



**ROTHESAY**  
**PUBLIC HEARING AGENDA**  
Rothesay Town Hall  
Commencing at 7:00 p.m.  
Monday, May 11, 2015



**PUBLIC HEARING**

**By-law 2-15 "Water By-law"**

**1. CALL TO ORDER**

Instructions

**2. PUBLIC HEARING  
Documentation**

15 April 2015  
5 May 2015  
8 May 2015  
DRAFT

1<sup>st</sup> Section 68 advertisement  
2<sup>nd</sup> Section 68 Advertisement  
Memorandum from Town Manager Jarvie  
By-law 2-15

**Appearances:**

**Brett McLean, P. Eng. Director of Operations - Rothesay**

**Request to speak:**

Andy W. Lodge, BLR Law

**Comments:**

6 May 2015 Letter from Mr. Lodge (7 property owners)  
6 May 2015 Letter from Messrs. Flood, Flood Construction

**3. ADJOURNMENT**

15 APRIL 2015

**NOTICES**

FINAL MORTGAGOR AND PARTNER, LINDA BROOKS, RUNSWICK LEGAL AID CENTER, AND ALL OTHERS

made under a mortgage registered with the Registrar of the Province of New Brunswick as Number 28683002 of the Capital Mortgage Trust Company of Canada, registered with the Registrar of the Province of New Brunswick as Number 28683002, pursuant to section 44 of the Property Act, for purposes of sale at or near the Saint John Court House, New Brunswick, on the lands and premises described in the ad. Saint John, County of Saint John, New Brunswick, and having been more particularly described in the deed of conveyance and rights associated therewith, the lands may be sold privately without notice.

MORTGAGE  
Solicitor, P.O. Box 310  
499 506/453/7771

**You Will Save Money**  
**OFF**  
**PRICE**  
a screened  
toll free  
ad out how!

**REAL ESTATE SALE**

1M4

**MAY CONCERN:**

under and by virtue of a date of February 2013 and registered in the Land Titles Office on 870254 made between the mortgagor, and Bank of Montreal and by virtue of the Property Act, R.S.N.B. 1973 Chap. P-19, there payment of monies due thereon, default having been made in the payment thereof, sold at public auction on April 30, 2015 at 1:15 p.m. at the St. Stephen Court House, 73 Milltown Boulevard, Suite 112, St. Stephen, NB.

1, NB AND IDENTIFIED AS PID 15032170.

and improvements thereon and the privileges and appurtenances thereto belong or in any way appertaining.

**TENDER/LEGAL NOTICES**

**MORTGAGE SALE**

**TO: ALISON LOIS GUIMOND, Mortgagor**  
**AND TO: CITIFINANCIAL CANADA EAST CORPORATION, Mortgagee**  
**AND TO: NICHOLAS JAMES BROWN, Mortgagee**  
**AND TO: ALL OTHERS TO WHOM IT MAY CONCERN**

NOTICE is given under the Power of Sale in a Mortgage registered in the Saint John County Land Titles Office on May 6, 2010 as number 28683002 between Alison Lois Guimond of 1002 Mollins Drive, Saint John, County of Saint John, New Brunswick, Mortgagor, and TD Financing Services Home Inc., Mortgagee.

The property known as 1002 Mollins Drive, Saint John, County of Saint John, New Brunswick, and known as Parcel Identifier Number (PID) 412783 is to be sold at public auction at the Saint John Court House, 10 Peel Plaza, Saint John, New Brunswick on Thursday, April 30, 2015 at 11:00a.m.

If a sufficient offer of purchase is not received, the property will be withdrawn and will be sold by private contract.

DATED this 24<sup>th</sup> day of March, 2015.

**TD FINANCING SERVICES HOME INC.**  
By: LAWSON CREAMER  
Per: VERONICA L. FORD  
Solicitors for TD FINANCING SERVICES HOME INC.

**LOST AN ITEM?**  
**Classified Can Help!**  
Call Us Today at 633-6733  
or Toll Free 1-888-738-5544

**NOTICE OF MORTGAGE SALE**

**TO: Eleanor Marie Murphy (estate)**  
**Eleanor Marie Murphy (estate)**  
302 Route 740  
Heathland, NB E3L 5B1

**AND ALL OTHERS TO WHOM IT MAY CONCERN:**

**NOTICE IS HEREBY GIVEN** that under and by virtue of a certain Mortgage bearing the date of November 18, 2013 and registered in the Land Titles Office on January 8, 2014 as Number 33460354 made between Eleanor Marie Murphy, as Mortgagor, and Investors Group Trust Co. Ltd., as Mortgagee, and under and by virtue of the Property Act, R.S.N.B. 1973 Chap. P-19, there will for the purpose of obtaining payment of monies secured by the said Mortgage, default having been made in the payment thereof, sold at public auction on April 30, 2015 at 1:15 p.m. at the St. Stephen Town Hall, 73 Milltown Boulevard, Suite 112, St. Stephen, NB:

602 ROUTE 740, HEATHLAND, NB AND IDENTIFIED AS PID 15032170.

**TOGETHER** with all the buildings and improvements thereon and the privileges and appurtenances thereto belong or in any way appertaining.

**TENDER/LEGAL NOTICES**

**ROTHESAY PUBLIC NOTICE**

In accordance with Section 68 of the Community Planning Act, R.S.N.B. (1973) c. C-12, and amendments thereto, PUBLIC NOTICE is hereby given that the town of Rothesay intends to consider enactment of By-Law 2-15, "Water By-Law" under authority of Section 189 of the Municipalities Act, RSNB (1973) c. M-22, following a **PUBLIC HEARING** to be held on **Monday, May 11, 2015 commencing at 7:00 p.m.**, at the Rothesay Town Hall, 70 Hampton Road, Rothesay, New Brunswick.

