

Public Meeting of Witless Bay Council

March 10, 2020

Attending: Mayor Derm Moran, Deputy Mayor Maureen Murphy, Councillors Fraser Paul, David Ryan, Dale O'Driscoll, Lucy Carew & Vince Swain

Reporting: Geraldine Caul & Barb Harrigan

1. Mayor Derm Moran opened the meeting at 7:30 p.m.
2. **2020-033** Deputy Mayor Maureen Murphy/Councillor Vince Swain
Moved that Council adopt the agenda of March 10, 2020.
Motion carried unanimously.
3. **2020-034** Councillor Vince Swain/Councillor Dale O'Driscoll
Moved that Council adopt the Minutes of February 11, 2020 as presented.
Motion carried unanimously.

4. Business Arising from Minutes

- a. CAO Job Description & Ad (deferred at February 11, 2020 public meeting pending further correspondence):

Deputy Mayor Maureen Murphy reported that the Ad for the CAO position was posted and that Council was waiting to hear back from LW Consulting Firm on that.

Mayor Derm Moran called for questions. The Town Clerk/Manager asked for clarification on Council's approval of the Job Description and Ad because the document was received at the Town office the end of January, after January's public meeting, and placed on February's public meeting agenda for Council to address, but was deferred pending further correspondence. She noted that no new correspondence or information has been received at the Town Office to date.

Mayor Moran explained that Council had gone through the job description and told the consultants to move forward, but Council already had a motion made to advertise for the CAO prior. Deputy Mayor Maureen Murphy added that to her understanding they approved this in January.

The Town Clerk/Manager reminded Council that the Proposal to Recruit for the CAO position was approved at January's public meeting, and in this document LW Consulting clearly stated that the development of a CAO Job Description and Ad would be submitted at a later time for Council to review and approve. She explained that although this Ad has been running for some time, there is no motion of Council existing to accept or approve the CAO Job Description and Ad, and Council should address this.

2020-035 Deputy Mayor Maureen Murphy/Councillor Vince Swain
Moved to accept the Job Description and Ad for CAO.
Motion carried unanimously.

b. Auditor

There was a brief discussion and clarification on what Coombs and Associates was under contract with the Town for. The Town Clerk/Manager gave a factual explanation of Auditor vs Town Accountant as defined under Provincial Legislation, stating that Mr. Coombs was currently under contract as an Auditor for the Town, however, Mr. Coombs was not a "Town Accountant" by true definition of Provincial Legislation because he was not under a retainer, or contract with the Town, and he was not on the Town's payroll. Under Provincial Legislation, and for this purpose he would be considered an advisor. In reference to a council comment that Mr. Coombs "did the Town's budget", Council was reminded that it was they who determined what they wanted to increase, decrease, add or remove from the budget, and Mr. Coombs inputted those figures into a Draft Budget Form, making some suggestions for Council to consider, for budget balancing purposes, and once agreed by Council, he submitted the Draft Budget to Council for approval.

2020-036 Councillor Vince Swain/Deputy Mayor Maureen Murphy
Moved to keep the Auditor [Coombs & Associates].
For: Mayor Derm Moran, Deputy Mayor Maureen Murphy, Councillors David Ryan, Dale O'Driscoll, Vince Swain and Lucy Carew
Against: Councillor Fraser Paul
Motion carried.

c. Application to construct a residential dwelling on 32 Dunn's Lane - resubmission: was previously approved but approval expired (deferred at February 11, 2020 public meeting until Council gets more information from the Planner)

2020-037 Councillor Fraser Paul/Councillor Vince Swain

Moved to approve the application to construct a residential dwelling on 32 Dunn's Lane per the Town's regulations and subject to approval from Services NL and any other government agencies having jurisdiction.

Motion carried unanimously.

- d. Application to demolish and rebuilt or refurbish barn on 41 Dunn's Lane (deferred at February 11, 2020 public meeting until Council gets correct information from Services NL and the Town Planner)

Councillor Fraser Paul reported that Council had requested information from the Planner and they wanted time to review the information before making a decision on this application.

2020-038 Councillor Fraser Paul/Councillor Vince Swain

Moved to defer this item until all information provided by the Planner is clear.

Motion carried unanimously.

5. Finance:

- a. Payable Chart for Approval

Councillor Fraser Paul explained that there is an invoice in the payable chart from Stewart McKelvey and that invoice is related to whether or not he was in a conflict on a past item, which Council did find him not to be in a conflict on. Councillor Paul requested that Council make a determination if he is in a conflict on voting on this invoice.

