September 15, 2017

Dear [Name]:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 [Our File #: MAE/59/2017]

On August 18, 2017, the Department of Municipal Affairs and Environment received your request for access to the following records/information:

- "RE: MAE/42/2017: In handwritten notes Fred (Hollett) "?s validity of order" Need clarification from Dianne (Smith)"
- Please provide any documentation to confirm the validity of order including any clarification from Dianne Smith.
- Please provide date of meeting covered by handwritten notes
- Mary (?) "wanted to know why town hasn't moved on rezoning"
- Please provide Town of Pouch Cove's response"

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

However, some of the 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, 2015 (the Act):

"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."

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.

The following list is provided information to help clarify the records provided in this request.

- Pages 1-14 contain a copy of the Fire Prevention Act of 1991, which was the Act at the time of the June 6, 2006 Order (i.e. that you received in MAE/42/2017 on page 16 as well as in MAE/41/2017). The next bullets explain this Act and its responsiveness to your request.
Section 12 of the Act gives the Fire Commissioner the power to inspect. The inspection on December 9, 2004 (page 5 to 10 in MAE/42/2017) to the 14-20 Gruchy’s Hill, Pouch Cove building was completed at the town’s request. Page 6 of the responsive records contains section 12 of the Fire Prevention Act of 1991, which states the following:

“The fire commissioner or special assistants of the fire commissioner may, upon complaint by a person, or where he or she considers it necessary, inspect a structure or property, and determine if fire hazards dangerous to persons or property exist in or upon the structure or property accompanied by a peace officer or other assistant, or both.”

Section 13 gives the Fire Commission Order Power and explains the authority for the Order that was issued on June 6, 2006 (i.e. the order on page 16 of MAE/42/2017). Section 13(1)(f) states the following:

“13 (1) Where the fire commissioner or a local or special assistant finds a structure or property which, for want of proper repair or by reason of age, dilapidated condition or other slate, is especially liable to fire or the spread of fire or which is so situated as to endanger another structure or property or so occupied that fire would endanger persons or property in the structure or property or where flammable, combustible or explosive material or conditions dangerous to the safety of persons or property exist he or she may order the owner or occupant to

(f) evacuate and close the structure or property or a part of it; “

As per section 13(1)(f) and 18(1) (on page 8 and stated below) of this Act the Fire Commissioner has the authority to order a closure to the building. Given the information you have already received in MAE/42/2017 (i.e. life safety inspection on December 9th, 2004, a second reminder of life safety issues on February 23, 2005, and the shutdown of electricity ordered by Newfoundland Power), the Fire Commissioner was within his authority to order a closure of the building.

“18. (1) Where in a structure or property there is in the opinion of the fire commissioner or a local or special assistant a fire hazard dangerous to the safety of persons, the fire commissioner may order that the public be not admitted to the structure or property until the fire hazard has been remedied to the satisfaction of the fire commissioner.

• As for the clarification from Diane Smith, she was a lawyer in Justice and Public Safety with the Fire Commissioner Office at the time and Justice and Public Safety may have records related to her legal opinions, but they did not exist in this department.

• July 13, 2006 was the date on the hand-written note.

• Pages 15-20 are the responsive records that the department has in regards to the Town of Pouch Cove’s response on Rezoning of the Pouch Cove Foundation Building.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Access to Information and
Protection of Privacy Act (the Act). 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.

The address and contact information of 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.

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 709-729-7183 or by e-mail at lisas@gov.nl.ca.

Sincerely,

LISA SULLIVAN
ATIPP Coordinator

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).
CHAPTER 34

AN ACT TO REVISE AND CONSOLIDATE THE LAW RESPECTING THE PREVENTION OF FIRE

(Assented to December 11, 1991)

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Be it enacted by the Lieutenant-Governor and House of Assembly in
Legislative Session convened, as follows:

Short title

1. This Act may be cited as the Fire Prevention Act, 1991.

Definitions

2. In this Act

(a) "court" means the Trial Division;

(b) "fire alarm and detection equipment" includes a fire alarm control panel, bell, horn
or other visual or audible device, annunciator panel, pull station or switch, voice
control system, telephone or fire alarm box used in connection with a fire alarm, heat
or smoke detector, smoke alarm, associated wiring installation and other equipment
connected to or associated with a fire alarm or fire detection device or equipment and
a component associated with the operation of any of these systems or devices;

(c) "fire commissioner" means the Provincial Fire Commissioner appointed under this
Act;

(d) "fire protection equipment" includes a portable or wheeled type fire extinguisher,
fixed fire extinguishing system, including halon, carbon dioxide, sprinkler, water
spray, foam, wetting agent, dry chemical, interior or exterior fire hose stations, fire
department connections, fire hydrants, fire apparatus, fire pumps and accessories and
other equipment or components associated with fire protection or suppression
equipment used or intended to be used in the operation of any of these systems or
devices for the protection from or suppression of fire;