The purpose of the By-law is to regulate the connection to, use and maintenance of, the Rothesay potable water system and to establish water system fees and charges. The proposed By-law requires that all commercial and multi-family buildings be connected and use Town water, where available.

The proposed By-law may be inspected by interested citizens between the hours of 8:15 a.m. and 4:00 p.m., Monday to Friday, at the Town Office, 70 Hampton Road, Rothesay, New Brunswick, exclusive of civic holidays. Written objections to the proposed amendment will be received by the undersigned until **12 Noon, Wednesday, May 6, 2015**. Any person wishing to speak may do so at the **PUBLIC HEARING on Monday, May 11, 2015 commencing at 7:00 p.m.**

Mary Jane E. Banks, BComm  
Town Clerk - Rothesay

**NOTICE OF SALE**

**TO: ALLAN MARSHALL & ASSOCIATES INC., Trustee for the Estate of Matthew Wayne Vautour, Mortgagor, And To: Lindsay Alisha Lemon, Mortgagor, and to all others to whom it may in any way concern.**

Pursuant to the Property Act and a Power of Sale in a Mortgage between Matthew Wayne Vautour and Lindsay Alisha Lemon, Mortgagors, and The Bank of Nova Scotia, Mortgagee, registered in the Kings County Land Titles Office on June 30, 2011 as Number 30280375, there will be for the purpose of satisfying the money secured by the said mortgage, sold at public auction on April 30, 2015 at 1:15 p.m. at the St. Stephen Court House, 73 Milltown Boulevard, Suite 112, St. Stephen, NB.

Your message will **JUMP** Off the page when you purchase a screened ad! Call 633-6733 or Toll Free 1-888-738-5544 to find out how

5701 2015  
**ROTHESAY PUBLIC NOTICE**

In accordance with Section 68 of the Community Planning Act, R.S.N.B. (1973) c. C-12, and amendments thereto, PUBLIC NOTICE is hereby given that the town of Rothesay intends to consider enactment of By-Law 2-15, "Water By-Law" under authority of Section 189 of the Municipalities Act, RSNB (1973) c. M-22, following a **PUBLIC HEARING** to be held on **Monday, May 11, 2015 commencing at 7:00 p.m.**, at the Rothesay Town Hall, 70 Hampton Road, Rothesay, New Brunswick.

The purpose of the By-law is to regulate the connection to, use and maintenance of, the Rothesay potable water system and to establish water system fees and charges. The proposed By-law requires that all commercial and multi-family buildings be connected and use Town water, where available.

The proposed By-law may be inspected by interested citizens between the hours of 8:15 a.m. and 4:00 p.m., Monday to Friday, at the Town Office, 70 Hampton Road, Rothesay, New Brunswick, exclusive of civic holidays. Written objections to the proposed amendment will be received by the undersigned until **12 Noon, Wednesday, May 6, 2015**. Any person wishing to speak may do so at the **PUBLIC HEARING on Monday, May 11, 2015 commencing at 7:00 p.m.**

Mary Jane E. Banks, BComm  
Town Clerk - Rothesay

**First-Class Classifieds**



**When Mary, Ted and Tony rented a house off-campus and needed furniture, they found it for a great price in the**



# ROTHESAY

## INTEROFFICE MEMORANDUM




---

TO : Mayor Bishop & Council  
 FROM : John Jarvie  
 DATE : 8 May 2015  
 RE : Water Bylaw Amendments

---

### Recommendation

it is recommended that Council table 3<sup>rd</sup> reading of the Water Bylaw 2-15 and direct staff to prepare a report in response to the issues raised at the public hearing.

### Background

The utilities committee has reviewed the water bylaw and recommended a series of changes. The change which has attracted the most attention from affected property owners and it may be considered to be the most substantial, is a requirement for all commercial buildings and multi-unit residential buildings to be connected to and use water from the municipal system where it is available. The following are some points to provide background and explanation regarding the purpose and need for these amendments.

*How many properties are affected?* Attached is a map showing the properties which would be required to connect and use Town water if the bylaw is passed. In total there are 16 properties affected, five commercial and 11 multiunit residential properties. The following is a list of the civic addresses to which water is available but which are not connected to the Town system.

- 83 Hampton Road, Fairvale Mall
- 93 Hampton Road, Orient Express
- 118 Hampton Road, Victor's Grooming
- 129 Hampton Road, C.S. Branch Limited
- 48 Marr Road, Apple Autoglass

Other properties would be required to connect as and when the system is expanded but these would be relatively small in number as most of the established business area is served by the municipal water system.

In addition to the five commercial buildings, 11 residential buildings were identified as having water available from the municipal system but not currently connected. These are as follows:

- 33 Dobbin Street
- 35 Dobbin Street
- 37 Dobbin Street
- 84 Hampton Road
- 87 Hampton Road
- 12 Marr Road
- 14 Marr Road
- 30 Marr Road
- 53 Marr Road (Kingsview)
- 66 Marr Road
- 4 Scribner Crescent

There are multiunit residential buildings in other parts of the municipality which would be required to connect to the Town's water system at such time as the system is expanded. The most immediate is the Miller apartment development on Gondola Point Road where the water line is to be extended during this construction season. At this location there are at least six (6) multi-residential buildings. Other locations will depend on the extension of the water system and the specific analysis can be done associated with each expansion.

*Why is this change being proposed?* Existing users are bearing the cost of upgrades to the system while protection is afforded (fire, contamination and loss of supply) for a great many more so the amendment is seen as providing greater equity in the system. It is expected that a greater number of users on the system will result in less water being wasted to maintain quality. Spreading the cost of the utility over more users allows for greater stability of rates. For water users on the system increases revenue and contributes to a reduction in the percentage of cost borne by the sewer component.

