

St. John's Urban Region Regional Plan Amendment  
Number 2, 2012

St. John's Municipal Plan Amendment Number 69, 2011

St. John's Development Regulations Amendment  
Number 457, 2011

Development of Lands Above the 190 Metre Contour

Report on the Public Hearing  
14 February, 2012

Christopher Sharpe  
Commissioner

## **General Intent of the Proposed Amendments**

The general intent of the amendments which were adopted by the Municipal Council at its regular meeting of 16 January, 2012, and which the City now wishes to have registered, is to permit future urban development serviced with municipal water and sewer, in two areas where such development is prohibited at present. The two areas, one referred to as the Southlands area and the other, on Kenmount Road, as the South-West Development Area (hereafter SWDA), are currently off-limits to urban development because they lie above the 190 metre elevation which defines the upper limit of development. The provenance of this restriction is unknown but it has been in effect for many years. There is no reference to it in the text of the 1976 St. John's Urban Region Regional Plan (hereafter SJURRP), but it is implicit. The maps which form part of the SJURRP designate all lands above this height in such a way as to prohibit urban development. The St. John's Municipal Plan was amended to include a reference to this development prohibition in 2003.

The proposed changes to the St. John's Municipal Plan and Development Regulations would require two Map Amendments to the SJURRP, the introduction of a new Land Use District to the Municipal Plan and the addition of a two new Comprehensive Development Areas to the Development Regulations.

## **Proposed Amendments**

St. John's Urban Region Regional Plan Amendment No. 2, 2012.

1. Re-designate land east of the Trans-Canada Highway, south of Pitts Memorial Drive from 'Rural' and 'Productive Forest' to 'Urban Development';
2. Re-designate land south of Kenmount Road, east of the boundary with the City of Mount Pearl from 'Rural' to 'Urban Development';
3. Re-designate land north of Kenmount Road, east of the boundary with the Town of Paradise from 'Watershed Protection' and 'Restricted Development' to 'Urban Development'.

St. John's Municipal Plan Amendment No. 69, 2011:

1. Introduce a new Land Use District entitled 'Urban Development-Southlands/Kenmount Land Use District' to Part III of the Municipal Plan;
2. Delete Section 5.2.4, Part IV 'Servicing Limits – Planning Area 9 – South West Expansion Area'; and
3. Re-designate lands in the Southlands and Kenmount Road areas from 'Rural' and 'Restricted' Land Use Districts to 'Urban Development', and amend Map IV-3 ('Southwest Expansion Area Development Concept') to reflect the new designations.

St. John's Development Regulations Amendment No. 457, 2011.

1. Repeal Section 5.1.4 'Development above the 190 metre contour line' and replace it with the following:

'Notwithstanding the provisions of Section 10 – the Comprehensive Development Area – Southlands (CDA-Southlands) Zone and the Comprehensive Development Area – Kenmount (CDA-Kenmount) Zone, no residential development utilizing municipal water and/or sewer services or on-site water and/or sewer services, shall be permitted above the 190 metre contour line'.

2. Add two new Zones to Section 10 of the Regulations:

a) Comprehensive Development Area – Southlands (CDA-Southlands Zone)

Permitted Uses:

- a) Existing uses
- b) Reconstruction and replacement of and additions to existing buildings provided that Council may refuse permission for a replacement or reconstruction or addition if Council is of the opinion that such a Development would adversely affect the development of the CDA.

With the exception of uses listed above, no Development may be permitted in this CDA until such time as the City's Department of Engineering determines that the area is available for serviced urban development. Council will consider the rezoning of lands in the CDA to an appropriate zone to accommodate a development.

b) Comprehensive Development Area – Kenmount Road (CDA-Kenmount) Zone

Permitted Uses:

- a) Existing uses
- b) Reconstruction and replacement of and additions to existing buildings provided that Council may refuse permission for a replacement or reconstruction or addition if Council is of the opinion that such a Development would adversely affect the development of the CDA.

With the exception of uses listed above, no Development may be permitted in this CDA until such time as the City's Department of Engineering determines that the area is available for serviced urban development. Council will consider the rezoning of lands in the CDA to an appropriate zone to accommodate a development.

