July 17, 2017

Dear [Redacted]:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 [Our File #: MAE/30/2017]

On June 16, 2017, the Department of Municipal Affairs and Environment received your request for access to the following records/information:

"Any communication/discussions/records pertaining to the ban (or restriction) of loud motorcycles (and other vehicles) in the province. I recall hearing the City of St. John’s say it was a provincial matter. Any intra-government discussions, emails from/to MHAs on noise abatement from traffic (cars and motorcycles), any studies or consultations that may have been done on the issue."

Your request wording was clarified over an email to include the following:

- Specific date range of 2012 onwards; and
- Include records in the custody of the Department of Municipal Affairs and Environment only.

I am pleased to inform you that a decision has been made by the Deputy Minister for Department of Municipal Affairs Environment to provide access to some of the requested information.

Information contained within the records, has been refused in accordance with the following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act (the Act):

"27. (1) In this section, "cabinet record" means
   (h) a record created during the process of developing or preparing a submission for the Cabinet; and

   (2) The head of a public body shall refuse to disclose to an applicant
       (a) a cabinet record:

29. (1) The head of a public body may refuse to disclose to an applicant information that would reveal
   (a) advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;"
30. (1) The head of a public body may refuse to disclose to an applicant information
    (a) that is subject to solicitor and client privilege or litigation privilege
    of a public body; or
    (b) that would disclose legal opinions provided to a public body by a
    law officer of the Crown.
31. (1) The head of a public body may refuse to disclose information to an
    applicant where the disclosure could reasonably be expected to
    (g) reveal information relating to or used in the exercise of
    prosecutorial discretion;
34. (1) The head of a public body may refuse to disclose information to an
    applicant if the disclosure could reasonably be expected to
    (a) harm the conduct by the government of the province of relations
    between that government and the following or their agencies:
        (i) the government of Canada or a province,
        (ii) the council of a local government body,
        (iii) the government of a foreign state,
        (iv) an international organization of states, or
        (v) the Nunatsiavut Government;
40. (1): The head of a public body shall refuse to disclose personal information to an
    applicant where the disclosure would be an unreasonable invasion of a third party's personal
    privacy."

Please note a meeting note from a City of St. John's Meeting in January 2017 is also responsive to
this request and is released in ATIPP request MA/21/2017, which can be searched via completed
ATIPP requests website http://atipp-search.gov.nl.ca/. Please refer to pages 14 and 15 in that
request's pdf file.

As required by 8(2) of the Act, we have severed information that is unable to be disclosed and
have provided you with as much information as possible.

In accordance with your request for a copy of the records, the appropriate copies have been
enclosed.

Please be advised that you may appeal this decision and ask the Information and Privacy
Commissioner to review the decision to provide partial access to the requested information, as set
out in section 42 of the Act (a copy of this section of the Act has been enclosed for your reference).
A request to the Commissioner must be made in writing within 15 business days of the date of this
letter or within a longer period that may be allowed by the Commissioner. Your appeal should
identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500
You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 709-729-3514 or by e-mail at lisas@gov.nl.ca.

Sincerely,

Lisa Sullivan
Information Management/ATIPP Analyst
Enclosures
Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.
(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner’s refusal under subsection 45(2).
Page 1 of these records has been removed under s.27(2)(a); s.27(1)(h)
FYI.

Sent from my BlackBerry 10 smartphone on the Bell network.

I think it's safe to say they mean Premier Paul Davis not Premier Paul Dicks as per below.

Kevin

Wednesday, July 29, 2015 - 4:30 PM

Council Calls on Provincial Leaders

On July 20, 2015, St. John's City Council wrote to Premier Paul Dicks, leader of the provincial Progressive Conservative party; Dwight Ball, leader of the provincial Liberal party; and Earl MacCurdy, leader of the provincial New Democratic party seeking policy positions on matters of importance to the capital city, St. John's.

"It is important for the upcoming provincial election that voters understand the positions of each of the political parties on matters which affect the City of St. John's," wrote Mayor Dennis O'Keefe. "Council has recently adopted its strategic plan and there are several areas where intergovernmental cooperation will be extremely important to advancing our collective interests. St. John's does not operate in isolation and increasingly it is important that collaborative approaches are taken to address the needs and expectations of our residents."

City Council asks that the leaders consider the issues outlined below and provide their Party's response:

- Fiscal Equality in Property Taxation and Fee Payments
- Repurposing Fallow, Brownfield Provincial Lands and Provincial Vacant Spaces
• Partnerships in Housing
• Modernizing our Legislation
• Community Services – Regional Perspectives
• Capital Works Funding
• Enforcing Provincial Legislation
• Electronic Ticketing
• Special Purpose Property Legislation
• Team Gushue Highway Construction & Transition Issues

Issue: Fiscal Equality in Property Taxation and Fee Payments

The City of St. John’s has consistently presented a series of items with respect to achieving a new fiscal framework. Recently, your government provided for a partial rebate on the provincial portion of the HST and a sharing of the gas tax revenue. There remains outstanding, however, the lack of property tax reimbursement by the Government of Newfoundland and Labrador to our City.