(e) "mayor" means the mayor of or the person holding an equivalent office in a
municipal area;

(f) "minister" means the Minister of Municipal and Provincial Affairs or another
minister of the Crown appointed by the Lieutenant-Governor in Council to administer
this Act;

(g) "municipal area" means the area in which a municipal authority exercises
jurisdiction;

(h) "municipal authority" means
(i) the St. John's Municipal Council,
(ii) the Corner Brook City Council,
(iii) the Mount Pearl City Council,
(iv) the St. John's Metropolitan Area Board, and
(v) a town council, community council, a regional council or local service
district committee established or continuing and operating under The
Municipalities Act;

(i) "property" means all real property and all personal property whether moveable or
immoveable; and

(ii) "structure" includes a building, plant, machinery, equipment, storage tank, storage
place or fixture of any kind and a part of 1 of them erected or placed on, in, over or
under land or water.

PART 1
ADMINISTRATION

Fire commissioner and staff

3. (1) The Lieutenant-Governor in Council may appoint an officer to be known as the Provincial Fire
Commissioner and an officer to be known as the deputy fire commissioner, both of whom shall hold
office during pleasure.

(2) The Lieutenant-Governor in Council may appoint qualified persons to act as special assistants to
the fire commissioner in the province or in a part of the province that may be designated in the
appointment.

(3) A special assistant to the fire commissioner shall serve without remuneration.

(4) The Lieutenant-Governor in Council may appoint or employ those other officers, clerks and
employees that are necessary for the proper carrying out of this Act.

Local assistants

4. (1) The minister may appoint

(a) the chief of the fire department of a municipal area where a fire department has
been established; or

(b) the mayor of a municipal area where a fire department has not been established,
as a local assistant to the fire commissioner.

(2) Every officer and member of the Royal Canadian Mounted Police or the Royal Newfoundland
Constabulary, the Chief of Operations, Deputy Chief of Operations and Superintendent of Training
and Fire Prevention of the St. John's Fire Department exercising his or her functions in the province
is, unless the minister otherwise directs in writing, a local assistant to the fire commissioner with
respect to the area of the province over which the officer or member exercises his or her functions.

(3) A local assistant to the fire commissioner shall serve without remuneration.

Duties

5. The fire commissioner shall, under the direction of the minister,

(a) keep a record of every fire reported to him or her with those facts, statistics and
circumstances that may be required by the minister;
(b) investigate the cause, origin, extent and circumstances of fires in those areas that may be prescribed by the minister;

(c) inspect property, municipal areas or a structure in a municipal or rural development area with a view to determining whether precautions against fire and the spread of fire and the means of exit in case of fire or the alarm of fire are adequate and satisfactorily maintained and with a view to directing those alterations or additions to be made and precautions to be taken that the fire commissioner considers necessary for the safeguarding of persons and property;

(d) review plans and specifications for the construction, alteration or repair of structures and outside storage areas to determine that proper precautions are taken against fire and the spread of fire;

(e) submit to the minister on or before December 31 in each year a detailed report, in the form that the minister may prescribe, setting out particulars of all fires, fatalities or injuries by fire, investigations of fires, investigations of and prosecutions for arson or attempted arson, and a summary of the administration and the fire prevention and fire protection activities of the office of the fire commissioner, and other information required by the minister;

(f) give advice and make recommendations to the minister and to a municipal authority with respect to

(i) the establishment of fire departments and the necessary organization and equipment for those fire departments and the training of firefighting personnel and the evaluation of firefighting capability,

(ii) the provision of adequate water supply for firefighting purposes,

(iii) the installation and maintenance of fire alarm systems and fire extinguishing equipment,

(iv) the storage, use, sale or disposal of combustibles, explosives or other flammable material,

(v) the construction and maintenance of fire escapes and other exit facilities in the event of fire or the alarm of fire,

(vi) the types and adequacy of fire alarms in municipal areas and in or upon a building or property,

(vii) fire prevention precautions in the construction, repair or alteration of or addition to a structure or property,

(viii) the assessing of fire hazards and of conflagration risks,

(ix) electrical, heating and mechanical equipment installations in or upon a structure or property, and

(x) the enactment and enforcement by a municipal authority of regulations, by-laws or ordinances for the prevention and suppression of fire and the safeguarding of persons and property in the event of fire or alarm of fire,

but nothing in this paragraph affects the obligation or duty of a person to comply with, carry out or enforce a law of the province or a regulation, by-law or ordinance made under that law;

(g) disseminate information and advice as to fire prevention and fire protection by means of public meetings, press articles, exhibitions, radio, television, moving pictures or other publicity campaigns that the minister may consider advisable; and
(h) perform those other duties that the minister may prescribe.