3. Rezone lands in the Southlands area from the 'Rural' (R) Zone to the CDA – Southlands (CDA-Southlands) Zone.
4. Rezone lands in the Kenmount Road area from the Rural (R) Zone, the Open Space Reserve (OR) Zone and the Open Space (O) Zone to the CDA – Kenmount (CDA-Kenmount) Zone.

### **Provincial Release**

In a letter dated 16 January, 2012, Mr. Corrie Davis, Manager, Land Use Planning, Department of Municipal Affairs, Engineering and Land Use Planning Division informed the Director of Planning for the City of St. John's that the three proposed amendments did not conflict with any stated provincial policies. He therefore released them from Provincial review.

### **Appointment of the Commissioner**

On January 16, 2012 I was appointed by the City as the Commissioner to hold a public hearing and write the subsequent report. On the same day the Minister of Municipal Affairs, Mr. Kevin O'Brien, appointed me his Commissioner to conduct a public hearing regarding the proposed amendment to the St. John's Urban Region Regional Plan. He and City staff had agreed that a joint hearing to consider both the Provincial and Municipal amendments should be held, and a single report written. His letter also included the following authorization:

Although the proposed amendment to the St. John's Urban Region Regional Plan is localized in nature, I recognize that the magnitude of the proposal may have broader regional implications. Should you wish to explore those regional implications and provide comment or recommendation on how the regional impacts could be addressed or mitigated, I would welcome such advice.

### **Advertisement of the Public Hearing**

All requirements of the Urban and Rural Planning Act regarding the notification of potentially affected parties and public advertisement were met. Two advertisements were placed in the *St. John's Telegram* on January 25 and 28 and a notice of meeting was posted on the City's website. In addition, 2,500 notices were mailed to property owners and residents in the Southlands area and on Blackmarsh and Kenmount Roads, including those in the Kenmount Terrace development.

### **Planning Issues**

The planning issues raised by the City's proposed amendments can be summarized under two headings. First, if development above the 190m contour was once thought either to be so undesirable, or impossible, that it was proscribed, what has changed? Second, how would the

development of one or both of the Kenmount and Southlands areas relate to the goals of the St. John's Urban Region Regional Plan and of the St. John's Municipal Plan?

### **1. Development above the 190m contour.**

Three major issues need to be considered here: the supply of potable water, the disposal of sanitary sewage, and the disposition of storm water. Because I am not an engineer, I cannot definitively assess the validity of the several relevant reports, some prepared by the Engineering Department of the City, and some by external consultants, which deal with questions related to the provision of water and sewer services to these areas. But, having read the reports carefully, and having sought expert advice to clarify some of the issue, I offer the following observations.

#### **Water Supply:**

The conclusion reached by a recent report on the water supply situation is that 'there is no technical reason why areas above the 190 metre contour cannot be serviced with water'. (BAE-Newplan, 2009: 18) Water usage in St. John's is in the medium to high range when compared with other municipalities which have metered supply. However, conservative yield estimates, based on data from the driest periods (and assuming no drastic changes in precipitation regime in the near future) indicate that there is a plentiful supply. The current supply from Bay Bulls Big Pond, plus the yield from Petty Harbour Long Pond, when it comes back on stream in 2013, will be approximately 124,000 cubic metres per day (cm/d). Taking projected population growth in areas currently zoned for development into account, there are almost 46,000 cm/d surplus to current requirements. Full development of the Southlands and SWDA will require an estimated 24,000 cm/d. (Newfoundland Design Associates, 2007 and BAE-NewPlan, 2009).

It is worth noting the consultant's statement that '...development above the 190 metre contour will not change water demand. It just means you have more areas available for development, thus competing for the population growth.' (BAE-Plan, 2009: 18) The question of whether opening these lands for urban development would lead to new population growth, or merely redistribute it is one to which I will return later.

#### **Sanitary Sewers:**

The sewage that would be generated by new developments in Southlands would be accommodated by the Waterford Valley Sanitary Trunk sewer. The current estimate, based on all land zoned for urban development in 2009 as well as all the land over 190 metres that could be developed if these amendments are registered, a residential density of 40 persons/gross hectare, and a production rate of 275 litres/capita/day, indicate a surplus capacity of 668 litres/second (l/s).