Unlike the Federal Government which pays for grants in lieu of water and property taxes, the Provincial Government has chosen to not reimburse the City of St. John’s for the services it provides to these properties. All other property owners in the City, whether they are residential or commercial, pay their fair share through the property tax. We estimate that there is approximately $4.2 billion worth of provincial properties in the City however there is no tax return for the municipal services provided. This is a significant inequity for the taxpayers of St. John’s.

Indeed there is in effect lost revenue to the City of St. John’s through the provision of water to provincial government properties. Any other property owner, residential or commercial, consuming potable water would be paying a fee for the provision of this service.

Additionally, the Government of Newfoundland and Labrador does not take any permits for properties it develops in St. John’s. The value of this lost revenue is indeterminate but, for example, we estimate that for a $13 million project this could translate into $177,000 in permit fees. Any other property developer in St. John’s would be subject to these permits and fees.

What is your Party’s position on the matter of provincial government’s payment-in-lieu of taxes and the payment of permits and fees to City of St. John’s?

Issue: Repurposing Fallow, Brownfield Provincial Lands and Provincial Vacant Spaces

The Government of Newfoundland and Labrador is one of the largest property owners in the City, however many of its properties remain vacant, lands are lying fallow or they may require remediation to be successfully repurposed. Our Municipal Plan, Envision, and our Corporate directions speak to the importance of complete neighbourhoods and we, as should the provincial government, see value in repurposing these properties to bring increased value to our City. Located within our neighbourhoods, properties lying dormant are often unsightly and detract from the livability of neighbourhoods. If provincial lands and properties could be repurposed to open spaces, disposed of for private commercial, residential development, and/or affordable housing initiatives this would yield significant new revenues, bring increased value and returns to the provincial government, tax revenue to the City of St. John’s and support complete neighbourhoods – desirable by all residents and levels of government.

How would you work to take a progressive approach to the disposal and repurposing of vacant provincial spaces and fallow lands? How would you work with the City of St. John’s to effectively repurpose these sites?

Issue: Partnerships in Housing

Housing, housing affordability and supportive housing are critical issues for all municipalities. The City of St. John’s has, through its advisory committee on affordable housing, has developed and is implementing a housing business plan. Through the Investment in Affordable Housing Initiative the City and the Government of Newfoundland and Labrador will be financial partners in the building of 20
new affordable housing units. There is a gap however in the area of supportive housing, whether that be for seniors, mental health consumers or others needing housing assistance.

Where in your Party’s priorities is affordable and supportive housing? How do you see developing and delivering on partnerships with the City on the housing mandate?

Issue: Effective Regional Planning, Transportation Infrastructure and Services

The City of St. John’s is pleased that the Government of Newfoundland and Labrador is starting to advance the development of the North East Avalon Regional Plan. St. John’s City Council recently adopted its new Municipal Plan, Envision and is currently working through the development of regulations which will support its effective implementation and delivery. It is critically important given the increasing demands and pressures on the City’s infrastructure by City residents, and also by residents of adjacent municipalities, that we take a regional approach to municipal planning which will be to our collective benefit.

An integral element in any regional plan will be transportation infrastructure and services. The City of St. John’s understands the impact that increasing vehicular traffic has on transportation infrastructure and services and the need to consider alternative forms of moving people and goods within the City and around the region. Sound and sustainable regional transportation policy and planning is necessary for effective and efficient regional planning and development. A dedicated regional transportation plan is needed and the City of St. John’s proposes that a funding source could include a portion of the approximately 50,000 annual vehicle registrations in the region.

The regional planning effort currently underway has limited focus on transportation. How would your Party support the development of a sustainable regional transportation plan? Would you consider a funding mechanism such as revenues from vehicle registrations as appropriate to support such a plan?

Issue: Modernizing our Legislation

After many years of requesting that the City of St. John’s Act be updated and replaced with more modern enabling legislation reflective of other Canadian cities, we are pleased that the Department of Municipal and Intergovernmental Affairs recently initiated a process to consider this review. We recently provided a detailed letter identifying many areas which we consider to be of immediate importance; in development and assessment authority, environmental power, infrastructure power, regulatory matters and administrative and governance matters. We have offered to create draft legislation to advance the amendments necessary to modernize the City of St. John’s Act and associated legislation.

What is your Party’s position on working with the City of St. John’s to modernize its legislation and support the capital city with enabling legislation as created for other Canadian cities?