*Are these properties already receiving benefits from the municipal water system?* The presence of the water infrastructure in close proximity to the properties listed affords their owners peace of mind in the case of a failure of their private system, improves fire protection to the buildings due to the availability of fire hydrants and may reduce their insurance premiums depending on specific practices of their underwriter. It could also be argued that the use of the Town water system by other properties in the vicinity reduces the demand on the ground water on which their wells depend.

*What is the benefit to the property owners to connect and use town water?* Property owners hooking up to the town system are guaranteed supply upon the water at provincial standards. These standards include regular testing and the availability and analysis of the supply as well as monitoring of the quantities available for both drinking and fire protection. Those properties on the town system generally have water available during power outages.

*What is the additional revenue to the utility?* Staff estimate that the new revenue will be approximately \$51,000 per year for additional fixed teams and consumption charges. This represents an approximately 6% increase in annual revenues.

*What are the costs to the property owners if the bylaw is adopted?* There are two basic kinds of costs one of which is the payments required to the Town Bylaw for hookup and installation. Second is the cost to actually installing a pipe from the Town system to the building. These latter costs are site-specific and depend on distance involved and also the quality of the plumbing system within the building. Attached is a list of the connection costs imposed by the bylaw based on staff's understanding of the occupancy the buildings at present. Staff suggests that the town utility be responsible for providing the lateral from the main to the property line. (This is in place for many of the buildings but may be required to be installed in some cases. Property owners requested book up typically bear this cost when the lateral is not in place)

*Is there sufficient water in the well field to supply these additional users?* The Director of Operations has estimated that an additional 35,000 m<sup>3</sup> will be required to serve these new customers. Although the capacity exists, it will be necessary to continue to prospect for additional high-quality water supplies to insure capacity for future users and an adequate buffer against unexpected reductions in source water or sudden losses inconsistent due to fire or large leakage.

**Process**

Following the public hearing the matter should be referred to staff for a report in response to the issues raised. This report would offer possible options for changes to the draft Water Bylaw and the implementation of any changes. Third reading would be given when Council is satisfied any changes area appropriate.

Commercial							
Customer	Name	Address	Commercial	Units	Water Chrg	Potential Fees	
						Permit	Access Fee
124045	[REDACTED]	[REDACTED]	5,780.00	17	\$ 274.75	\$ 100.00	0*
123671	[REDACTED]	[REDACTED]	340	1	\$ 190.80	\$ 100.00	\$ 5,000.00
123725	[REDACTED]	[REDACTED]	1020	3	\$ 572.40	\$ 100.00	\$ 5,000.00
123727	[REDACTED]	[REDACTED]	340	1	\$ 190.80	\$ 100.00	\$ 5,000.00
124032	[REDACTED]	[REDACTED]	340	1	\$ 190.80	\$ 100.00	\$ 5,000.00
						\$ 500.00	\$ 20,000.00
	* previously paid						

MULTI RESIDENTIAL							
	Name	Address	Units	Water Chrg	Notes	Potential Fees	
						Permit	Access Fee
123672	[REDACTED]	[REDACTED]	3.75	\$ 47.70		\$ 100.00	\$ 5,625.00
123670	[REDACTED]	[REDACTED]	3.75	\$ 47.70		\$ 100.00	\$ 5,625.00
124337	[REDACTED]	[REDACTED]	6	\$ 47.70		\$ 100.00	\$ 9,000.00
124126	[REDACTED]	[REDACTED]	9	\$ 47.70		\$ 100.00	\$ 13,500.00
123957	[REDACTED]	[REDACTED]	9	\$ 47.70		\$ 100.00	\$ 13,500.00
388439	[REDACTED]	[REDACTED]	16.5	\$ 47.70	4 buildings	\$ 400.00	\$ 24,750.00
450834	[REDACTED]	[REDACTED]	3	\$ 47.70		\$ 100.00	\$ 4,500.00
124318	[REDACTED]	[REDACTED]	12	\$ 47.70		\$ 100.00	\$ 18,000.00
124489	[REDACTED]	[REDACTED]	12	\$ 47.70		\$ 100.00	\$ 18,000.00
124488	[REDACTED]	[REDACTED]	12	\$ 47.70		\$ 100.00	\$ 18,000.00
124351	[REDACTED]	[REDACTED]	11.25	\$ 47.70		\$ 100.00	\$ 16,875.00
						\$1,400.00	\$147,375.00

**BY-LAW 2-15**  
**WATER BY-LAW**

The Council of Rothesay, under authority vested in it by Section 189 of the *Municipalities Act* R.S.N.B. (1973), Chapter M-22, and amendments thereto, hereby enacts as follows:

**TITLE**

1. This By-law may be cited as the “Water By-law”.

**DEFINITIONS**

2. In this By-law, unless otherwise stated:
  - a) “Commercial unit” means a separate set of quarters used for other than residential purposes with a private entrance from outside the premises or from a common hallway or stairway inside;
  - b) “Committee” means the Utilities Committee of Rothesay, as appointed by the Council;
  - c) “Council” means the Mayor and Council of Rothesay;
  - d) “Dwelling unit” means a separate set of residential quarters with a private entrance from outside the premises or from a common hallway or stairway inside;
  - e) “Engineer” means the Town Engineer or their designate;
  - f) “Equivalent User Units” means the rate at which non-single family residential users and commercial users are charged for maintenance, construction, and use of the water system; calculated with an average residential household as the base single unit;
  - g) “Fire Department” means the Kennebecasis Valley Fire Department Inc.;
  - h) “Industrial unit” means an area of land with or without buildings or structures on which activities take place pertaining to industry, manufacturing, commerce, trade, business, or institutions as distinguished from domestic dwellings;
  - i) “Institutional unit” means an area of land with or without buildings or structures on which activities take place pertaining to public or non-profit purposes, and without limiting the generality of the foregoing, may include such uses as schools, places of worship, indoor recreation facilities, community centres, public hospitals, and government buildings;
  - j) “May” is construed as permissive;