There are about 55 hectares of developable land above 190m in Mount Pearl and about 50 hectares in Paradise. The combined sewage output from these areas would be about 52 l/s. The

estimated output from the Southlands area, when developed, would be about 140 l/s. There is, then 'sufficient capacity in the Waterford Valley system to allow the zoning request desired by the City and to rezone all areas between 190 and 220 metres in Mount Pearl and Paradise'. (BAE-Newplan, 2009: 7)

The areas in the SWDA above 190m would generate an additional flow into the Rennie's River catchment area of about 107 l/s, according to current design criteria. A 2007 report by the City of St. John's Engineering Department concluded that there is adequate capacity to accommodate this flow. (City of St. John's, 2007: 5).

#### Storm Sewers:

The developable lands above the 190m contour in Southlands are in the Waterford River catchment area, and those in the SWDA in that of Learys Brook/Rennie's River. The City's report on the potential to provide services to lands above the 190m contour contains the following statement: 'It is assumed that new developments above 190m would direct storm water to the nearest watercourse, and would not place any strain on the existing storm sewer system.' (City of St. John's, 2007: 6).

The implications of this statement, which are at odds with admonitions made elsewhere in this, and other reports, are dealt with in more detail below. For now I will simply emphasize the point made in several reports, that *there is no downstream capacity in the Waterford River or Leary's Brook/Rennie's River catchments to handle any increase in storm water runoff*. All the bridges and culverts in the system were designed to handle only the runoff from areas below 190m and runoff from lands above 190m cannot exceed the current rate. All new developments must be held to a zero-net runoff increase policy. The need for legislation to control stormwater runoff was highlighted by the City Engineer in his presentation at the 2009 public meeting (City of St. John's, 2009: 2) and reiterated since, but no policy has yet been proposed. To accomplish the desired outcome will require either the construction of underground concrete chambers or above-ground detention ponds. It is noted that ponds would be the more economical alternative, but that they 'require large areas of land and have safety and aesthetic issues'. (City of St. John's, 2007: 6).

The controlled management of stormwater in St. John's was not a high priority item in the past, and trying to ameliorate some of the most serious problems which have resulted from this neglect has been an expensive business. The designs for the Avalon Mall, the O'Leary Avenue Industrial Park and both the Kelsey Drive and Stavanger Drive power centres apparently did not factor it in. As a result, Leary's Brook and Rennie's Mill River have essentially become channelized storm sewers. The rapid intake of peak stormwater influx causes them to rise, and then fall, quickly – and overtopping of their banks is not uncommon. However, when Sobey's built their new store on the Howley Estate site, they were required to build underground cisterns

to collect all the rainwater from the roof and the parking lot, store it, and then mete it out slowly into the storm sewer on Torbay Road and Kenna's Hill. This has apparently helped to alleviate the problem, although the aged infrastructure is still not always able to cope with the demands placed upon it. The recent problems caused by the failure of some segments of the old underground system, on Portugal Cove Road and elsewhere, have drawn attention to one part of the problem. Unfortunately the heavy load placed by heavy runoff on the natural watercourses in the city is less commonly appreciated.

If development above the 190m contour is to be permitted *the requirements for stormwater management must be legislated in advance*. In fact, although it exceeds my mandate to write this, I believe the City should develop a policy which requires that for *any* new development in the City, the man-made surfaces should contribute no more to stormwater run-off than the pre-development natural ground surfaces. How this could be accomplished is a matter for the City's engineering staff to consider – something that I think they would be pleased to do.

#### Infrastructure Costs:

A recent briefing paper says 'it is the present policy of the City that the cost of all infrastructure required to service any lands located above the 190m elevation that are developed will be the responsibility of persons developing those lands' (City of St. John's, 2007: 7). I believe that the reference to a 'policy' is premature. While it is the recommendation of city staff that this be the case, and may well be the current practice, I do not believe that a formal policy exists. I will return to this issue in a later section of this report.

## **2. Compliance with Planning Policies**

### a) The St. John's Urban Region Regional Plan

Redesignation of these two areas for urban development would comply with several of the Plan's objectives, notably:

B.5 To prevent development that will require disproportionately expensive public services because of location or use ...

B.6 To prevent the continuation of 'ribbon development' along the main roads and highways of the region;

B.11(e) To allow for and to encourage the fullest growth and development of individual communities within the Region within limits set by: the amount of infilling possible within presently developed areas;

B.12 To encourage development to concentrate within defined urban areas;

B.13 To recognize the position of St. John's as the region's dominant ..... centre.