Issue: Community Services – Regional Perspectives

The City of St. John’s, as the capital and largest city in the province, takes on regional responsibilities as municipal leader in the northeast Avalon. As such, the City has made significant investments in a range of community infrastructures, from Mile One Centre to outdoor recreation facilities, parks and the like. Similar to the need for a regional transportation plan, the City believes that a regional approach to recreation and community facilities on the northeast Avalon is critical. Currently, municipalities are working in silos and building this infrastructure in a vacuum, thus the site selection and catchment area analysis is very myopic and does not consider how residents connect with facilities in this region. This results in redundancy and surplus facilities in some areas and a real deficit in others.

How would your Party support the development of a sustainable regional Recreation and Community Facilities Plan? What funding would you commit to support the planning and construction elements of such a plan?
Issue: Capital Works Funding

Small to medium sized municipalities traditionally apply for infrastructure funding under the Municipal Capital Works Program (MCWP) and obtain a one year project specific cost-sharing commitment. Larger municipalities can apply under the Multi-Year Capital Works (MYC) and obtain a multi-year commitment, generally for three years. The City has traditionally received capital funding of approximately $10 Million per year under MYC. The Department of Municipal and Intergovernmental Affairs has committed MYC funding up to 2017. The City of St. John’s recently publically released its 10 year capital works plan. The value of the projects contained therein is $1.25 billion. The capital plan addresses the wide scope of the City’s capital needs. It is important to note that much of the spending will actually benefit the entire northeast Avalon region. The plan focus is on basic water and sewer services. Spending will be required on roads, transportation and City buildings.

Will your Party commit to cost shared capital works programs over the next 10 years and what estimate can you provide as to the amount of funding?

Other Matters

Over the last number of years, the City has also been advocating for change in the following areas:

Enforcing Provincial Legislation: The Government of Newfoundland and Labrador has a responsibility to enforce its acts to the betterment of our residents. On an annual basis we hear from residents about noise pollution resulting from aftermarket exhaust systems on motorcycles and other vehicles. Highway litter has been a concern and its clean-up results in an expense for the City of St. John’s and the Government of Newfoundland and Labrador.

The City of St. John’s is calling on your party to ensure that there is adequate enforcement of the Highway Traffic Act in these areas. How will your party address this noise pollution and highway litter matter through the enforcement of the Highway Traffic Act?

Electronic Ticketing: The City of St. John’s is planning to use electronic ticket writers. The ability to do so would create efficiencies however it requires the Provincial Offences Act to be amended to allow for same. When do you envision making amendments to the Provincial Offences Act to enable the City of St. John’s to move forward with electronic ticketing?

Special Purpose Property Legislation: Within the City of St. John’s and other municipalities there are several properties which may be classified as special purpose, i.e., they are built and have only one intended use. As property assessment is based on market valuations and these properties have limited or single use, e.g. airports, breweries, there is no ability to effectively assess for purposes of applying taxation. The development of Special Purpose Property Legislation would alleviate this taxation matter.

What is your party’s position on advancing Special Purpose Property Legislation?

Team Gushue Highway Construction & Transition Issues: We have ongoing discussions with the Province on this issue and will follow up in the coming weeks. Do you support an equitable sharing of maintenance expenses related to the ongoing operations of Team Gushue Highway?

Sent from my BlackBerry 10 smartphone on the Bell network.
Ok thanks. We r on it.

Sent from my BlackBerry 10 smartphone on the Bell network.

Hi Tara,

10 am tomorrow. Thank you 😊

Katie

Katie,
When do you want comments back?

Tara Kelly
Director of Policy and Strategic Planning (A)
Municipal and Intergovernmental Affairs
709.729.2787
Askary, Ali

From: Tizzard, Heather
Sent: Thursday, October 15, 2015 9:50 AM
To: Orsborn, Caroline
Cc: Kelly, Tara
Subject: RE: Note on regulation of motorcycle noise

Caroline,
I have reviewed the comments below. While they are useful and would certainly help with some of the misinformation relating to these regulations in general, I think it is the last piece that is really relevant to our mandate and the specific issue considered in the note. I suggest going with the following:

MIGA has reviewed the briefing note “Discussions with City of St. John’s Regarding Regulation of Motorcycle Noise” and offers the following comments from a municipal affairs perspective:

Thanks,
Heather

s.29(1)(a)

From: Orsborn, Caroline
Sent: Thursday, October 15, 2015 9:18 AM
To: Tizzard, Heather
Cc: Kelly, Tara
Subject: RE: Note on regulation of motorcycle noise

Heather,

Do you have any suggested changes to this:

MIGA has reviewed the briefing note “Discussions with City of St. John’s Regarding Regulation of Motorcycle Noise” and offers the following comments from a municipal affairs perspective:

- As referenced in the note, section 189 of the HTA provides that the TW Minister may delegate powers to municipal councils.

s.29.1(a)
Thanks,

Caroline

Caroline Orsborn, B.A., M.E.R. | Program & Policy Development Specialist
Policy & Strategic Planning Division
Department of Municipal and Intergovernmental Affairs
Government of Newfoundland and Labrador
4th Floor Confederation Building, West Block
P.O. Box 8700
St. John’s, NL, A1B 4J6
t: 709.729.0080 | f: 709.729.4475 | e: carolineorsborn@gov.nl.ca
Askary, Ali

From: Kelly, Tara
Sent: Thursday, October 15, 2015 10:17 AM
To: Chippett, Jamie; Orsborn, Caroline
Cc: Tizzard, Heather; Spurrell, Dana
Subject: RE: Note on regulation of motorcycle noise

I'll send it on. Caroline had to go.