Plans submitted

6. (1) The fire commissioner may require that plans and specifications for the construction, alteration or repair of a structure be submitted to him or her to determine whether proper provision has been made in the plans and specifications

(a) to prevent fire or the spread of fire;

(b) to provide for fire escapes and other exit facilities in the event of fire or the alarm of fire; and

(c) to provide for adequate fire alarm, fire detection, fire suppression and life safety equipment.

(2) The fire commissioner may order the alteration of plans and specifications submitted under subsection (1) in respect of the matters referred to in that subsection.

Deputy fire commissioner

7. The deputy fire commissioner shall act in the place of the fire commissioner, in the absence of the latter during illness or other disability, or in the case of a vacancy in the office, or when ordered to do so by the minister, and when so acting the deputy fire commissioner has and may exercise all of the powers and authority of the fire commissioner.

Duties of assistants

8. (1) A local or special assistant to the fire commissioner shall, subject to the direction of the fire commissioner, assist in the carrying out of the duties of the fire commissioner within the territorial jurisdiction of that assistant and in particular shall investigate and report to the fire commissioner the cause, origin and circumstances of every fire occurring within the territorial jurisdiction of that assistant by which fatalities or injuries have occurred to persons, or by which property has been destroyed or damaged, for the purpose of ascertaining whether the fire and a death or injury caused by the fire was the result of negligence, carelessness, accident or design, and during the investigation of a property or structure that assistant may exclude people from the property or structure except those necessary for the maintenance or care of the property, structure or its contents.

(2) An investigation under subsection (1) shall commence within 6 days of the occurrence of the fire or within a longer period which may be prescribed by the fire commissioner and the person conducting the investigation shall immediately after the investigation is completed furnish to the fire commissioner a written statement of the facts that can be ascertained relating to the cause, origin and circumstances of the fire and further information that may be required by the fire commissioner.

(3) A written statement provided under subsection (2) shall be on a form supplied by the fire commissioner.

(4) Where a fire occurs on an industrial site and where the owner or operator of the industrial site has qualified safety supervisory staff in its employ, the investigation into the cause, origin and circumstances of the fire need not be investigated by a special assistant to the fire commissioner unless there are indications of suspicious circumstances in the cause, origin and circumstances of the fire.

(5) The owner or operator of an industrial site shall report all fires occurring on the industrial site to the Royal Canadian Mounted Police or the Royal Newfoundland Constabulary within 24 hours of the occurrence of the fire where a monetary loss, injury or death has occurred.

Right to enter property

9. The fire commissioner or a local or special assistant to the fire commissioner, for the purposes of an investigation conducted under this Part or the regulations may, at all times,
(a) enter in or upon and examine a structure or property where a fire has occurred, and other structures or property adjoining or in the vicinity of the structure or property; and

(b) remove an article or material, which in his or her opinion may be required for the purposes of furthering the investigation, from a structure or property where a fire has occurred and from a structure or property adjoining or in the vicinity of the structure or property.

Advisory council

10. (1) The Lieutenant-Governor in Council may by order appoint an advisory council, which shall consist of the fire commissioner who shall act as chairperson and not more than 10 other persons.

(2) The advisory council shall

(a) act in an advisory capacity only;

(b) meet not less than 3 times annually where requested to do so by the chairperson; and

(c) advise the minister on matters within the scope of this Act.

PART II
FIRE PROTECTION AND INSPECTION

Fire research

11. The fire commissioner shall where necessary for the proper carrying out of this Act

(a) conduct fire research directed towards the application of modern methods and practices in fire protection engineering, fire prevention, fire inspection and the investigation of fire loss and arson;

(b) approve the fire protection materials, devices, systems, apparatus, solid fuel, gas and oil burning equipment and appliances, and standards to be used in the installation and use of these materials or items in a structure or property, and determine the safety of the use, sale, storage and handling of a device, material or equipment;

(c) provide fire protection engineering consulting services relating to the construction, occupancy and use of property; and

(d) enforce in the province the life safety codes and standards that have been adopted by the province.

Power to inspect

12. The fire commissioner or special assistants of the fire commissioner may, upon complaint by a person, or where he or she considers it necessary, inspect a structure or property to determine if fire hazards dangerous to persons or property exist in or upon the structure or property and for those purposes may, at all reasonable times, enter into or upon the structure or property accompanied by a peace officer or other assistant, or both.

