 / Carried - Transparency and Guidance on the Designation of Limit of Service Agreement (Town of Flower's Cove)

Therefore Be It Resolved that Municipalities Newfoundland and Labrador lobby the Department of Municipal Affairs to work with MNL and to amend the Municipalities Act, 1999 and/or the Urban and Rural Planning Act to provide for guidelines for the establishment, amendment, and appeal of Limit of Service Agreements;

Be It Further Resolved that Municipalities Newfoundland and Labrador lobby the Department of Municipal Affairs to amend its website to provide more information and clarity on limit of service agreements, such as why, how, and when they were established and advise municipalities on methods to more effectively operate within the limit of service area.

Response from the MNL Board of Directors:

Limit of Service Agreements between the municipal and provincial governments were established in 1990 and 1991. With the assistance of department officials, municipalities identified the limits wherein they were paved and serviced with water and sewer. The Department of Municipal Affairs would entertain requests for the replacement of infrastructure within this defined area, but any infrastructure development outside this area would be at the cost of the municipality or a private developer. These agreements could be amended if an initial error contributed to the exclusion of an eligible area, or if the designated municipal area had been fully developed and serviced to a level of full compliance with the town's current Plan and Development Regulations. Where the latter scenario applies, the town would be ineligible for any funding of initial infrastructure costs, but would be entitled to consideration of costs for rehabilitation and replacement as that infrastructure ages.

These agreements have caused numerous problems for municipalities since their signing. The amendment process is not clearly defined in legislation, existing instead as departmental policy. This has led to frustration and confusion on the part of municipal councils, as there is the feeling that these boundaries have been neither justified nor explained. As well, municipalities who are in need of development outside their boundaries according to their agreements are left to bear the financial burdens of expanding their development areas. This is not so much a problem for larger, more developed towns; smaller communities seeking to expand, however, find themselves at a significant disadvantage.

As well, there is little precedent across the country for such agreements. No examples of similar agreements have been found in other provinces; infrastructure cost-sharing elsewhere typically being a negotiated process between governments. For example no such agreement structure exists for Ontario municipalities receiving provincial support, although the Ontario Clean Water Agency is set up based on contracted services for smaller communities. In Nova Scotia and Alberta, municipalities are responsible for all land within municipal boundaries for water servicing, though the province does contribute funding when need arises.

MNL has written the Minister of Municipal and Intergovernmental Affairs asking to amend the Municipalities Act and Urban and Rural Planning Act to provide for clear guidelines for the establishment, amendment and appeal of Limit of Service Agreements.

Our letter also has asked that the Department revamp its website so that online access to information concerning Limit of Service Agreements can be provided.

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Response from Municipal and Intergovernmental Affairs:

MIGA recognizes that many municipalities are not familiar with their Limit of Service (LOS) agreements. MIGA is currently working to compile all relevant LOS documentation and intends to post it to MIGA's website.

13-2013 / Carried - Redevelopment of Former Gasoline Station Locations (Town of Marystown)

Therefore be it Resolved that Municipalities Newfoundland and Labrador (MNL) lobby the Provincial Government to make it mandatory that an environmental assessment be conducted on all former gasoline station sites and that the results of the said environmental assessment be reported to the local municipal authority with the intent that the local municipality and the owners of the sites in question work cooperatively to redevelop the vacant sites for the betterment of the community.

Response from the MNL Board of Directors:

MNL has written the Department of Environment and Conservation to raise these issues and to seek their policies. We believe that this is a bigger brownfield issue that involves other sites and MNL will be developing regulations on brown field remediation for their members.

14-2013 / Carried - All Certified Types of Water/Sewer Pipe to be included in Municipal Tenders (Town of Marystown)

Therefore Be It Resolved that Municipalities Newfoundland and Labrador (MNL) lobby the Provincial Government to make it mandatory that all types of piping, including PVC, be included in all applicable tender calls for municipalities in Newfoundland and Labrador.

Response from the MNL Board of Directors:

MNL has put this issue on the agenda for the Joint Municipal Infrastructure Committee for their discussion.

Response from Municipal and Intergovernmental Affairs:

MIGA is in the process of completing a major update to its Water and Sewer Master Specifications document. This work is expected to be completed and available for use for the 2015 construction season. In the interim, a circular was recently issued to all municipalities and engineering consultants related to a specification change through a Supplementary General Condition that will allow the use of a broader range of water and sewer pipe types.

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Category B

15-2013 / Carried - Crown Land for Affordable Housing

(Town of Deer Lake)

Therefore Be It Resolved that the not-for-profit sector be eligible to purchase Crown lands for a nominal value to construct affordable housing.

Response from the MNL Board of Directors:

A letter was sent to the Minister of Municipal and Intergovernmental Affairs asking that the Minister lobby his colleagues for this change to relevant legislation.

Response from Municipal and Intergovernmental Affairs:

The Lands Branch of the Department of Environment and Conservation are responsible for the management and allocation of the Province's Crown land resource under the Lands Act. After consulting with staff from the Department of Environment and Conservation, we have been advised that Crown land for Affordable Housing can only be sold at market value. Currently there are no provisions under the Lands Act, or Departmental policy to sell Crown land at a nominal value for Affordable Housing.

16-2013 / Carried - Municipal Long Service Awards (Town of St. Lawrence)

Therefore Be It Resolved that Municipalities Newfoundland and Labrador lobby the Department of Municipal Affairs to change the Municipal Long Service Awards so that in the future they be recognized by terms of elections; elected for 3 terms – 12 years; elected for 4 terms – 16 years; elected for 5 terms – 20 years; elected for 6 terms – 24 years; elected for 7 terms – 28 years; elected for 8 terms – 32 years.

Response from the MNL Board of Directors:

This resolution was sent to the Department of Municipal and Intergovernmental Affairs. Department Staff were asked to consider the issues that were raised in this resolution when preparing the criteria for this and future years' Long Service Awards.

Response from Municipal and Intergovernmental Affairs:

MIGA will commit to an overall review of the municipal long service award program and will specifically analyze changing the current length of service awards to align with the number of terms served.

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17-2013 / Carried - Provincial Pre-Budget Consultations (Town of Flower's Cove)

Therefore Be It Resolved that Municipalities Newfoundland and Labrador encourage the Department of Finance to schedule future consultations in a centralized area of each region, to advertise the consultations a month in advance, and to only cancel the meeting due to weather or unforeseen personal circumstances.

Response from the MNL Board of Directors:

This resolution was sent to Minister of Finance Charlene Johnson. We asked in that letter that consideration be given to location, advance advertising of dates, and to cancellation only as a last resort.

Category C

18-2013 / Carried - Moose Management Plan for Highway Safety (City of Mount Pearl)

Be it Further Resolved that MNL encourage the provincial government to work with stakeholders such as Save Our People Action Committee (SOPAC) to develop a viable strategic management plan, which includes such measures as perimeter fencing, brush cutting, relocating or removing nuisance animals through tranquilizing or targeted licensing;

Be it Further Resolved that the MNL advocate for government to establish a strategic investment to implement an appropriate highway safety program related to animal management measures, establish a public moose reporting hotline and engage in research and development with a view to seeking more efficient long term solutions to the moose roaming problem on our highways in NL.