Tara Kelly
Director of Policy and Strategic Planning (A)
Municipal and Intergovernmental Affairs
709.729.2787

From: Chippett, Jamie
Sent: Thursday, October 15, 2015 10:15 AM
To: Orsborn, Caroline
Cc: Tizzard, Heather; Kelly, Tara; Spurrell, Dana
Subject: RE: Note on regulation of motorcycle noise

This is okay to go.

Thanks,
Jamie

From: Orsborn, Caroline
Sent: Thursday, October 15, 2015 9:56 AM
To: Chippett, Jamie
Cc: Tizzard, Heather; Kelly, Tara; Spurrell, Dana
Subject: FW: Note on regulation of motorcycle noise

Jamie,

Here is our feedback on the JPS note. Please advise if this is ok to send on.

MIGA has reviewed the briefing note “Discussions with City of St. John’s Regarding Regulation of Motorcycle Noise” and offers the following comments from a municipal affairs perspective:

Thanks,

Caroline
Meeting Note
Department of Municipal Affairs
Meeting with the City of St. John’s
September 29 at 12 noon
Mayor’s Lounge, 4th Floor City Hall

Attendees: MHAs Cathy Bennett, Dale Kirby, Siobhan Coady, Bernard Davis, Tom Osborne, and the following representatives from the City of St. John’s: Mayor Dennis O’Keefe, Deputy Mayor Ron Elisworth, Kevin Breen (City Manager) and Jason Sinyard (Deputy City Manager of Building/Development/Engineering).

Purpose of Meeting: The meeting has been requested by the City of St. John’s to discuss the following items: Lynch Decision on Watershed; Biogas Initiative-Waste Management Policy; City Act Review; Assessment Act Review; Final Offer Selection; Capital Works Funding; Goulds Water and Sewer; Motor Vehicle Noise; Metrobus Road Tax; and Old School Properties. Information on these agenda items and potential speaking points are outlined below.

Agenda item # 1 Lynch Decision on Watershed (MA and ECC)

- In July, a judgment was rendered in the Court of Appeal decision Lynch v. City of St. John’s, ordering the City of St. John’s to pay the Lynchses compensation for the deemed constructive expropriation of their property which lies in the Broad Cove River watershed area. The Broad Cove River watershed area is protected under Section 104(1) of the City of St. John’s Act.

- The City and the Town of CBS have written to the Department of Municipal Affairs (MA) requesting immediate and retroactive legislative change to deny compensation in the watershed.

- Mayor O’Keefe raised this issue with Minister Joyce earlier in the summer and the Minister acknowledged it was under review.

Analysis:
-
The City had 60 days from the date of the decision to appeal the decision; it is MA's understanding that the City will be seeking an appeal. This will be within the mandated timeline due to some procedural irregularities.

Potential Speaking Point:

Proposed Action:

Agenda item #2 Biogas Initiative – Waste Management Policy (MA)

- The Newfoundland and Labrador Waste Management Strategy was developed in 2002 and describes landfill and in-vessel composting technologies. Biogas was not considered in the strategy.

Analysis:
- Various organics processing technologies have been evaluated and composting was the recommended technology to process organics. The most recent report completed by Dillon Consulting Ltd. indicated that the capital and operational costs associated with composting technology were lower than other waste to energy technologies.

- Biogas is a mix of gases produced by anaerobic digestion. Anaerobic digestion converts organic matter into useful products in the absence of air. The gases produced typically consist of 60% methane and 40% carbon dioxide. In addition to biogas, the process also yields a nutrient-rich digestate.

- The biogas can be burned to create electricity, which can be fed into the grid. This process also generates heat, which can be captured and used locally (e.g. for heating and drying). Alternatively, biomethane can be distributed through a gas pipe network, effectively being used in the same way as natural gas from fossil fuels.

- Biogas requires landfilling of organic materials to be successful. Generating biogas from organic waste can be challenging due to contamination of the organics, the need for long-term contracts (i.e.; power purchase agreement) and the variation in the composition of the organic material.
Potential Speaking Points:
- The MHAs may wish to advise the City that portions of the Waste Management Strategy will be reviewed including reviewing technologies which may not have been proven when the strategy was released. The Eastern Regional Service Board has also requested that Government review the strategy from a technological perspective.