Orders

13. (1) Where the fire commissioner or a local or special assistant finds a structure or property which, for want of proper repair or by reason of age, dilapidated condition or other state, is especially liable to fire or the spread of fire or which is so situated as to endanger another structure or property or so occupied that fire would endanger persons or property in the structure or property or where flammable, combustible or explosive material or conditions dangerous to the safety of persons or property exist he or she may order the owner or occupant to
(a) remove or demolish the structure or property or a part of it to make repairs or alterations;

(b) install safeguards by way of fire extinguishing equipment, fire and smoke alarms, smoke detectors, fire escapes, exit doors, exit lights, emergency lights and other devices and equipment that may be required by the regulations including outside fire hydrants and water supplies where necessary and practical for the protection of industrial, commercial and institutional properties;

(c) develop fire evacuation plans and attend from time to time demonstrations of fire drills, such as evacuation of persons from a structure or property, and the handling and use of firefighting equipment;

(d) remove the flammable, combustible, explosive or non-approved material, item or equipment;

(e) alter the use of occupancy of the structure or property or a part of it;

(f) evacuate and close the structure or property or a part of it;

(g) comply with the fire and life safety regulations, codes and standards pertaining to electrical, heating and mechanical fire hazards, processing, operation, storage, handling and transportation of materials;

(h) remove from a structure or property an item, material or equipment which is hazardous or has not been approved; and

(i) stop the operation of a hazardous process or operation where an immediate fire or explosion is likely to occur.

(2) Where, in the opinion of the fire commissioner or a local or special assistant to the fire commissioner, an electrical installation, apparatus or equipment in or upon a structure or property is in a condition or so situated as to be likely to cause fire and to be dangerous to the safety of persons or property, he or she may in writing order a person, firm, corporation, commission or other organization supplying electrical energy to discontinue supplying electrical energy to the structure or property until the condition or the location of the electrical installation, apparatus or equipment is remedied or altered to his or her satisfaction.

(3) Upon receipt of the order referred to in subsection (2), the person, firm, corporation, commission or other organization to whom it is directed shall immediately discontinue supplying electrical energy to the structure or property until the order is rescinded by the person who made it or by the fire commissioner.

(4) Where an appliance, apparatus or place in or upon a structure or property is used or intended to be used for supplying fire or heat and in the opinion of the fire commissioner or a local or special assistant to the fire commissioner the use of the appliance, apparatus or place for that purpose is likely to be dangerous to persons or property, he or she may order in writing that a fire not be lighted or maintained in the appliance, apparatus or place until the dangerous condition has been remedied.

(5) Upon receipt of the order referred to in subsection (4) the owner or occupant of the structure or property in or upon which the appliance, apparatus or place is situated or contained, or the person in charge or control of the appliance or apparatus shall not light or maintain a fire in the appliance, apparatus or place until the order is rescinded by the person who made it or by the fire commissioner.

Fire lanes

14. (1) Where the fire commissioner considers it necessary he or she may order the designation of fire lanes on public or private property.
(2) A fire lane designated under subsection (1) is considered to be a highway for the purposes of *The Highway Traffic Act, 1988.*

Form of order

15. (1) An order made under this Part shall be in writing and shall be served by delivering a copy to the person to whom it is addressed, and unless otherwise directed by the fire commissioner an order made by a local or special assistant to the fire commissioner shall be submitted to the fire commissioner for approval before it is served.

(2) Two or more specific orders for the same building or premises may be combined in 1 order and an order may be made in the alternative or subject to those conditions as to alterations, repairs, replacements or placement of firefighting apparatus, fire escapes, exit doors or other facilities and the performance of another act or thing in or upon the structure or property or a part of it that the fire commissioner considers reasonable under the circumstances.

(3) Where the fire commissioner considers it necessary he or she may direct the owner or occupant of a structure or property or both the owner and the occupant to comply with an order and may designate the person who shall bear the expense or a part of the expense of carrying out the order.

Right of entry

16. A tenant or occupier of a structure or property in respect of which an order is made under this Part or the regulations shall at all reasonable times permit the owner of the structure or property or a servant, agent, worker or employee of the owner to enter and re-enter that part of the structure or property of which he or she is a tenant or occupier for the purpose of making the alterations and repairs and doing those other things that the owner is required to do by the order.

Scope of order

17. (1) An order made under section 13 may require that the structure or property be repaired or altered or that the installation be made in accordance with a provision of the Canadian Electrical Code, the National Building Code, the National Fire Code of Canada, or the National Fire Codes of the National Fire Protection Association (International), a requirement relating to accepted material and appliances of the Underwriters' Laboratories of Canada, the CSA Testing Laboratories, a division of the Canadian Standards Association, or the Canadian Gas Association, and specifications of the Canadian Standards Association, which may be specified in the order and in accordance with those other requirements that the fire commissioner may prescribe.