- k) “Meter” means a cold water measuring device calibrated in cubic metres owned and operated by the Town;
- l) “Owner” means the person in whose name the property is assessed under the *Assessment Act*, Chapter A-14, R.S.N.B. (1973) and amendments thereto, and includes executors, administrators, and assigns of such person;
- m) "Person" means any individual, partnership, company, public or private corporation, or agency of the Province of New Brunswick, agency or any other legal entity;
- n) “Premises” means a building, which may contain one or more dwelling unit, institutional unit, industrial unit, and/or commercial unit, connected to the water system of the Town by a single service connection to each system;
- o) “Roadway” means that portion of a Rothesay street between the curb lines or the travelled portion of a street designed for vehicular traffic and, except where the context indicates otherwise, includes a crosswalk;
- p) “Rothesay Main Water” or “Rothesay Main Water System” means the water system for that area within the municipal boundary having its source of water supply from the Carpenters’ Pond Watershed and such other sources as may be developed from time to time;
- q) “Service Connection” means any piping system that conveys water from a water main to any premises;
- r) “Shall” is construed as being mandatory;
- s) “Specifications for Developers” means the standards adopted by the municipality as a minimum standard for new construction of streets and services within the Town;
- t) “Street” means a Rothesay street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts, and retaining walls in connection therewith and, without restricting the generality of the foregoing, includes the full width of the right-of-way;
- u) “Town” means the town of Rothesay or the area contained within its municipal boundaries as the context requires;
- v) “Water” and “Water Supply” means the water supplied to consumers for the purposes herein specified;
- w) “Water System” means all of the property involved in the operation of the Rothesay water utility and watershed; including all land, wells, water lines and appurtenances, treatment plants, reservoirs, pumping stations, buildings and structures, and general property;



- x) "Water User Charge" means the amount charged for maintenance, construction, and operation of the water system.
- 2.1 In this By-law where the context requires, the singular shall be taken to also mean the plural and references to the male or female gender shall be taken to include the other.
3. **COMMITTEE**
- 3.1 The Utilities Committee shall be appointed in accordance with the Rothesay Procedural By-law
- 3.2 Council may refer any matter related to the water utility to the Utilities Committee for comment and the Committee shall provide Council with a written response to any matter referred by Council.
4. **WATER SYSTEM**
- 4.1 Water shall not be furnished for any purpose other than domestic and fire protection purposes when, in the opinion of Council or the Engineer, the quality or efficiency of the water supply for domestic and fire protection purposes within the Town would thereby be impaired.
- 4.2 (a) The Town may, subject to the foregoing limitations, furnish water for purposes other than domestic and fire protection under an agreement in writing that the water supply may be discontinued temporarily or permanently by Council.
- (b) When a development has been approved that includes a car wash facility, a recycle component shall be installed, operated, and maintained as part of the system, with a capacity to reclaim a minimum of 40 per cent and further shall be subject to Town approval.
- 4.3 Unless otherwise authorized by Council or the Engineer, the water supply to any premises shall be measured by a water meter, as regulated under Section 5 of this By-law.
- 4.4 The water supply shall be regularly tested in accordance with the *Clean Water Act*, R.S.N.B. (1973) Chapter C-6.1 and amendments thereto, and Approvals to Operate issued from time to time.
- 4.5 The locations, elevations, materials, and methods of installation for all public and private water mains, service pipes, and appurtenances shall be approved by the Engineer prior and after construction.
- 4.6 The Owner shall use construction methods which safeguard the public and private property and work shall be carried out in strict compliance with the *Occupational*

*Health and Safety Act, R.S.N.B. (1983), Chapter O-0.2 as amended.*

- 4.7 No person, being an Owner, tenant, or occupant of a house, building, or other place within the Town supplied with water by the Town shall, without permission of Council or the Engineer:
- (a) lend or sell the water;
  - (b) give water away or permit it to be taken or carried; or
  - (c) use or apply it to the use or benefit of any other person.
- 4.8 The Town shall not be liable for any damage or injury caused or done by reason of the interruption of water supply, water system operation, water pressure or its variation, or drawing of a vacuum on the water system.
- 4.9 No person other than designated Town staff shall open or in any way interfere with any hydrant or valve in the Town; or in the case of Fire Department use, the Fire Chief or their designate.
- 4.10 The Engineer shall have right of access to all parts of an Owner's property or premises at all reasonable hours for the purpose of inspecting any water pipes, fittings or appliances. The Town shall have the right to suspend water service to any Owner who refuses such access or does not respond to requests by the Engineer for such access.
- 4.11 Water supply may be refused or discontinued at any time for:
- a) non-payment of water user charges;
  - b) non-payment of a water connection charge;
  - c) non-payment of any repair or maintenance related charge;
  - d) failure, in the opinion of the Engineer, of the plumbing, pipes, fittings, vents, fixtures, or other related devices on the premises necessary to comply with the requirements of this By-law or if any part of the water system of such premises is in any way unsuitable, dirty, unsanitary, or in an inaccessible place;
  - e) violation of any provision of this By-law;
  - f) the convenience of, and at the request of, the Owner and occupier of the premises; or
  - g) use above quarterly limit of 800 cubic meters per quarter.
- 4.12 Where a water supply has been discontinued under Section 4.11, the Owner shall pay a disconnection fee, together with any amount in arrears and furthermore, a reconnection fee shall be paid before such supply will be restored. Said fees are outlined in Schedule "E".
- 4.13 No connection shall be made to the water system for the purpose of taking water therefrom except under the direct supervision of the Engineer.