2020-039 Councillor Lucy Carew/Deputy Mayor Maureen Murphy

Moved that Councillor Fraser Paul is not in a conflict of interest on the invoice from Stewart McKelvey.

For: Mayor Derm Moran, Deputy Mayor Maureen Murphy, Councillors David Ryan, Dale O'Driscoll, Vince Swain and Lucy Carew.

Against: 0

Abstained: Councillor Fraser Paul [abstained due to request for Council to determine if he was in a conflict].

Motion carried.

Councillor David Ryan requested that Council make a determination if he is in a conflict on voting on this invoice because it was his company that did the work when there was a question of whether or not Councillor Fraser Paul was in a conflict, and Council found Councillor Paul not to be in a conflict of interest at that time.

2020-040 Deputy Mayor Maureen Murphy/Councillor Lucy Carew

Moved that Councillor Ryan is not in a conflict of interest on the invoice from Stewart Mckelvey.

For: Mayor Derm Moran, Deputy Mayor Maureen Murphy, Councillors Fraser Paul, Dale O'Driscoll, Vince Swain and Lucy Carew.

Against: 0

Abstained: Councillor David Ryan [abstained due to request for Council to determine if he was in a conflict].

Motion carried.

2020-041 Councillor Lucy Carew/Deputy Mayor Maureen Murphy

Moved to pay the following invoices:

* North Atlantic	247.57
* Rogers	304.17
* NL Power	2,556.37
* Orkin Canada	433.56
* Receiver Gen.	3,684.16
* Coombs & Assoc.	2,645.00
* Collabra	1,709.98
* The Telegram	297.56
* WHSCC	2,958.24
* Credit Recovery	845.73

Motion carried unanimously.

2020-042 Councillor Lucy Carew/Deputy Mayor Maureen Murphy

Moved to pay O'Brien's Trucking \$56,912.71 for snow clearing and sanding for the period February 3 to March 1, 2020.

Motion carried unanimously.

2020-043 Councillor Lucy Carew/Deputy Mayor Maureen Murphy

Moved to pay O'Brien's Trucking \$737.89 for backhoe work on Gull Pond Road for resident's flooding area, pending clarification with the Contractor regarding authorization for the work to be done.

Discussion: It was noted that if Council is going to agree to clear one drain, they have to provide the same service for everyone so it has to be stopped now before it gets out of control.

For: Deputy Mayor Maureen Murphy, Councillors Lucy Carew and David Ryan

Against: Mayor Derm Moran, Councillors Fraser Paul, Dale O'Driscoll and Vince Swain.

Motion defeated.

2020-044 Councillor Lucy Carew/Councillor Dale O'Driscoll

Moved to pay the following invoices:

- * Stewart McKelvey invoice for \$899.30
- * Witless Bay Hardware Invoice for 2,578.44

Discussion: Councillor Fraser Paul noted that he was voted not to be in a conflict on this matter.

Motion carried unanimously.

2020-045 Councillor Lucy Carew/Deputy Mayor Maureen Murphy

Moved to accept the invoices from payable chart for the Fire Department totaling \$15,654.59.

Motion carried unanimously.

- b. Stewart McKelvey invoice related to Legal fees pertaining to Statutory Appeal (\$5518.60) - Information only due to approval granted for payment at Feb. 11, 2020 public meeting.

Deputy Mayor Maureen Murphy asked Council to determine if she is in a conflict on voting on the invoice related to legal fees pertaining to Statutory Appeal for \$5518.60.

Councillor Dale O'Driscoll declared a conflict of interest on this vote because Deputy Mayor Maureen Murphy is his mother-in-law. Councillor O'Driscoll left the Chamber at 8:12 pm.

2020-046 Councillor Vince Swain/Councillor Fraser Paul

Moved that Deputy Mayor Murphy is not in a conflict on the invoice from Stewart McKelvey.

For: Mayor Derm Moran, Councillors David Ryan, Fraser Paul, Vince Swain and Lucy Carew.

Against: 0

Abstained: Deputy Mayor Maureen Murphy [asked Council to determine if she was in a conflict]

Abstained: Councillor Dale O'Driscoll [declared a conflict of interest].

Motion carried.

Councillor Dale O'Driscoll returned to the Chamber at 8:13 pm.