(2) A certificate signed or purporting to be signed by the fire commissioner that a document attached to the certificate is a copy of the Canadian Electrical Code, or the National Building Code, or the National Fire Code of Canada or the National Fire Codes of the National Fire Protection Association (International), or the accepted list of the Underwriters' Laboratories of Canada, the CSA Testing Laboratories, a division of the Canadian Standards Association, or the Canadian Gas Association or the specifications of the Canadian Standards Association, or an extract from either of them is, in the absence of evidence to the contrary, evidence of the content of that code, list or specification or extract without proof of the appointment or signature of the fire commissioner.

Structure may be closed

18. (1) Where in a structure or property there is in the opinion of the fire commissioner or a local or special assistant a fire hazard dangerous to the safety of persons, the fire commissioner may order that the public be not admitted to the structure or property until the fire hazard has been remedied to the satisfaction of the fire commissioner.

(2) Where in a structure or property there is, in the opinion of the Fire Commissioner or a local or special assistant danger to the safety of the public by reason of the inadequacy of exits, or the overcrowding of an area or the presence of flammable, combustible or explosive liquids, materials or substances or because of another condition, he or she may order that the number of persons to be permitted in or upon the structure or property shall not exceed that prescribed in the order.
(3) Where, in the opinion of the fire commissioner, or a local or special assistant the smoking of pipes, cigars or cigarettes in a structure or property constitutes a fire hazard dangerous to the safety of persons, the fire commissioner may order that smoking shall not be permitted in the structure or property or shall be permitted only in those rooms or portions of the structure or property that may be designated in the order.

(4) Where an order has been made under subsection (3), the proprietor or manager of the structure or property shall within 1 week post notices in conspicuous places in the structure or property bearing the words "No Smoking, By Order of the Fire Commissioner", and no person shall smoke in the structure or property except in those rooms or places that have been designated for that purpose in the order.

(5) An order made under this Part shall be in writing or by means of an official sign and shall be served by delivering a copy of it to the person to whom it is addressed, and unless directed by the fire commissioner, an order made by a local or special assistant to the fire commissioner shall be submitted to the fire commissioner for approval before it is served.

Review of order

19. (1) Within 30 days of the making of an order under this Part a person affected by that order may apply to the minister and the minister may review that order and may amend, revoke or confirm that order.

(2) A decision made by the minister under this section may be enforced under this Act in the same manner as an order of the fire commissioner.

Appeal to court

20. (1) A person who is dissatisfied with the decision or action of the minister under section 19, may within 14 days after the minister has made known his or her decision apply to a judge of the court to review the decision of the minister.

(2) A person appealing under subsection (1) shall, within 5 days of the filing of the notice of appeal or within a longer time where permitted by the judge, file with the registrar of the court a bond of an amount not less than $200, to be fixed by the judge, with at least 2 sureties approved by the judge conditioned to pay all of the costs of the appeal where judgment is given against him or her, or the person appealing shall deposit with the registrar an amount not less than $200 to be fixed by the judge to cover the costs of the appeal.

Order to remain in force

21. An order of the fire commissioner or a local or special assistant to the fire commissioner and a decision of the minister made under section 19 shall remain in effect until revoked or amended in accordance with this Act and may be enforced even though a review of the order or decision is sought, but a judge of the court or the minister may, on the application of a person affected by that order or decision and subject to those terms and conditions that the judge considers appropriate, stay the enforcement of the order or decision to allow that person an opportunity to have it reviewed in accordance with this Act.

PART III
REPORTING FIRES AND FIRE LOSSES

Reports

22. (1) An insurer shall furnish to the fire commissioner a statement respecting every fire that occurs in the province in which the insurer is interested as an insurer stating in each case the name and address of the owner and occupier of the property where the fire occurred, the name and address of each person insured by that insurer in respect of property destroyed or damaged, the location of the property, the use and occupancy, the date of the fire, the value of the property, the amount of insurance carried, the amount of loss sustained, the probable cause of the fire, the name and address of the person adjusting the claim and the other information that the fire commissioner may require.
(2) A person adjusting a claim against an insurer in respect of a loss by fire of property in the province, whether that person represents the insurer or the insured, shall forward a report in writing to the fire commissioner stating the date of the fire, the name and address of the owner and of the occupier of the property where the fire occurred, the location of the property, the name and address of the insured and each insurer, the value of the property insured, the amount of insurance placed with each insurer, the amount of loss which each insurer is to bear and those other particulars that the fire commissioner may require.

(3) A person sustaining or claiming to have sustained a loss by fire of property in the province whether uninsured or insured wholly or partially shall report to the fire commissioner the date of the fire, the name and address of the owner and of the occupier of the property where the fire occurred, the location, use and occupancy of the property, particulars of the insurance and other information that the fire commissioner may require.

(4) A person in or upon whose property a fatality or injury has been caused by fire shall immediately report the fatality or injury to the fire commissioner giving the name, age and sex of each and every person sustaining the fatality or injury, the cause of the fire and the name of the occupier of the property where the fatality or injury occurred and other information that may be required by the fire commissioner.