- 4.14 Where maintenance of a sprinkler system or other fire fighting system requires the removal of unmetered water from the water system, the Owner shall obtain prior permission from the Engineer and shall notify the Fire Department dispatch personnel.
- 4.15 Any owner of a commercial, institutional, or non-single family residential building on land abutting a street, right-of-way, or public place in which there is a water main shall connect to the main in a manner approved by the Town and use such main as its sole source of water.
- 4.16 No person shall make a connection to any water main of the Town unless a permit has been issued pursuant to this By-law, in the form as set out in Schedule "A". All installations shall be in accordance with the requirements of the "Specifications For Developers" subject to inspection by the Engineer.
- 4.17 Water shall not be supplied from the water system to any Owner's water system unless the Owner's water system and related plumbing is protected from frost and is approved by the Engineer and all costs and expenses incident to the installation and connection to the water system shall be borne by the Owner.
- 4.18 Every service connection to a premises shall have a stop drain shut-off valve, of a type approved by the Engineer, in an accessible position immediately inside the wall of the premises at the service entrance.
- 4.19 When an Owner's water system is found to have been installed in an unsatisfactory manner or in a manner insufficiently strong to resist the pressure to which it may be subjected or where water service pipes are not sufficiently protected from frost or where a person supplied with water has violated any provision of this By-law, the Engineer may direct that the water supply be discontinued until such Owner's water system is properly installed and approved and the person supplied has complied with the provisions of this By-law.
- 4.20 Where an Owner's water system requires a pressure reducing valve to control excess pressures, such valve, installation, and related costs shall be the responsibility of the Owner, with said installation subject to approval of the Engineer.
- 4.21 No Owner or other person shall connect, cause to be connected, or allow to remain connected, any piping, fixture, fitting, container, or appliance, in a manner that, under any circumstances, could allow water, waste water, or any other substance to enter the Town's water system. The determination of whether or not such condition exists shall be made solely by the Engineer.
- 4.22 No person shall connect any of the following to a service connection, or a line

connected to a service connection, without obtaining a permit from the Engineer:

- a) a booster pump;
- b) a quick opening or quick closing valve;
- c) a flush valve;
- d) a heat pump;
- e) a standpipe;
- f) a large outlet which may occasion sudden large demands of short or long duration thereby requiring oversize pipe lines; or
- g) any device which may affect the stability or regulation of water pressure in the water system.

4.23 An application for a permit to install a device such as described in Section 4.22 shall be made in the form as set out in Schedule "B" and shall be accompanied by plans and specifications and such other information as required by the Engineer to properly describe the work.

4.24 If a condition is found to exist which in the opinion of the Council or the Engineer, is contrary to Sections 4.21, 4.22, or 4.23 hereof, Council may either:

- a) shut off the service or services; or
- b) give notice to the Owner to correct the fault within a specified period.

4.25 No person shall allow an alternate source of water supply to be connected to the water system.

4.26 In all new construction, where water hose connections are installed for purposes other than fire protection, such hose connections shall be fitted with atmospheric vacuum breakers.

4.27 Water services shall be discontinued by resolution of Council to any premises declared unfit for human occupation.

## **5. METERED WATER**

5.1 All water meters installed by the Town or for the Town are and shall remain the property of the Town.

5.2 The rental of the water meter shall be a one-time charge, payable in one payment or quarterly for a period of three years, in accordance with the rates as outlined in Schedule "E".

5.3 All new construction within the Town, where services are available, shall be required to have a water meter installed prior to activation or delivery of any water to the premises. Said installation shall be in accordance with the Standards and Requirements as set out in Schedule "C".

- 5.4 Where the premises are connected to a private distribution system, the Owner shall provide for a metering vault.
- 5.5 Every Owner shall provide a place for a water meter which, in the opinion of the Engineer, is suitably located within the building at or near the point of entry of the water service pipe and on the Owner side of the shut-off valve, so the meter can be easily read and will not be exposed to freezing temperatures.
- 5.6 Every Owner shall provide a place for a remote meter reading device (outside register) that shall be located on the exterior of the building. This remote meter reading device shall be connected to the meter by means of a wire conductor.
- 5.7 Where the premises of an Owner are of such a nature that a meter cannot be properly installed in a building, or if the building is not sufficiently frost proof as to guarantee the safety of the meter, the Engineer may order the Owner to construct an approved frost proof chamber in which the meter can be installed.
- 5.8 Where the required meter is larger than 20 millimetres nominal pipe diameter, or services more than one above ground floor, it shall be valved on both sides. Where the required meter is larger than 20 millimetres nominal pipe diameter, or where the required meter is a turbine type, or compound type, the Owner shall provide a valved bypass arrangement, designed and installed to the satisfaction of the Engineer, to enable testing and servicing of the meter.
- 5.9 The Engineer shall have right of access to all parts of an Owner's property or premises at all reasonable hours for the purpose of installing, removing, repairing, reading, testing, or inspecting meters or outside registers. The Town shall have the right to suspend water service to any Owner who refuses such access or does not respond to requests by the Engineer for such access.
- 5.10 No person shall remove or in any way interfere with any water meter affixed to a water service of the Town without approval of the Engineer.

- 5.11 The Owner shall be responsible for the meter on their service pipe and shall protect such water meter. The Owner shall be liable for any damage to the meter or outside register resulting from carelessness, hot water, steam, or the action of frost or any other cause not the fault of the Town or its agents and employees. The cost to the Town occasioned by the damage to the water meter or outside register shall be paid by the Owner. If, after the rendering of an invoice by the Town to the Owner for the cost, the invoice is not paid within thirty (30) days from the date rendered, the supply of water to the premises may be suspended until all charges are paid.
- 5.12 Meters shall be read every quarter and the water user charge shall be invoiced in accordance with Section 7 of this By-law.
- 5.13 Where an Owner requests a Town-owned water meter be tested for accuracy, a fee, as outlined in Schedule "E", shall be paid prior to the test being conducted. Such fee may be refundable only if the tested meter is found to register volumes higher by more than four percent of the standard test. The meter shall be tested by an independent, certified testing service in accordance with the "Statement of Standard Procedure, Settlement of Disputes", as set out in Schedule "D".
- 5.14 Where an Owner, or an Owner's agent, requests that the water meter be read at any time other than the time that it is normally read, the Owner shall be liable to pay a fee, as outlined in Schedule "E".