It will also support the model on which the Plan is based, namely the creation and maintenance of a concentrated form of development, 'recognizing the advantages of developing areas adjacent to St. John's as opposed to directing significant additional growth beyond the infilling level to existing settlements outside the present urban area (i.e. the 1971 boundaries).

Finally, it would comply with the fundamental aim of creating a strong regional centre. The Plan considers (p. 8) that the 'Mount Pearl/New Town area ... is essentially an extension of St. John's itself and is therefore considered as part of the Regional Centre'. It goes on to say (p. 11) that several areas within the Centre but outside the 1971 boundaries 'are effectively natural extensions of the City that are to be supplied with full urban services'. Both the SWDA and the Southlands area are such areas.

Most of the land in question is currently designated for 'Rural Uses' in the SJURRP. Removing it from this designation would suggest that it is no longer reasonable or necessary to maintain the existing restrictions. This is the case. The 'Rural Use' designation is intended to provide for residential and other forms of development in a rural environment, so long as they do not lead to an erosion of rural quality. Specifically, development dependent on piped water and sewer services is not permitted. In the words of the Plan (Section F (b), p. 14) 'not everyone wants to live close to their neighbours, and ... some people value an area of open space around their home more than the availability of piped water supply and sanitary sewers.' Amendment no. 4 (1994) added a 'rural residential' policy to the Plan but prohibited residential development sufficiently dense 'to exceed that which may be considered to be inconsistent with the traditional rural use of the area concerned, or that which could conceivably lead to a requirement, on public health grounds, for the installation of municipal services'. (p. 15). Furthermore it is required that any site developed for residential uses must have 'adequate soil conditions and a supply of groundwater to ensure safe and sanitary operation of on-site wells and sewage disposal for each lot in the development for all time' (F.B (d), p. 16). Thus, if the City is to have the opportunity in future to consider development proposals for the two areas in question, their designation as 'Rural' must be amended.

The proposed amendments to the SJURRP require that small parcels of land be taken out of the 'Watershed Protection', 'Productive Forest' and 'Restricted' districts. This does not mean that productive forest areas will be destroyed, or that watersheds will be imperiled. The Forestry Policy statement (1978), now incorporated in the Plan as Section F (f) clearly states that Forestry use was never intended to be enforced on any private lands in the Region 'since there are no areas of privately owned land of sufficient size to form the basis for a forestry industry'. So the removal of the one small designated area will not violate the intent of the Plan.

One small area is to be removed from the 'Watershed Protection' district. This simply reflects the more accurate mapping which has been undertaken since the original Plan maps were



produced. Areas designated as ‘Restricted’ in the Plan are those that have physical constraints which make development for urban purposes impossible. The Minister has agreed that ‘Provincial interests in this regard can be addressed through regulatory controls in the development process’.

#### b) The St. John’s Municipal Plan

Designation of a new Land Use District covering the two areas in question would comply with some of the general objectives of the Plan, and would give Council the ability to meet several others in the future, if and when specific development proposals have been submitted. In particular these are:

- 1.1 encourage compact urban form .... (and) ensure orderly development in new areas;
- 1.2.2 encourage increased density in all areas where appropriate;
- 1.2.3 (2) encourage a compatible mix of residential buildings of varying densities in all zones;
- 1.2.3.(4) minimize sprawl by encouraging large-scale integrated development in all expansion areas; and
- 1.2.4 encourage a mixture of land uses in all areas.

Part of the area in the SWDA, originally defined in 1973 (City of St. John’s, 2007: 2) is already incorporated in Planning Area 9 – ‘Southwest Expansion Area) (Section IV (5) of the Plan), and a conceptual Planning Area Development Plan (PADP) has been developed. However this plan does not include any areas above the 190m contour, and would therefore have to be amended to bring them in.

In 1987 the Newfoundland and Labrador Housing Corporation began planning for future development of that part of the Southlands area lying below the 190m contour. At that time about two-thirds of the area was inside the boundaries of the City of Mount Pearl, but in 1992, Provincial modification of municipal boundaries led to the entire area being transferred to St. John’s. The total Southlands area covers about 1800 hectares, and the existing Southlands residential area takes up about 13 percent (240 hectares) of it. About 73 percent of the total area (approximately 1300 hectares) remains designated as ‘rural’.