- c. WINDCO Enterprises Ltd. quote - New flag pole

2020-047 Councillor Lucy Carew/Deputy Mayor Maureen Murphy

Moved to accept the quote from WINDCO Enterprises for the purchase of two additional flagpoles to be placed out front of the Town Hall at a cost of \$4,312.38 to include the Canadian Flag and Newfoundland Flag.

Motion carried unanimously.

6. **New Business:**

- a. Eastern Newfoundland Regional Appeal Board Results and Recommendation of the

Board. [O'Dea vs Town of Witless Bay - Excavation at end of Mallowney's Lane]

Deputy Mayor Maureen Murphy requested that Council determine if she is in a conflict of interest on the Eastern Newfoundland Regional Appeal Board and Recommendations of the Board because the Appeal relates to her brother's land.

Councillor Dale O'Driscoll declared a conflict of interest on this vote because Deputy Mayor Maureen Murphy is his mother-in-law. Councillor O'Driscoll left the Chamber at 8:15 pm.

2020-048 Councillor Fraser Paul/Councillor David Ryan

Moved that Deputy Mayor Maureen Murphy is not in a conflict on item 6a, Eastern Newfoundland Regional Appeal Board Results and Recommendation of the Board.
For: Mayor Derm Moran, Councillors David Ryan, Fraser Paul, Vince Swain and Lucy Carew.

Against: 0

Abstained: Deputy Mayor Maureen Murphy [asked Council to determine if she was in a conflict of interest].

Abstained: Councillor Dale O'Driscoll [declared a conflict of interest].

Motion carried.

Councillor Dale O'Driscoll returned to the Chamber at 8:16 pm.

Councillor Lucy Carew reported this was a decision of the Eastern Newfoundland Regional Appeal Board, which is the Board reversed the Town's decision to issue a permit for excavation at the end of Mallowney's Lane, Witless Bay, and the permit is no longer valid.

2020-049 Councillor Lucy Carew/Councillor Vince Swain

Moved that in accordance with section 44(3) of the Urban and Rural Planning Act, 2000, that Town pay the appeal filing fee of \$230 to the Appellant.

Motion carried unanimously.

b. BBAA Financial Report - Information only

c. BBAA MOU

2020-050 Deputy Mayor Maureen Murphy/Councillor Fraser Paul

Moved to accept the MOU between the BBAA and the Town of Witless Bay for the period January 1, 2020 to January 31, 2022.

Discussion: It was noted that this is a 4-year MOU with start date of January 1, 2019 and ending January 31, 2022, and Council will agree to continue with the MOU to 2022.

For: Mayor Derm Moran, Deputy Mayor Maureen Murphy, Councillors David Ryan, Fraser Paul, Dale O'Driscoll and Vince Swain.

Against: Councillor Lucy Carew.
Motion carried.

- d. Correspondence: Request for Council to direct Kim Blanchard at Municipal Affairs to remove the reserve request from the Regional Plan

Deputy Mayor Maureen Murphy requested that Council determine if she is in a conflict of interest on this item.

Councillor Dale O'Driscoll declared a conflict of interest on this vote because Deputy Mayor Murphy is his mother-in-law. Councillor O'Driscoll left the Chamber at 8:18 pm.

2020-051 Councillor Fraser Paul/Councillor Vince Swain

Moved that Deputy Mayor Maureen Murphy is not in a conflict on 6d.

For: Mayor Derm Moran, Councillors David Ryan, Fraser Paul, Vince Swain and Lucy Carew.

Against: 0

Abstained: Deputy Mayor Maureen Murphy [asked Council to determine if she was in a conflict of interest].

Abstained: Councillor Dale O'Driscoll [declared a conflict of interest].

Motion carried.

Councillor Dale O'Driscoll return to the Chamber at 8:19 pm

Mayor Derm Moran vacated the seat to address this item, and was replaced by Deputy Mayor Maureen Murphy who took the Chair.

2020-052 Mayor Derm Moran/Councillor Fraser Paul

Moved to send a letter to the Department of Municipal Affairs as requested, so that the matter can be taken care of in terms of removing the reserve from the Regional Plan.

Motion carried unanimously.

7. **2020-053** Councillor Lucy Carew/Councillor Vince Swain

Moved to adjourn the meeting 8:30 pm.

Motion carried unanimously.