(5) A report required to be made under this section shall be mailed or delivered to the fire commissioner within 10 days after the occurrence of the fire or within a longer period that the fire commissioner may prescribe.

(6) Where a fire appears to him or her to be of suspicious origin, a local or special assistant of the fire commissioner or a fire insurance adjuster or other person interested shall, as soon as practicable, report to the fire commissioner the name of the owner and of the occupant of the property where the fire occurred or was attempted, the use and occupancy, the date of the fire or attempted fire and those other facts and circumstances that may appear necessary, and that report shall be made in addition to another report that may be required under this Part.

Firefighting training program

23. (1) The fire commissioner with the approval of the minister, shall establish and conduct a mobile firefighting training program for all volunteer firefighters throughout the province and approve firefighting training standards of and curriculum and firefighting equipment assigned to municipal authorities.

(2) The fire commissioner shall, with the approval of the minister provide technical training programs to meet the requirements of those engaged in fire inspection, firefighting, fire investigation, dealing with dangerous goods, municipal fire protection and administration.

PART IV
MISCELLANEOUS

Offences

24. (1) A person who

(a) contravenes or fails to comply with a requirement or obligation imposed on him or her by this Act;

(b) interferes with a person in the discharge of his or her duties under this Act;

(c) tears down, removes or damages a regulation, order or notice made under this Act; or

(d) interferes or tampers with or damages installed fire protection or detection equipment,
commits an offence and is liable on summary conviction to a fine of not more than $1,000 and in default of payment of the fine to imprisonment for a period of not more than 12 months.

(2) The conviction of a person for failing to comply with a requirement or obligation referred to in subsection (1) shall not operate as a bar to further prosecution under this Act for the continued failure on the part of that person so to comply.

Disposition of fines

25. All fines collected under this Act shall be forwarded to the Department of Municipal and Provincial Affairs for payment to the credit of the Consolidated Revenue Fund.

Regulations

26. (1) The Lieutenant-Governor in Council may make regulations

(a) in respect of all matters relating to or affecting the manufacture, transportation, handling, storage, use, sale or other disposal of explosive or inflammable substances and materials, whether volatile or non-volatile, solid, liquid or gas and in particular

(i) regulating or restricting the classes or quantities of those substances and materials that may be kept or stored and the places or areas in which they may be handled, kept or stored, or prohibiting the handling or storage of those substances and materials in specified places or areas,

(ii) regulating or restricting the manner in which those substances and materials may be transported, sold, or offered or held for sale, or prohibiting their transportation or sale,

(iii) regulating or prescribing the kinds of installations or containers which may be used for the storage, handling, use or sale of those substances and materials and prescribing the markings which shall be placed on those installations or containers,

(iv) providing for the issuing of permits by the fire commissioner for the transportation, storage, handling, use, or sale of those substances and materials, the conditions to which permits are subject, and the refusal, suspension or cancellation of permits, and

(v) prescribing the minimum distances from highways, residences or other premises at which installations for the storage, handling, use or sale of those substances and materials may be erected;

(b) regulating the sale, installation and maintenance in structures or property of equipment or apparatus for burning fuel, whether solid, liquid or gas;

(c) regulating the sale, installation and maintenance of fire extinguishing materials, devices, apparatus and equipment;

(d) providing for emergency exits from various buildings or structures in the event of fire or the alarm of fire;

(e) prohibiting or restricting the lighting of fires or the disposal of refuse or waste material and prescribing the location and construction of incinerators, whether public or private;

(f) regulating the sale, installation and maintenance of electrical equipment used or intended for use in or upon a structure or property;

(g) prescribing fire prevention and fire protection measures in the construction of structures to prevent the vertical and horizontal spread of fire;
(h) prescribing the fire extinguishing materials, devices, apparatus and equipment which shall be installed in structures;

(i) regulating the handling of materials or the setting of fires which may spread to adjoining property;

(j) prohibiting the construction, structural alteration or change of use of a structure unless a plan and specifications in a form to be prescribed in the regulations are first furnished to the fire commissioner and approved by him or her;

(k) providing that where the owner of a structure or property in absent from the province or cannot readily be found the fire commissioner may order the tenant or occupant or person in possession of the structure or property to make minor repairs or alterations that are urgently required for the purposes of fire prevention and empowering a tenant or occupant making those repairs or alterations in the execution of an order to deduct the cost from rent or other money payable by him or her to the owner or to recover the cost by civil action against the owner;

(l) providing that where a structure or property in respect of which an order has been made under this Act or the regulations is not occupied and the owner is absent from the province or cannot readily be found the fire commissioner may arrange to have the order carried out, and providing for the recovery by the fire commissioner of expenses incurred from the municipal authority of the area in which the structure or property is situated, and empowering the municipal authority from which those expenses are recovered to assess the structure or property and the land on which it is situated for an amount equal to the amount recovered from it together with interest at 6% a year and to recover the amount assessed in the same manner as a tax assessment or imposition may be recovered by the municipal authority in that area;