Planning Area 20 (Southlands) does not incorporate the lands which would be designated as ‘Urban Development-Southlands/Kenmount’ District. As in the case of PA 9, they were not included because they are out of bounds for development due to their elevation. For the same reason, the NLHC never developed a conceptual plan for the area. The potential future development of this area, assuming the proposed amendments are approved, should provide an incentive to expand the boundaries of PA 20 and prepare a conceptual plan for the area, well in advance of its development.

## **The Hearing**

The hearing took place in the Foran Room of St. John's City Hall on Valentine's Day, Tuesday, 14 February, 2012. Approximately 80 people were in attendance, including four members of City Council (Councillors Hann, Galgay, Duff and Hickman) and several members of City staff (Robin King, Walt Mills and Dave Wadden from the Department of Engineering, Cliff Johnston, Ken O'Brien and Joe Sampson from the Department of Planning and Lynann Winsor from the Office of the City Solicitor).

The hearing began at 1900 hours. I made some introductory remarks, stressing that this was not a public briefing session, nor an opportunity for members of the audience to engage in debate with members of City staff. I also made it clear that the proposed amendments were not intended to permit a specific development to proceed, since no such application had been received by the City. If approved, the amendments would simply permit urban development in areas where it is currently proscribed. I then asked Mr. Johnston to outline the nature and implications of the City's proposed amendments. He presented a very thorough explanation, using a clean and comprehensive PowerPoint presentation.

Fourteen written submissions were received prior to the commencement of the hearing. Copies are attached to this report. I called on the authors of each of these submissions in turn, asking whether they wished to add any additional comments to those which I already had in my possession. A few did so. I then opened the floor to oral representations, and four people took the opportunity to make their concerns known.

Both the written and oral representations and objections are summarized in the following section of this report.

## **Objections and Representations**

Written Objections and Representations Received Prior to the Hearing (in chronological order):

### **1. Ann Newhook .**

Ms. Newhook wrote to the City Manager on 22 January, in response to a newspaper article. She asked that consideration be given to releasing her 18 acres of undeveloped land in Airport Heights from the prohibition on development above the 190 metre contour. Since consideration of her land was outside the scope of this hearing, I have taken no notice of this representation. The City Manager, Robert Smart, replied to her on 20 February, 2012. A copy of his letter is attached to this report.

2. Acreage Investments (Steve Saunders and Nevin Hollett).

This one-sentence letter informed the City Clerk that Messrs. Saunders and Hollett would attend the hearing 'as we have lands that are affected by this rezoning'. They were present, but declined my offer of the opportunity to make an oral representation.

3. Berjon Holdings (Bert Hickman).

Mr. Bert Hickman's letter, dated 8 February, expresses support for the proposed re-designation and rezoning of the land in the South-West Development Area. He believes that it would 'benefit the overall economy and development potential of St. John's and the region.' He is the co-owner, along with GH Investments, of a 68-acre parcel of land on the north side of Kenmount Road, just west of the intersection of Wyatt Boulevard. He wrote that land for 'properly zoned and accessible commercial and light industrial sites is depleting in the City of St. John's area'. Opening this land for development would 'complete the current planning land use gap between the Topsail Road development areas and the commercial/residential developments existing more east on Kenmount Road. This would result in "infilling" and containing future development, therefore, preventing urban sprawl'.

He noted that Berjon Holdings Inc. and GH Investments Limited had submitted a formal application for development of a parcel of land above the 190 metre contour on 1 September, 2011.

He and Mr. Glenn Hickey were present at the hearing, but declined my offer of an opportunity to provide any further explication of their representation.

4. G.H. Investments (Glenn Hickey).

See the preceeding notes re Berjon Holdings. The letter from Mr. Hickey was identical to Mr. Hickman's.

5. Malcolm Jewer, concerned resident of Kenmount Terrace.

Mr. Jewer wrote to express his concern at what he characterizes as the 'gravel wasteland' that has been created to the west of Kenmount Terrace. He complains that the land has been clear-cut and that no buffer zone, walking trails or playgrounds have been planned. He asks that if the land above 190 metres is opened for development, that the City 'require the developers to include and pay for green spaces, a park and suitable playgrounds. I also implore the planners to leave some existing trees'.

Mr. Jewer did not attend the hearing.