## **6. MAINTENANCE AND BLOCKAGE**

- 6.1 The main line of the water system shall be maintained and operated by the Town.
- 6.2 The service connection from and including the curb stop at the property line to the main line of the water system shall be maintained and operated by the Town.
- 6.3 The service connection from but NOT including the curb stop at the property line to the building, and all fixtures, piping, and appurtenances within the building shall be maintained and operated by the Owner.

## **7. RATES**

- 7.1 Every Owner of land on which any building is situated that:
- (a) fronts on any street, right-of-way or highway in which a water line is situated;
  - (b) fronts on any right-of-way, which connects to a street or highway in which a water line is situated; or
  - (c) Council has ordered connected to a water system;
- shall pay to the Town a "Water User Charge" for the construction, operation, and maintenance of the water system of the Town, as outlined in Schedule "E".

- 7.2 The “Water User Charge” shall be comprised of:
- (a) a fixed charge that shall be billed to each Owner of property connected to, or who has access to the system;
  - (b) a consumption charge based on the volume of water recorded by the meter on the service or as estimated in a manner approved by Council; and
  - (c) an annual stand-by charge for such buildings that are connected to the Town water system and are equipped with water sprinkler systems.
- 7.3 The fixed charge portion of the “Water User Charge” shall be set in accordance with the meter size and shall be reviewed periodically and approved by Council. Consumption rates per cubic meter and the annual stand-by charge shall be as outlined in Schedule “E”.
- 7.4 The “Water User Charge” shall be invoiced quarterly, including the fixed charge and consumption charge.
- 7.5 Owners who choose not to connect to the water system, when access to the system is available, shall be invoiced the fixed charge portion of the “Water User Charge”.
- 7.6 The water user charge payable by the Owner shall be paid to the Town on or before the end of the calendar month next following the date the invoice is mailed to such Owner and shall be payable whether or not the invoice is received by the Owner. If the account is not paid in full, the amount owing to the Town shall bear interest at a rate as outlined in Schedule “E” and such rate of interest shall be set forth on the invoice. A fee shall be charged to the account for “NSF” cheques, as outlined in Schedule “E”.
- 7.6.1(a) Where recommended by the Committee, the Town Manager may authorize a payment schedule for any account with an outstanding balance that includes at least five hundred dollars that is in arrears for longer than one year.
- (i) Such payment schedule may be for a period of no longer than 24 months and shall provide for payment of the outstanding balance including interest accrued to the date of the payment schedule as well as estimates of the new charges that would accrue during the payment period. The payment schedule may provide that, should the Owner make all payments due in accordance with the payment schedule, interest that would otherwise accrue on the outstanding balance during the payment period will be waived.
  - (ii) In exceptional circumstances and with the approval of Council, a payment schedule may exceed 24 months.
- (b) Where the Owner fails to make any payment by the date specified in the payment schedule, the full amount will become due and payable forthwith, including interest compounded in the normal fashion as if no payment schedule had ever been approved.

- (c) An Owner remains obligated to pay to the Town actual new charges incurred during the payment period and not merely estimates that may have been included in a payment schedule.
- (d) The authorization of a payment schedule in accordance with Section 7.6.1 subsection (a) is merely an accommodation to an Owner by the Town and does not reduce or affect, except to the degree specifically stated in Section 7.6.1, the rights of the Town including, without limitation, its rights to accrue and collect the charges and interest thereon due from an Owner to the Town under this By-law or to disconnect service to a property.
- 7.7 If the account or any part thereof remains unpaid at the end of the period hereinbefore mentioned, the Town may sue in its own name to recover the balance owing, including interest, as if the said amount were a debt due from the Owner to the Town.
- 7.8 After ten days notice in writing has been given to an Owner who is in arrears, which notice may be given by registered mail addressed to the Owner, postage prepaid, and without prejudice to any other rights which the Town may have, the Town may disconnect service to the property until such time as the account and the entire cost of disconnecting and reconnecting the service have been paid in full or arrangements for payment satisfactory to Council and approved in writing by the Town Manager have been made by the Owner.
- 7.9 For the purposes of this By-law, a water line has been installed when the Engineer has certified to Council that the system or project of which the water line forms part is substantially complete.
- 7.10 Water user charges shall be levied on the Owners of all properties liable to pay the same commencing at the beginning of the calendar year following the year in which a water line has been installed or the year in which a building on the property has been connected to the water system, whichever is earlier.

#### **SYSTEM ACCESS FEES**

- 7.11 Every person connecting to the water system shall pay a meter connection permit fee and water system access fee as outlined in Schedule "E". The fees shall include all inspection fees and charges associated with processing of the application, control and enforcement of "Specifications for Developers" and shall be paid in full prior to the issuance of a building permit water connection permit.
- 7.11.1 The Engineer, following standard practices and engineering principles, shall have discretion as to the size of the meter required.



7.12 The meter connection permit fee and water system access fee bear interest and may be collected in the same manner as the water user charge hereinbefore mentioned.

7.13 Nothing in this By-law makes the Town responsible for any part of a water connection that is not in a public street, right-of-way, highway, or water easement.

**8. PENALTIES**

8.1 Any person found violating any provision of this By-law or who suffers or permits any act or thing to be done in contravention or violation of any provision thereof, or neglects or fails to do any act or thing herein required, is liable to a fine as may be imposed for commission of an offence punishable under Part II of the *Provincial Offences Procedure Act*, R.S.N.B. (1973), Chapter P-22.1, and amendments thereto, as a Category C offence.

8.2 The provisions of Sections 7 and 8 are cumulative and optional and one or more of the remedies provided to the Town may be undertaken simultaneously at the option of the Town.