- The MHAs may wish to confirm that due to operational and capital costs as well as the availability of land, composting technology is the recommended option to process organics.

Proposed Action:
- MA to include an evaluation of waste to energy technology in the Waste Management Strategy review.

Agenda item #3 City Act Review (MA)

- MA is exploring the possibility of new legislation to govern the towns and cities with populations of over 11,000.

Analysis:
- MA’s current legislation is prescriptive, which is inefficient and unnecessary for our largest municipalities. The City of St. John’s Act requires review, as well as the City of Mount Pearl Act and the City of Corner Brook Act. The Municipalities Act, 1999 may require modernization to meet the needs of the largest towns under its jurisdiction.

- MA is reviewing the feasibility of implementing new legislation to govern the province’s more urban municipalities, namely, St. John’s, Corner Brook, Mount Pearl, Paradise, Conception Bay South, Gander, and Grand Falls-Windsor.

- The City of St. John’s asserts it cannot be governed under one piece of legislation with other municipalities and it requires its own legislation. This was reiterated by Mayor O’Keefe in his earlier meeting with the Minister.

- MA held productive roundtables with representatives from the municipalities in the spring.

Potential Speaking Points:
- The MHAs may wish to acknowledge the need for new, more enabling legislation, recognizing the capacity of the province’s larger municipalities.
- A decision has not been taken on the final composition of municipal legislation and the Department is clear on the City’s preference for its own legislation.
- The Department is considering a means to dedicate more resources to this priority.

Proposed Action:
- MA to continue the legislative review.

Agenda item #4 Assessment Act Review (MA)

- The Department was mandated to undertake a review of the Assessment Act, 2006, in partnership with Municipalities Newfoundland and Labrador and the Municipal Assessment
Agency (MAA), looking at the timing of assessments, the criteria for assessments, implementation of the associated mill rate, and special purpose property legislation.

Analysis:
- Early in the review process, the City of St. John's wrote to the Minister of MA noting that it has its own assessment division and, unlike other municipalities in the province, does not use the MAA for assessments. The City asked to be made a partner in the review.
- While the City was not made a formal review partner, the Minister acknowledged the City's unique circumstances and advised that they would be involved in the review as appropriate. MA officials have had several meetings with City staff in this regard and recently visited the City's assessment division to view their operations. Mayor O'Keefe advised that he was okay with that approach in the earlier meeting with the Minister.
- Public submissions on the review ended on September 16, 2016. The Department is currently reviewing and analyzing all submissions.

Potential Speaking Points:
- The MHAs may wish to acknowledge the City’s input to MA for the review.
- The MHAs may wish to confirm that the City’s submissions will be carefully considered during the review and MA is taking into consideration their operational capacity when considering any legislative changes.

Proposed Action:
- MA intends on continuing to engage City staff throughout the review and prior to making recommendations.

Agenda item #5 Final Offer Selection (MA)
- The City has requested a legislative amendment to the City of St. John’s Act which would change the type of arbitration from conventional arbitration to final offer selection for bargaining between the City of St. John’s and the International Association of Fire Fighters (IAFF).

Analysis:
- This matter has been reviewed by MA and is still under consideration.
- There are significant concerns on both sides of the debate, and the IAFF is strongly opposed to such a legislative change.

Potential Speaking Points:
- The MHAs may wish to confirm MA has to weigh the needs of both parties when making such decisions.
Proposed Action:
- MA will communicate to the City once a decision has been made on the request.

Agenda item #6 Capital Works Funding (MA)

- The City of St. John’s is provided capital works funding on a multi-year basis. The next multi-year capital works (MYCW) program is anticipated to be from 2017/18 to 2019/20.

Analysis:
- Due to anticipated new federal government infrastructure programs and the corresponding provincial expenditures required, there are significant budgetary pressures in municipal infrastructure.

- Four projects totaling $20 million were approved for the City of St. John’s under the Clean Water and Wastewater Fund.

Potential Speaking Points:
- The MHAs may wish to note that additional federal funding programs are anticipated to be announced in the next federal budget. The significance of this funding and the timeframes associated with the programs will determine the scope of the MYCW program in 2017. The preference would be to utilize available provincial funding to leverage available federal funding.

Proposed Actions:
- MA will work with Infrastructure Canada to streamline the project approval process to improve the project approval period.
• A call for municipal infrastructure applications is anticipated to be issued this fall.

**Agenda item #7: Goulds Water and Sewer (MA)**

• Portions of the City in the Goulds area do not have access to public water and sewer services.

**Analysis:**

• The residents in this area have been lobbying the City of St. John’s to provide those services.

• This project could be considered by MA for future infrastructure programs.

**Potential Speaking Point:**

• The MHAs may wish to suggest the City submit an application to MA through the next call for municipal infrastructure applications which is anticipated to be issued this fall.

**Proposed Action:**

• Applications will be reviewed and considered by MA for upcoming infrastructure programs.