#### 6. City of Mount Pearl.

On February 10 the Chief Administrative Officer of the City of Mount Pearl wrote to say that the City would be making a submission. Mr. Stephen Jewczyk, Director of Planning and Development sent a letter on February 14, and made an oral representation during the hearing. The City of Mount Pearl has no objections, in principle, to the proposed amendment to the SJURRP, or to the proposed amendments to the St. John's Municipal Plan. However, in the absence of a specific development proposal it is impossible for his office to make a final determination of whether Mount Pearl could support the proposed changes to the Development Regulations. For this reason the City Council of Mount Pearl does not support the rezoning process proposed by the City of St. John's. He reiterated the point made in his letter that this site could accommodate a development that would be approximately 60% of the current size of Mount Pearl, and that its implications – for water and sewer provision and road infrastructure – will need to be fully assessed when details become available. If the City's proposed amendments to the Municipal Plan are approved and registered, subsequent zoning amendments could be undertaken in the absence of a public hearing. The crux of his argument is:

Considering the size and scale of the Southlands development and the limited information available at this stage of the process, the City Council of Mount Pearl is of the view that the rezoning process as proposed by St. John's as part of this amendment is an insufficient mechanism for further meaningful input by the City of Mount Pearl. It is the Mount Pearl Council's recommendation that, when additional land use, servicing, and transportation information is available, a secondary plan or comprehensive development scheme for the Southlands area be prepared and adopted for the lands pursuant to the provision of the Urban and Rural Planning Act. While this process would include the need for the holding of a further public hearing, and thereby an extended review process, this approach would provide the City Council of Mount Pearl with sufficient detailed information to review, which would provide a planning process involving more meaningful discussion and input by the City.

#### 7. Town of Conception Bay South.

Mayor Woodrow French of the Town of Conception Bay South wrote on 10 February to outline several considerations. Some of the points he raises in his letter are based on the fact that in my letter of appointment, the Minister of Municipal Affairs gave me the authority to consider 'the broader regional implications' of the amendments proposed by the City of St. John's. In this context, Mayor French's concerns are:

a) opening land above the 190 metre contour may accelerate the need for an expansion to the regional water system;

b) on-going service and maintenance costs for the new water infrastructure required in the Southlands and Southwest Development Area would normally be shared among the members of the St. John's Regional Water Authority. Mayor French asks for a written assurance that the Town of CBS will not be responsible for any charges related to the operation and maintenance of this new infrastructure.

c) registration of the proposed amendments will remove an existing limit to urban development in the region, thereby modifying growth patterns throughout the region. He notes that 'the Town is already hearing concerns from local developers that projects in CBS may be negatively impacted by the substantial development proposed about the 190 metre contour'.

#### 8. Empire Theatres.

In a letter dated 10 February, Ms. Valerie Ryan, Vice-President, Real Estate and Development for Empire Theatres expressed her support for the proposed amendments. 'Enabling such development to occur will result in new and strategic locations for national retailers, such as our company, to invest in your capital City.' She makes specific reference to the 'proposed Glencrest development' which she characterizes as a 'strategic location for retail development in the City's west end. It is located in a densely populated area and is accessible via major thoroughfares. In addition it provides for a mix of residential, retail and industrial development which is crucial to such a site's success. .... As a national retailer, I encourage this progressive approach to development and look forward to future investment opportunities in St. John's.'

#### 9. KMK Capital.

Mr. Kevin King, the President of KMK Capital, wrote to me on 10 February to indicate his support of the proposed amendments. He noted that opening of lands above the 190 metre contour 'is necessary to ensure the continued growth and development of St. John's. This approach is both progressive and practical in that it recognized the need for developable land within city boundaries and supports responsible planning and development. ... (otherwise) future development will need to occur in areas far removed from the city's core or beyond the city's boundaries. Such sprawl within municipal boundaries places pressure on municipal service provision and costs, is not environmentally friendly and flies in the face of planning and development best practices.' Mr. King specifically mentions the 'proposed Southlands development, hereafter referred to as Glencrest' and notes that since the east end of St. John's 'is rapidly becoming built-out ... the future expansion of St. John's lies in the west end.' A

summary of the anticipated economic benefits of the Glencrest development is attached to his letter, but as they are irrelevant to the issue before me I will not refer to them further.