**9. SEVERABILITY**

If any part of this By-law shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this By-law.

**10. BY-LAWS REPEALED**

By-law 7-04 relating to the Rothesay water system is hereby repealed.

**11. EFFECTIVE DATE**

This By-law comes into effect on the **30<sup>th</sup> day of March 2015**.

FIRST READING BY TITLE : 9 February 2015

SECOND READING BY TITLE : 9 February 2015

READ BY SECTION NUMBER :  
(Advertised as to content on the Rothesay website in accordance with *Municipalities Act* R.S.N.B. (1973) Chapter M-22) (19 February 2015)

THIRD READING BY TITLE AND ENACTED :

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CLERK



ANDY W. LODGE | LAWYER  
DIRECT: (506) 848-4442  
FAX: (506) 848-4445  
MOBILE: (506) 650-9527  
EMAIL: [andy@blrlaw.ca](mailto:andy@blrlaw.ca)

May 6, 2015

Town of Rothesay  
70 Hampton Road  
Rothesay, NB  
E2E 5L5

**Attention: Mayor and Council**

Dear Mayor and Council:

This submission is being presented in response to the Town of Rothesay's draft Water By-Law currently being considered for approval by Council.

The by-law directly affects 11 multi-unit residential properties in the Town of Rothesay. We have been retained by the owners of ten (10) of those properties to present their perspective including the inevitable impacts of this draft by-law. These owners and their respective properties are as follows (in no particular order):

- |    |                               |   |                  |
|----|-------------------------------|---|------------------|
| 1) | 640091 NB Inc. (Mr. Cipolla)  | - | 30 Marr Road     |
|    |                               | - | 14 Marr Road     |
|    |                               | - | 12 Marr Road     |
| 2) | Dale and Cheryl Kennedy       | - | 84 Hampton Road  |
| 3) | B/A Realty Ltd. (Mr. Bamford) | - | 87 Hampton Road  |
|    |                               | - | 83 Hampton Road  |
| 4) | Charles Turnbull              | - | 37 Dobbin Street |
|    |                               | - | 33 Dobbin Street |

- 5) Sinclair Investments Ltd. - 35 Dobbin Street  
(Carol Anne Murphy)
- 6) Square Ram Inc. (Mr. Ramier) - 6 Parkdale Avenue
- 7) Propertystar Inc. (Mr. Hatfield) - 2 Kingsview Court  
- 6 Kingsview Court  
- 10 Kingsview Court  
- 12 Kingsview Court

While it is understood and appreciated that Mayor and Council ultimately seeks to ensure a fair and reasonable distribution of costs through effective taxation for all residents of the Town of Rothesay, it is crucial that Council consider this very important draft by-law and its implications, from all perspectives.

Our clients collectively own 112 units that will be directly affected by this draft water by-law, if enacted. Within those 112 units are 200 residents of the Town of Rothesay. They consist of single parents, young couples, small families and seniors among others. The average rent for these units is less than \$600 per month. It is clear these apartments qualify as "affordable housing". Also, it is clear that these people are not among the Town's highest income earners. While no disrespect is intended toward these people, Mayor and Council must consider their ability to absorb the extra cost of this suggested amendment.

As of February 2013, the Town of Rothesay had 675 apartments. The Department of Social Development informed Town staff that affordable housing availability in the Town was significantly challenged. The Town then turned its mind to the topic of affordable housing in the municipality. Mr. Jarvie drafted a comprehensive report addressing the status of affordable housing in Rothesay as well as the municipality's role in providing affordable housing within its boundaries.

Mr. Jarvie's report stated as follows:

"Ideally, affordable, appropriate and adequate housing should be available for people of all abilities, incomes, lifestyles and household sizes. . . Housing is also the central building block for a healthy, sustainable community. On a larger scale housing affordability plays an important role in supporting a competitive regional economy and in promoting social well-being of families and individuals."

Mr. Jarvie's report correctly identified the harsh truth with respect to affordable housing: the Town's ability to provide assistance is very limited. The report went on to suggest some options within the Town's power to encourage affordable housing in new developments. This inevitably was because there was no realistic way to create additional affordable housing by lowering the cost of existing apartments. However, one thing that this council can certainly do is ensure that the costs of affordable housing that already exists within the Town are not significantly increased. Although there may be other options within the purview of the Provincial Government for creating and administering programs to make existing apartments more affordable through grants and such, this simply is not a practical or realistic option for a municipality.

During that same year, this Town and its Mayor and Council were struggling with the very difficult decision relating to building a recreation center and where it should be located. Ultimately, it was decided that the recreation center would be placed very near the location of the existing arena. This required the purchasing and razing of two existing affordable housing buildings on Scott Avenue. Unfortunately, this action reduced access to affordable housing in the Town of Rothesay even further.

The most interesting issue before us two years later however, is a measure recommended by Town staff which would certainly make many affordable apartments currently existing within the Town of Rothesay significantly less affordable. The truth is, whether in the short-term or longer-term, enacting this draft by-law will significantly increase the cost of affordable housing

in the Town of Rothesay. The timing may be debatable but the eventual effect is beyond a doubt.

Some of these property owners purchased these properties as recently as the summer of 2014. At that time, the purchase made sense from a business perspective with the costs that existed at that time. This draft by-law will significantly alter the business case.

A clear example of the impact on the business case can be easily seen on Dobbin Street. We have already received specific calculations for the resulting cost of one 16-unit building. It is \$18,100. Mr. Charles Turnbull owns two 16-unit buildings on Dobbin Street which are not connected to the Town's water system. Mr. Turnbull recently received a letter advising that the Town will start charging a non-connection fee of \$47.70 per quarter. That same letter went on to state: "In addition, there are proposed changes to the by-law currently under consideration by Council. These changes, if implemented will require all owners of commercial and multi-residential properties, with access to the Town water system, to connect to the system. Additional fees and charges may be applicable at that time."