**DECISION OF APPEAL BY THE EASTERN NEWFOUNDLAND REGIONAL APPEAL
BOARD**

15-006-064-037

February 10, 2019

BETWEEN Noel O'Dea Appellant(s)

AND Town of Witless Bay Respondent

RESPECTING approval to permit an excavation at the end of Mallowney's Lane,
Witless Bay

Dear Participants:

I have received the Eastern Newfoundland Regional Appeal Board decision for distribution. Please find the attached documents concerning the above noted appeals. Any action specified in the order must be taken within the time period prescribed by the Board. Copies of the decisions have been forwarded to the above parties.

If there are any concerns or clarifications regarding the decision: in accordance to section 46 of the *Urban and Rural Planning Act, 2000*, the decision of the Eastern Newfoundland Regional Appeal Board may be appealed to the Supreme Court of Newfoundland and Labrador Trial Division. The role of the Supreme Court is to determine if the Board erred on a question of law or jurisdiction. If this action is contemplated, the appeal must be filed no later than ten (10) days of the date of the Board's decision has been received by the appellant.

Yours truly,



Robert Cotter, Secretary
Eastern Newfoundland Regional Appeal Board

EASTERN NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

15-006-064-037

APPEAL

BETWEEN Noel O’Dea **Appellant(s)**

AND Town of Witless Bay **Respondent**

RESPECTING approval to permit an excavation at the end of Mallowney’s Lane,
Witless Bay

BOARD MEMBERS Cliff Johnston, Chair
Carol Ann Smith, Member
Robert Warren, Member

DATE OF HEARING February 3, 2020

IN ATTENDANCE

Noel O’Dea, Appellant
Geraldine Caul, Town Clerk-Manager
Ron Harte, Developer
Gary Churchill and Ann Marie Churchill, Interested parties

Robert Cotter, Secretary to the Eastern Newfoundland Regional Appeal Board
Kim Blanchard, Technical Advisor to the Eastern Newfoundland Regional Appeal Board

DECISION

Facts/Background

1. Chronology assembled from the material submitted by the Appellant and the Authority:
November 6, 2019:

- Ronald Harte applied to the Town of Witless Bay to do maintenance on an historical right-of-way leading to his property, off Mallowney's Lane Extension. In support of his application, Harte provided the Town with:
- a copy of a survey and Crown Lands grant, dated Jan 12, 2017
- November 12, 2019: At a public meeting, Council approved the application (Motion #2019-281).
- November 13, 2019: The applicant, Ronald Harte, was provided with a letter of approval-in-principle for excavation of historical right-of-way to his private property, subject to approval from all applicable Government Agencies.
- a copy of the Commercial Cutting permit that had been granted to him by the Forestry Branch of the Department of Fisheries and Land Resources (permit effective Nov 13, 2019 to Dec 31, 2019)
- November, 2019: The Public Works Committee of Council conducted a property site visit.
- November 15, 2019: Email to Town from Water Resource Management Division of Municipal Affairs and Environment (MAE) indicating no permits are required.
- November 15, 2019: Town Council Permit Granted to Ronald Harte, with specification "Excavation of Historical Right-of-Way" valid Nov 15, 2019 to Nov 15, 2020. (Development Application # 2019-61; Permit #749)
- November 15, 2019: An appeal of Council's decision was filed by appellant, Noel O'Dea.
- November 15, 2019: Email to Town from the Director of Local Governance Land Use Planning to advise that the appeal has been filed; that, pursuant to S. 45 of URPA, all work related to the subject property must immediately cease until the Board has determined the appeal.

The Board accepts the chronology order and notes that it was not contested at the hearing.

Land Use Planning

Development within the Town of Witless Bay is directed by the Town's Development Regulations, the zoning of the subject lands owned by Harte and over which the right-of-way leads, is primarily Residential (with exception of Conservation zoning respecting watercourses in the area).

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Municipal Plan and Development Regulations June 2016

Municipalities Act, 1999

Matters presented to and considered by the Board

Notification of the Appeal.

Mr. O'Dea requested a postponement of the hearing. A notice of hearing was sent to the email provided on the appeal form to Mr. O'Dea and the Town of Witless Bay on January 9, 2020. On January 15, 2020 another email was sent to Mr. O'Dea's assistant.

At the hearing Mr. O'Dea explained that he was out of the country since January 3, 2020 and only became aware of the hearing on February 3, 2020. Mr. O'Dea explained that upon review of the Town's submission that information Mr. O'Dea requested when he submitted the appeal was absent from the Town's submission for the appeal.