**Agenda item #8: Motor Vehicle Noise (SNL)**

• Section 29 of the *Licensing and Equipment Regulations* made under the *Highway Traffic Act* requires that motor vehicles be equipped with exhaust systems that operate without excessive noise and prohibits the operation of motor vehicles with defective or modified mufflers. Section 189 of the *Highway Traffic Act* provides that the Minister of TW may, by order, delegate to municipal councils the authority to regulate certain aspects of the operation of motor vehicles, consistent with the Act. However, section 189 does not expressly reference the ability to regulate the equipment of motor vehicles.

• The *City of St. John’s Act* provides that council may regulate the use of noisy vehicles in the streets or the making of unnecessary noise in the city. *s34(1)(a)(i) and s. 31(1)(g)*

• *s. 29(1)(a)*
The City maintains that this issue should be addressed under the **Highway Traffic Act**. The City has also expressed that the regulations are too general to effectively enforce and current fines ($20) for a violation may not be an effective deterrent.

**Potential Speaking Points:**

- s. 30(1)

**Proposed Actions:**

- s. 29(1)(a)

**Agenda item #9 Metrobus Road Tax (FIN)**

- Metrobus and the City of St. John’s have approached the provincial government on a number of occasions with the view of seeking HST and provincial gasoline tax relief (2008, 2009, 2010 and 2013).

**Analysis:**

- The provincial gasoline tax on diesel is imposed at a rate of 21.5 cents per litre. There are very few exemptions currently in the **Revenue Administration Act**. While the Act does provide an exemption for “gasoline purchased by a council and used in vehicles or equipment owned, leased or rented by the council and operated by the council”, it specifically excludes those used in the provision of a public transportation system for fee paying passengers.

- This exception is intended to ensure that publicly provided transportation services do not receive an unfair competitive advantage compared to private operators who also provide forms of public conveyance (taxis, DRL Coachlines, Mahon’s Busing, etc.). An exemption for Metrobus, would likely result in additional pressure from these operators for similar treatment, at an additional cost. The provincial Department of Finance (FIN) has been consistent in declining further tax relief on this basis.

- In 2013, the Department of Finance estimated that the cost of providing Metrobus with an exemption on gasoline tax would be approximately $300,000. As a result of the 5 cent per litre (cpl) increase in diesel fuel tax, the cost of providing Metrobus with an exemption would now likely be closer to $400,000. The cost of providing an exemption for the province’s only other municipal transit system, located in Corner Brook, is unknown.
• Metrobus may argue that the recent tax policy decisions (increase in HST, plus increase of 5 cpl on diesel fuel) will compel the entity to either reduce services or increase fares.

• Metrobus, as a function of the City, is eligible to claim a Public Sector Body Rebate equal to 25% of the provincial portion of the HST paid on their fuel purchases. This rebate is scheduled to increase to 57.14% of the provincial portion of the HST effective January 1, 2017.

• The table below provides an overview of the tax and price impacts as a result of the tax measures introduced in Budget 2015 and Budget 2016.

<table>
<thead>
<tr>
<th>Price</th>
<th>2015</th>
<th>Current</th>
<th>January 1, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base</td>
<td>$0.90</td>
<td>$0.90</td>
<td>$0.90</td>
</tr>
<tr>
<td>Federal Excise Tax</td>
<td>$0.10</td>
<td>$0.10</td>
<td>$0.10</td>
</tr>
<tr>
<td>Adjusted Base Price</td>
<td>$1.00</td>
<td>$1.00</td>
<td>$1.00</td>
</tr>
<tr>
<td>NL Diesel Tax</td>
<td>$0.165</td>
<td>$0.215</td>
<td>$0.215</td>
</tr>
<tr>
<td>Pre HST</td>
<td>$1.165</td>
<td>$1.215</td>
<td>$1.215</td>
</tr>
<tr>
<td>HST</td>
<td>$0.151</td>
<td>$0.152*</td>
<td>$0.113</td>
</tr>
<tr>
<td><strong>Total Cost per litre</strong></td>
<td><strong>$1.316</strong></td>
<td><strong>$1.367</strong></td>
<td><strong>$1.328</strong></td>
</tr>
</tbody>
</table>

*HST less rebate.

• The analysis above indicates that while fuel prices increased by 5.1 cpl as a result of the HST increase and the fuel tax rate increase, the incremental tax impact will shrink to 1.2 cpl by January 1, 2017 when the incremental HST rebate comes into force.

• The operating subsidy is also forecasted to increase by 52% over the period from 2012 through to 2018.

![Metrobus Annual Operating Subsidy (millions)](image)

Source: City of St. John’s, Compiled from Annual Budgets

• Despite the increase in subsidies and operating expenditures of $4.11 per passenger (Metrobus, 2011), the cost to board a bus at $2.25 (Adult Fare) has not changed since 2008.