(m) providing that so much of this Act and the regulations as he or she considers desirable shall apply to structures or property owned or occupied by the Crown;

(n) prescribing the period in which a report required by this Act or the regulations shall be forwarded where the period is not specified in this Act, and where the period is so specified, varying that period;

(o) prescribing forms to be used for the purpose of this Act or the regulations;

(p) respecting the certification of persons or firms engaged in the installation, servicing, maintenance and repair of fire extinguishers, mixed fire extinguishing systems, fire alarm and detection devices and fire alarm monitoring devices; and

(q) providing for the installation in structures of fire-detecting devices of the type set out in the regulations.

(2) The Lieutenant-Governor in Council may adopt and constitute as regulations by reference

(a) a code, rule or standard relevant to a matter referred to in subsection (1), or an official abridgment of a code, rule or standard;

(b) a code, rule, standard or abridgment with the exception of a specified provision;

(c) a specified provision of a code, rule, standard or abridgment; and

(d) an amendment to a code, rule, standard or abridgment made, with or without modification,

and a certificate of the minister that a document is a copy of a code, rule or standard adopted and constituted as regulations under this subsection or an official abridgment of, extract from or amendment to a code, rule or standard shall without further proof be, in the absence of evidence to the contrary, evidence of the contents of the code, rule or standard.
(3) Regulations made under this section may be

(a) made to apply to the whole of the province,
(b) restricted in their application to specified areas of the province,
(c) made to apply without limit of time or during particular periods,
(d) applied at or between specified times only, and
(e) applied in or upon particular circumstances or conditions only,

and different regulations may be

(f) made in respect of structures or property of a different description or class, and
(g) made in respect of structures or property of the same description or class in different circumstances,

and exceptions or limitations in favour of or against structures or property of a particular description or class may be prescribed.

(4) Regulations made under this section may be made with retroactive effect.

(5) The fire commissioner may attach to a permit issued under regulations made under subparagraph (1)(a)(iv) those conditions that he or she considers necessary and the conditions may be varied in respect of different permits.

(6) Notwithstanding another provision of this Act, the fire commissioner shall not issue a permit under regulations made under subparagraph (1)(a)(iv) except with the approval of the Deputy Minister of Works, Services and Transportation.

(7) The fire commissioner may attach to a permit issued under subsection (1) those conditions that he or she considers necessary or desirable and the conditions may be varied in respect of different permits, and the permits are subject to refusal, suspension or cancellation.

Entry to premises

27. (1) The fire commissioner or a local or special assistant may for the purposes of this Act enter a structure or property in or upon which explosive, flammable or combustible substances or materials or items or equipment which are not approved are manufactured, transported, handled, stored, used, sold or otherwise disposed of and may take samples of those substances, materials, items or equipment.

(2) The fire commissioner or a local or special assistant may order, as he or she considers necessary, the manufacturing, transportation, handling, storage, use, sale or disposal of materials under subsection (1) or any of them to be discontinued.

Actions against fire commissioner

28. An action or proceeding shall not, without the written consent of the minister, be brought or taken against the fire commissioner, the deputy fire commissioner or a local or special assistant to the fire commissioner for anything done or omitted to be done in the performance or intended or supposed performance of his or her duties under this Act.

Conflict of authority

29. Where there is a conflict between the authority of the fire commissioner and that of an official of a municipal area the authority of the fire commissioner shall prevail.

RSN 1970 c.131
Rep.
30. The Fire Prevention Act is repealed.

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Pouch Cove Town Council

From: "r. clarke-davis" @nf.sympatico.ca
To: <pouchcove@nf.aibn.com>
Sent: Tuesday, March 27, 2007 7:17 PM
Attach: Zoning change .doc
Subject: Re-zoning the pouch cove elementary school site

Sir,
Attached is a letter requesting that the former Pouch Cove Elementary School, now the Pouch Cove Foundation, be changed from a public use designation to a residential one.

If you have any questions, feel free to get in contact with me, Robert Clarke-Davis.

R. Clarke-Davis
director

rc-d.com
rc-d.blogspot.com
Pouch Cove Foundation
P.O.Box 693
Pouch Cove, NL
A0A 3L0

March 27, 2007

Town of Pouch Cove
Main Road
Pouch Cove
A0A 3L0

Dear Sir,

Re: Pouch Cove Foundation
14 Gruchy’s Hill, Pouch Cove
Application for re-zoning

The Pouch Cove Foundation hereby applies to the Town Council of Pouch Cove for the rezoning of the above property from Public Use to Residential and would request that the matter be tabled at the next meeting of Town Council.