The Board reviewed the *Urban and Rural Planning Act, 2000*

NEWFOUNDLAND AND LABRADOR

REGULATION 3/01

Development Regulations

under the

Urban and Rural Planning Act, 2000

Appeal registration

7. (3) *Where an authority has been notified of an appeal that authority shall forward to the appropriate board a copy of the application being appealed, all correspondence, Council minutes, plans and other relevant information relating to the appeal including the names and addresses of the applicant and other interested persons of whom the authority has knowledge.*

Hearing notice and meetings

9. (1) A board shall notify the appellant, applicant, authority and other persons affected by the subject of an appeal of the date, time and place for the appeal not fewer than 7 days before the date scheduled for the hearing of the appeal.

Following a brief recess of the hearing, the Board decided to proceed with the hearing for the following reasons:

- Based upon the above legislation the Board concluded that the Town's requirement was met and the notice was issued in accordance to the Minister's Development Regulations
- Mr. O'Dea's while under protest, was willing to proceed

The Board's notes that if either party requires additional information that one should avail of the access to information process (if available).

Appellant's Grounds of Appeal:

The Appellant explained that at a Public Meeting of the Town Council of Witless Bay held on 12 November 2019, Council approved a Development Application from Mr. Ron Harte to permit an excavator to excavate for a distance of ~150 metres on a right-of-way / fisherman's foot path at the end of Mallowney's Lane in a southeastern direction towards Ragged Beach and the Witless Bay Ecological Reserve.

The primary basis for this Appeal is that the Council did not comply with the Town's Municipal Plan and Development Regulations, and related legislation. Further, the Council approval of such a permit does not fall within its authority under the Town's Development Regulations. The appellant provided additional details at the hearing on the grounds of appeal submitted in November 2019. The appellant provided the detailed copy for the Board to consider.

Analysis

What approvals did Mr. Harte apply to the Town of Witless Bay for?

The Board learned that Mr. Harte applied to the Town to do maintenance on a historical right-a-way leading to his property off Mallowney's Lane Extension. The Board heard evidence that Mr. Harte wanted to improve the existing access to his land. During the appeal hearing, the

Board learned from the Town' representative that the application was approved by Council as submitted by the applicant. The Board also learned that the Council did not seek additional information regarding the proposed application nor did the Town require standard information such as the applicant's intended future use of his property. At the hearing, Mr. Harte, told the Board that he would like to use his property for himself and family members for passive activities such as picnicking and camping. His intention is not to construct a residence or any other developments/structures on the property. Mr. Harte, told they Board that he would like to use the property for himself and family members. His intention was not to construct a residence or any other developments/structures on the property.

What did Council approve?

At its public meeting held on November 12, 2019 Council approved the application as submitted. On November 13, 2019 Mr. Harte was provided by the Town with a letter of Approval in Principle which stated:

“to do maintenance with an excavator on a historical right-a-way to that leads from the Town turn around off Mullowney's Lane to the extreme of your property approximately 152 meters for safe access” and “subject to approval from all applicable Government agencies”. The Town issued a permit for the work on November 15, 2019.

What is the role of Crown Lands Branch in the application to the Town of Witless Bay?

The Land Branch states that the maintenance of the path up to a maximum of 3 meters wide would not require approval from the Lands Branch, this however does not waive of other Branches of the Department of Municipal Affairs and Environment other federal, provincial department and agencies; and/or the Town of Witless Bay prior to commencement.

Did Council have the authority to issue a permit for Mr. Harte to do maintenance on a historical right-a-way leading to his property off Mullowney's Lane Extension?

The basic planning principle in the Town's Municipal Plan and Development Regulations is to provide for orderly development to ensure public health and safety. An access is the juncture at which a development site connects to the public infrastructure. In the context of development, “access” has a specific meaning and intent, and a “street” in the public domain is differentiated from a “private road”, as previously referenced in legislation, and as defined in Schedule A of

the Town's Development Regulations:

ACCESS means a way used or intended to be used by vehicles, pedestrians or animals in order to go from a street to adjacent or nearby land or to go from that land to the street.

STREET means a street, road, highway or other way designed for the passage of vehicles and pedestrians, and which is accessible by fire department and other emergency vehicles.

PRIVATE ROAD (SHARED DRIVEWAY) means a roadway within private property that are privately owned, maintained and used for vehicular travel by the owner and those having express or implied permission from the owner, but not other persons. Their main function is to provide access to the private land. Most private roads are not designed to the same standards as public streets.