• It is understood that Metrobus is a diesel operated fleet. The cost per litre of diesel fuel currently is approximately 26.9 cpl less than it was in 2012.
<table>
<thead>
<tr>
<th>Date</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 22, 2016</td>
<td>109.6</td>
</tr>
<tr>
<td>September 22, 2015</td>
<td>107.2</td>
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<tr>
<td>September 22, 2014</td>
<td>133.7</td>
</tr>
<tr>
<td>September 22, 2013</td>
<td>138.3</td>
</tr>
<tr>
<td>September 22, 2012</td>
<td>138.5</td>
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</tbody>
</table>

Source: PUB

**Potential Speaking Point:**
- The MHAs may wish to note that as the City is aware, Metrobus, as a function of the City of St. John’s, is eligible to claim a Public Sector Body Rebate equal to 25% of the provincial portion of the HST paid on their fuel purchases. This rebate is scheduled to increase to 57.14% of the provincial portion of the HST effective January 1, 2017.

**Proposed Action:**
- None at this time.

**Agenda item #10 Old School Properties (EECD)**

- City of St. John’s Councillor, Mr. Jonathan Galgay, has publicly raised concerns, and written the Province’s Auditor General (AG), regarding the recent sale of the former I.J. Samson School by the Newfoundland and Labrador English School District (NLESD).

**Analysis:**
- Under the *Schools Act, 1997*, title to school buildings are held by the Province’s school boards, except in cases where title is with a denominational authority and being used for educational purposes by a school board.

- There may also be circumstances where a conditional Crown lands grant applies to the property. In those cases, the district is responsible for working with MA to satisfy the conditions of the grant in order to possess clear title so as to dispose. This is primarily an issue in rural areas.

- The Act empowers school boards to sell property, subject to approval from the Minister of Education and Early Childhood Development (EECD).

- The former I.J. Samson school property was sold in June through a public tender process by the NLESD.

- The tender received three bids, with the building being sold to the highest bidder at $189,000.

- An appraisal commissioned by NLESD in 2013 valued the property and building at approximately $2 million. However, this appraisal did not take the presence of hazardous materials or other contamination into account.

- Environmental assessment reports outlining a number of items were provided with the tender documents. As such, proponents would have considered the risks associated with the costs to address same and any other potential unknown issues, in light of the building’s age and their intended use of this property, in placing their bids.
• The sale has drawn criticism, notably from Councillor Galgay, since the new owners re-listed the property in September for $1.89 million. Councillor Galgay is asking the AG to review the tendering process and oversight regarding this transaction.

• The new owner, Terrence Penney, who owns Metro Environmental Services and Whiteway Holdings, has publically stated that the sale price includes over $1 million in demolition and remediation costs and that there are risks and liabilities associated with same.

• There are currently four vacant school properties in St. John’s:
  o Booth Memorial High (closed June 2015)
  o Bishops College (closed June 2015)
  o Macpherson Elementary (closed June 2011)
  o Holy Cross Junior High (closed June 2016)

• The NLESD is actively working on the disposition process for each of these former school buildings, which includes completion of surveys, appraisals, and environmental assessments as well as determination of denominational authority interests, if any, in the properties.

Potential Speaking Points:
• The MHAs may wish to note school boards are responsible for the disposition of vacant school properties in accordance with their responsibilities under the Schools Act, 1997.

• The MHAs may wish to indicate the NLESD is working to dispose of currently vacant school buildings in St. John’s.

• The MHAs may wish to highlight EECD ensures that necessary due diligence has been carried out and approves the final sale or disposition in accordance with the Schools Act, 1997.

• The MHAs may wish to acknowledge maintaining vacant school buildings results in costs to school boards and ultimately the Provincial Government as the funding body. In 2015-16, the cost of maintaining vacant buildings was over $1.6M. As such, selling these buildings, which have often reached the end of their useful life, often results in immediate operational savings.

• The MHAs may wish to confirm further discussions regarding vacant schools in St. John’s are best addressed to the NLESD.

Proposed Action:
• None at this time.


Ministerial Approval: Received from Hon. Eddie Joyce

September 27, 2016
Is this still happening Caroline? Tara said she wasn’t sure if the Minister was going?

Danielle

Pls provide requested information to Caroline on #1, #3, #4 and #5 by end of day Thurs please.

Any questions pls ask.

Thks

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Department of Municipal Affairs
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St. John’s, NL, A1B 4J6

andymorgans@gov.nl.ca
Tel: 709-729-5539
Fax: 709-729-4475

Good afternoon,

The MA Minister and City MHAs are meeting with the City of St. John’s next week. Can you please provide me with the details on the following agenda items by end of day this Thursday, September 22. A few of the items are pertaining to other departments which I will follow up on, but the majority are MA items. In addition, if the City has any current requests with the Department, please identify using the template below as well.
If you don’t have anything, please let me know so I know you have reviewed. I realize there potentially could be overlap with items identified for the Minister/Premier for the Forum note. However, if there is something that I should include from the information you provided re the City of St. John’s, please advise.