The Pouch Cove Foundation desires to use the entire building as a residential property to be occupied by visiting artists who will be accommodated free of charge.

As the property is bounded on three sides by residential property we would trust that Council would have no objections to this change in zoning.

Should you have any other questions please contact me.

Yours truly,

Robert Clarke-Davis
Director
April 21, 2007

Deputy Mayor S. Jordan said if Mayor S. Patten was unable to attend he would do it.

Council received correspondence from the Pouch Cove Lions Club in relation to keeping the bus shelters free of snow during the winter season.

Consensus of Council to defer the matter to the Public Works Committee for review.

Council received correspondence from the Holy Trinity Band Parents Association requesting funding to assist in the Concert Band and Jazz Band attending the National Finals of Musicfest Canada in Richmond B.C.

Motion: J. Sainsbury/J. Mulley

07-65 Motion to donate $50.00 to the Holy Trinity Band Parents Association as requested.

Motion Carried.

Council received correspondence from the Pouch Cove Foundation requesting re-zoning for the property situated at 14 Gruchy's Hill.

Motion: J. Sainsbury/E. Connors

07-66 Motion to defer until all matters of the Pouch Cove Foundation currently before the Fire Commissioners Office have been resolved.

Motion Carried.

Councillor J. Mulley brought forward the list of required turn arounds for snow clearing.

Decision of Council to have the Town Foreman Gerald Noseworthy determine a priority list of those turn arounds and proceed with getting the work done.

Council received correspondence from the Department of Environment and Conservation in relation to development along the coastlines.

Consensus of Council this was for information.

It was at this time the Town Manager Wavy Ellsworth advised Council it was necessary to meet with the Town Planner on the Costal Regulation now being considered for the Town of Pouch Cove.

Consensus of Council to have a meeting set with the Town Planner Reg Garland to discuss same.

Council received a preliminary drawing from Clem Hudson to develop a sub-division in the Marsh Road area.
April 3, 2007

Mr. Robert Clark-Davis, Director
Pouch Cove Foundation
P.O. Box 693
Pouch Cove, NL
A0A 3L0

Dear Mr. Clark-Davis:

Re: Application for rezoning

Your correspondence dated March 27th was tabled at a regular meeting of council held April 2nd, 2007.

Your request by way of motion has been deferred until the outstanding issues with the Office of the Fire Commissioner are resolved.

If you have any questions, please do not hesitate to give me a call.

Sincerely,

[Redacted]
Barbara Tilley
Town Clerk
Town of Pouch Cove
For Council
August 1, 2007

Attention: [Redacted]

Re: Pouch Cove Foundation - re-zoning

Dear [Redacted]

In relation to the re-zoning of the above noted property to residential it is the opinion of the Pouch Cove Town Council that the property is not a residential property.

I am enclosing for you the Minutes of the April 2, 2007 Meeting along with Classification of uses of Land and Buildings and the Use Zone Table for Residential - Serviced.

If you have further questions, please do not hesitate to give me a call.

Sincerely,

Wavy Elsworth
Town Manager
Town of Pouch Cove
Council received correspondence from the Canadian Red Cross in relation to the Canadian Red Cross Society Act, 1909.

It was the consensus of Council to participate in writing only.

Council received correspondence from French, Noseworthy & Associates requesting re-zoning for the property of the Pouch Cove Foundation located at 14 Gruchy's Hill.

It was the decision of Council there would not be any change to their previous decision and therefore would not be re-zoning the property as it is not residential property.

Council received correspondence from Samuel Jackson in relation to erecting a wind turbine.

Motion: J. Sainsbury/E. Connors

07-188 Motion to obtain more information from Samuel Jackson in relation to the type of structure he will be installing and also information on the noise level of the wind turbine.

Motion Carried.

Mayor S. Patten declared conflict on the next item on the Agenda and left the Chambers.

Councillor W. Butt assumed the Chair.

Council received correspondence from J.J. Patten in relation to a fence erected on the Bank Road.

Town Manager Wavy Ellsworth advised Council that Roger Bill had been sent correspondence on the matter and to her knowledge he would be obtaining a legal opinion.

Councillor J. Sainsbury said what needs to be determined is what is the high water mark.

Motion: J. Mulley/E. Connors

07-189 Motion to write J. J. Patten and advise that Roger Bill has been contacted and Council will be pursuing the matter with the Department of Environment.

Motion Carried

Mayor S. Patten advised Council that Kathleen Connors wished to meet with them as she is running in the next Federal Election.

Decision of Council to have Kathleen Connors as a Delegate at the next Regular Council meeting.

Foreman's Report

Motion: J. Mulley/E. Connors

07-190 Motion to accept the Foreman's Report as presented.
Motion Carried