These additional fees and charges will have to be paid by the tenants that live there through increased rent. There is no other way. Asking small businesses or small business people to absorb such significant sums of money within itself or him or herself is not realistic. This additional cost will have to be passed on. When the \$18,100 is divided by the 16 units, the cost per apartment is \$1,131.25. Even when spread over a whole calendar year, it represents an increase of almost \$100 per month. This is obviously a very significant increase and a very negative step backwards for affordable housing. It is also an unreasonable and unfair burden to place on individuals and families who already live in some of the only affordable units remaining in the whole Town.

The 200 tenants living in the 112 units already pay far more than their fair share of taxes and municipal costs. When the property tax versus assessed value is calculated for one of the 16-unit apartment buildings, it becomes clear that these affordable housing tenants are already paying **2.5 times** the property tax of a similar value home owner. To be perfectly

clear, that is BEFORE this proposed water by-law amendment. The math is actually quite compelling and it shows that people living in apartments in the Town of Rothesay such as the 112 units represented here are already overtaxed when compared with single-family residential property owners.

Collectively, the seven property owners already pay over \$130,000 per year in property tax and garbage fees not including commercial properties. This number is significant and shows just a small taste of the costs to own buildings such as the ones owned by these property owners. Despite these costs, your proposed amendment will add another \$147,000 in costs. There will be no alternative but to pass this new, unanticipated or budgeted cost onto the 200 individuals that we have already described. That amounts to \$735 per person! To make matters worse, these 200 individuals are not just the actual rent payers. This number also includes children, for example. The increase per rent-paying adult would be much higher than the \$735.

To be completely fair and realistic, we have to take that \$147,000 amount and divide it by the number of apartments. That number comes to over \$1300 per apartment and that's just for the connection fees in the first year.

If the philosophy behind this proposed amendment is a fair distribution of taxes and the cost of municipal infrastructure, it is respectfully submitted that the analysis of exactly whom this amendment would affect and to what extent is inadequate. These additional fees and charges would result in a drastic increase for any household, high-income earner or not, but to place this additional burden on tenants paying a less than \$600 per month for their homes now is not only unrealistic but also completely unfair. If access to affordable housing is truly a priority in the Town of Rothesay, Mayor and Council must exercise great care by ensuring that the affordable housing still remaining in the Town remains affordable.

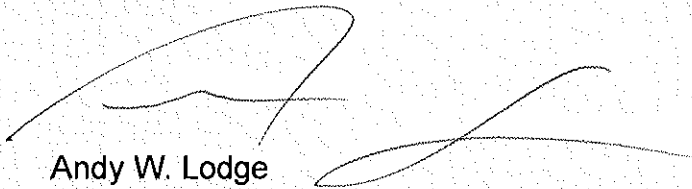
Thank you for your time and attention to this very important issue. Should you have any questions or require further clarification in relation to anything provided above, please do not hesitate to contact the undersigned.

**Procedural Matter:**

Subsequent to speaking with the Town Clerk, it was decided that the opportunity for providing an additional oral presentation should be requested in this written submission. In addition, it was decided that the topic of timing should be breached herein as well. We submit that these property owners collaborating to advance common issues should be encouraged by the Mayor and Council as it generally assists with addressing Town matters more efficiently and expeditiously. While the seven property owners listed above have retained the services of the undersigned to represent them, we implore the Mayor and Council to encourage the cooperation exhibited by these property owners by allowing each client the opportunity to speak to their own specific issues, if required.

Yours truly,

**BLR LAW**



Andy W. Lodge

AWL/jhk

May 6, 2015

**Town of Rothesay  
70 Hampton Road  
Rothesay N.B.  
E2E 5L5**

**Attn: Mayor William Bishop  
Deputy Mayor Dr. Nancy Grant  
Councilors;  
Dr. Matt Alexander  
Ms. Miriam Wells  
Mr. Bill McGuire  
Mr. Blair MacDonald  
Mr. Peter Lewis  
Ms. Pat Gallagher Jette**

**RE: By-law 2-15 Water**

**Dear Mayor Bishop and Members of Council,**

As residents, property owners and developers we respectfully submit herewith our opposition to the proposed amendment to the "Water by-law".

While we have no issue with participating with the system when available at the fixed charge (connected or not), our issue is with the exorbitant "Connection Fees". The terminology in itself is misleading. The "Connection Fee" implies that the cost of the connection is covered while on the contrary this is simply "permits" the connection to take place at additional costs (all labor and materials etc.) born by the property owners.

Call it a "tax grab" or an additional "levy" that it is.

Further the by-law amendment as proposed is contrary to our new Municipal Plan. The "Town" and the municipal plan cite to promote affordable housing and increased development densities. As we all know any "fees" are ultimately passed on to the tenant through higher rents and increase the cost of any potential development. Given the current property tax system in the Province of New Brunswick tenants are already unfairly targeted as rental properties are exempt from the residential tax credit, ultimately more than doubling the property tax burden, again a cost that is borne by the tenant. These increased costs only serve to stifle future development and have a negative effect on increasing densities and providing affordable housing.



When we consider the current demographics in our community one would think the attraction of higher density affordable housing for both seniors and those with young families would be a priority.

Again with the aging demographic and the strain on our health care system in seniors complexes as well as hospitals it is the responsibility of all levels of government to promote, facilitate, assist and encourage the development of affordable solutions for those on fixed incomes.

In closing we respectfully request you reconsider the by-law amendment and review the excessive "access tax" (Connection Fees) as they now stand.

Sincerely Yours,



**Stephen G. Flood AANB**

Email [sflood@floodconstruction.com](mailto:sflood@floodconstruction.com)



**J. Timothy Flood**

Email [tflood@floodconstruction.com](mailto:tflood@floodconstruction.com)