List of agenda items:

1. Lynch Decision on Watershed
2. Bio Gas Initiative - Waste Management Policy
3. City Act Review
4. Assessment Act Review
5. Final Offer Selection
6. Capital Works Funding
7. Goulds Water and Sewer (for those who are without now)
8. Motor Vehicle Noise (SNL)
9. Metrobus Road Tax
10. Old School Properties (TW/ED)

In your response to me, please use the following template:

**Agenda item #___**

- Short description of the issue, considering the 5 W’s (Who, What, Where, When, Why). To the extent possible, this should include factual information only.

**Analysis**  
- This section would generally include factual information but may also include policy advice if necessary. This section will still be subject to line by line severing should the note be subject to an access to information request and cannot be expected to be withheld in its entirety under exceptions related to advice to Minsters.

- Briefly provide any analysis necessary to inform discussions. This could include any policy, legislative or financial considerations.

**Potential Speaking Points**  
- Succinctly identify any discussion point or questions which the Minister may wish to consider.

**Proposed Actions**  
- Focus on any commitments or proposed actions that may assist in addressing or supporting the issue.

If you have any questions, please let me know.

Thanks,
Good morning,

SNL provided the info below for the Motor Vehicle Noise item. It looks good to me. Just want to make sure - Do you have anything to add from a legislative perspective?

Thanks,

C

Agenda item #8: Motor Vehicle Noise (SNL)

- Section 29 of the Licensing and Equipment Regulations (the Regulations) made under the Highway Traffic Act requires that motor vehicles be equipped with exhaust systems that operate without excessive noise and prohibits the operation of motor vehicles with defective or modified mufflers. Section 189 of the Highway Traffic Act provides that the Minister of TW may, by order, delegate to municipal councils the authority to regulate certain aspects of the operation of motor vehicles, consistent with the Act. However, section 189 does not expressly reference the ability to regulate the equipment of motor vehicles.

- The City of St. John’s Act provides that council may regulate the use of noisy vehicles in the streets or the making of unnecessary noise in the city. s.34(1)(a)(ii) and s.31(1)(g)

Analysis

- The City maintains that this issue should be addressed under the Highway Traffic Act. The City has also expressed that the Regulations are too general to effectively enforce and current fines ($20) for a violation may not be an effective deterrent.
Proposed Actions

- SNL and JPS are scheduled to discuss this issue with City of St. John’s officials in October.

Caroline Orsborn, B.A., M.E.R. | Program & Policy Development Specialist
Policy & Strategic Planning Division
Department of Municipal Affairs
Government of Newfoundland and Labrador
4th Floor Confederation Building, West Block
P.O. Box 8700
St. John’s, NL, A1B 4J6
t: 709.729.0080 | f: 709.729.4475 | e: carolineorsborn@gov.nl.ca
Askary, Ali

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Mid afternoon or so. Ok?

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When do you need the edits?

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Thanks folks. Good stuff. Tara pls edit accordingly.

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Jamie
Just to add

Sent from my iPad

On Jan 15, 2017, at 4:59 PM, Doody, Alan <AlanDoody@gov.nl.ca> wrote:

Good Evening Jamie,
Just wanted to advise that SNL and JPS met with the officials from the City of St. John's in the fall.
Roxie and Alan, please see text below. Sean mentioned there may have been a meeting this fall with the City on this. Is there a further update to this? St. John’s MHAs are meeting Tuesday with the City and I am coordinating a meeting note for them. I am requesting an update by noon tomorrow. Apologies for short turnaround – I was advised of meeting late Friday. Please ensure Tara and I are included on the response. Thanks again.

**Agenda item #7: Motor Vehicle Noise (SNL)**

- Section 29 of the Licensing and Equipment Regulations made under the Highway Traffic Act requires that motor vehicles be equipped with exhaust systems that operate without excessive noise and prohibits the operation of motor vehicles with defective or modified mufflers. Section 189 of the Highway Traffic Act provides that the Minister of TW may, by order, delegate to municipal councils the authority to regulate certain aspects of the operation of motor vehicles, consistent with the Act. However, section 189 does not expressly reference the ability to regulate the equipment of motor vehicles.

- The City of St. John’s Act provides that council may regulate the use of noisy vehicles in the streets or the making of unnecessary noise in the city sections 34(1)(a)(ii) and s.31(1)(g).

**Analysis:**

- The City maintains that this issue should be addressed under the Highway Traffic Act. The City has also expressed that the regulations are too general to effectively enforce and current fines ($20) for a violation may not be an effective deterrent.
Potential Speaking Points:

Proposed Actions:
- SNL and JPS are scheduled to discuss this issue with City of St. John's officials in October.