From the approval issued and from the evidence presented at the hearing, the Board determined that there was no documentation provided by the Town for this development application respecting specifications or parameters on the development approval. Specifically, the Town did not provide direction to the applicant that the excavation of the road/ right-of-way is to be performed to particular municipal standards, arrangements to ensure public use or access to the road/ right-of-way, nor evidence of consent of the parties to ensure that the Town will take over and maintain the road/ right-of-way were not included in the Town's submission.

The Town's issuance of a permit to a private land owner to undertake work on a public right-of-way without a development agreement or specifications of public road development standards is contrary to the intent and directives in the legislative, policy, and regulatory framework that guides the Town's infrastructure development.

The Board learned through the materials submitted and presented at the hearing that the subject of the appeal is an historic crown land right-of-way, which is vested in the Town, and is not privately owned. As such, all members of the public must have the right to use the right-of-way. That the intent by the proponent is to upgrade the historic right-of-way from a cart path to a road on which cars can drive. That the lands to be accessed were used historically for agriculture but

were not previously developed with structures and were not accessed by a publicly maintained roadway.

The Board determined that the Council has authority for undertaking or controlling all road works in its jurisdiction (per the URPA and the Municipalities Act); whether a "street" for the travelling public, or a "private street" (as differentiated in the definitions found in Schedule A of the Town's Development Regulations).

The Board reviewed URPA S. 2(g), road work undertaken by the authority is NOT considered "development", and the Town does not issue permits to itself for road work. Whereas, road work by private individuals/developers IS considered "development" as defined by URPA S. 2(g), and must be authorized by Council. The right-of-way is vested in the Council for its ownership, management and control, and considered to be public, per Section 163 of the Municipalities Act. In exercising its authority for the development of roads (granted by both the *Municipalities Act*, and by the *Urban and Rural Planning Act*), Council's role is to ensure appropriate specifications and standards for safe public use. If a road or right-of-way is to be used by the public, it is the duty of the Town to ensure the road is constructed to an appropriate established municipal standard (certified by the Town's engineer) and to have the road conveyed to the municipality for the Town to maintain as a public road.

Conclusion

In arriving at its decision, the Board reviewed the submissions and comments given by all parties present along with the technical information and planning advice.

The Board is bound by section 42 of the *Urban and Rural Planning Act, 2000* and therefore must make a decision that complies with the applicable legislation, policy and regulations.

The Board found that, while Council has authority to make decisions respecting all roads within the municipality, in this case, Council did not exercise its authority correctly in accordance with the provisions and requirements of the *Urban and Rural Planning Act, 2000*, and the *Municipalities Act, 1999* and Town of Witless Bay Municipal Plan and Development Regulations as outlined above.

Based on its findings, the Board determined that while the Town has development control over all public and private roads within its municipal boundaries, the Town does not have the authority in this application to issue a permit to a private individual to do work on a public right of way for the benefit of that individual. Council must determine that work on any public roads and right-of-ways is designed and undertaken in full compliance with all applicable Town road engineering standards and parameters.

Therefore, the Board reverses the Authority's decision to issue the permit to Mr. Harte for an excavation at the end of Mullowney's Lane, Witless Bay. The permit is no longer valid.

Order

Based on the information presented, the Board orders that the Authority's decision to issue the permit to Mr. Harte for an excavation at the end of Mullooney's Lane, Witless Bay, be reversed. The permit is no longer valid.

The Respondent and the Appellant(s) are bound by this decision of the Eastern Newfoundland Regional Appeal Board.

In accordance with section 44(3) of the *Urban and Rural Planning Act, 2000*, the Board further orders the Respondent pay an amount of money equal to the appeal filing fee of \$230.00 to the Appellant.

According to section 46 of the *Urban and Rural Planning Act, 2000*, the decision of the Eastern Newfoundland Regional Appeal Board may be appealed to the Supreme Court of Newfoundland and Labrador on a question of law or jurisdiction. If this action is contemplated, the appeal must be filed no later than ten (10) days after the Board's decision has been received by the Appellant(s).

DATED at Portugal Cove-St. Philip's, Newfoundland and Labrador, this 3 day of February 2020.



Clifford Johnston, Chair
Eastern Newfoundland Regional Appeal Board



Carol Ann Smith, member
Eastern Newfoundland Regional Appeal Board



Robert Warren, member
Eastern Newfoundland Regional Appeal Board