#### 10. Newfoundland and Labrador Construction Association.

Mr. Brad Sheppard, First Vice-Chair wrote on 10 February to express strong support for new development in the city. He refers specifically to the potential for new opportunities for growth and development which 'will' result from the Glencrest project, because of the 46,000 person-years of direct and indirect employment which it will create. I note that this same figure was included in Mr. Kevin King's oral presentation.

#### 11. BMT Fleet Technology.

Mr. William Earle wrote on 10 February, representing Messrs. J.V. and Harold Butler who own approximately 81 hectares of land on Kenmount Hill, and who 'fully support' the proposed amendments. A number of the positive aspects which would derive from opening land above 190 metres are:

- a) an opportunity to expand the city's residential base and reduce the population drain to outlying communities. 'Over the past several years less than half of the new house development in the urban region occurred within St. John's. ... The Kenmount Hill area can accommodate approximately 3600 dwelling units providing housing for about 12,600 people.
- b) reduction in travel distance for people living in a development on this land – a reduction of about 7.5 km. daily, or 3,750 km. annually compared with a trip from Paradise. If 3,000 vehicles were to make this trip, it would reduce fuel consumption by 1.35 million litres, thereby eliminating 2,700 tonnes of greenhouse gases. Please note that these data are from Mr. Earles's letter – I have made no effort to validate them.)
- c) there would be a possible increase of \$900 million in assessed residential value, for an annual tax yield of \$91 million.

#### 12. St. John's Board of Trade.

Mr. Steve Power, Chair of the Board of Trade wrote on 10 February to indicate his wish to submit a written representation at the hearing, and to add oral commentary. In his letter and oral comments the following points were made:

- a) The 850-member Board is ‘the voice of business’ in the city, and strongly supports the City’s initiative in lifting the 190m restriction on development, believing it will be of direct benefit to the City, business and residents.
- b) The economy is doing well and the members are confident of significant future demand for developable land.
- c) Land is in increasingly short supply and development of the two areas in question, but especially Southlands, will support the growth or warehousing, light industry and housing.
- d) The parcels of land in question are large, and this will permit comprehensive, well-planned development in the context of regional-scale provision of basic service infrastructure.
- e) Development of these lands will permit the orderly growth of population, and consequent increases in the tax base.

However, the Board noted that any development in the two areas will extend beyond the current limitations of the City’s water supply, both in capacity and physical delivery. Because any future development must be of net fiscal benefit to the City, it is important that the City ‘demand more from new development’ so that it will benefit not only the lifestyles, transportation needs and land-use goals of present, but also future generations.

The Board’s submission included a list of what it considers the essential needs to be considered when any development above the 190m level is considered. Such development should:

- be used as an opportunity to promote regionalism of services and infrastructure;
- have strong business case with benefits outweighing the costs to the city and its residents;
- be well-planned and address livability;
- provide access to multiple kinds of transportation;
- consider the interconnectivity of all modes of transportation
- follow clear development regulations with all infrastructure requirements clearly laid out well in advance of development.

The brief concludes by making two recommendations. One is that the City seize this opportunity to fill in a land-use gap along Kenmount Road and to add to the synergy of the existing industrial areas adjoining Southlands. The second struck me as particularly important, considering by whom it was made:

A lack of clarity in current development regulations has hindered project development in the past. Information about the responsibilities of developers related

to providing water and sewer infrastructure, stormwater management, transportation networks and any other amenities required as a part of such development needs to be consistent, defined early in the process and outlined clearly on paper prior to shovels in the ground.

### 13. Newfoundland and Labrador Oil and Gas Industries Association

In a letter dated February 10, Robert Cadigan, President and CEO of NOIA wrote in support of the proposed amendments. He noted that there is already a shortage of industrial land in the St. John's area, particularly large lots which can accommodate the need for lay-down areas for equipment and containers. The anticipated development of the Hebron field will exacerbate the current shortage. He goes on to say that the proposed Glencrest development

will result in a new industrial site meeting many of the prerequisites of our members. The location of this proposed development promotes the safe and effective use of our road networks. The Glencrest site will not only have direct entry/exit to the Trans Canada Highway but also provides a direct route, via Pitts Memorial Drive, to the capital city's offshore supply base at St. John's harbour.

### 14. Newfoundland and Labrador Federation of Labour.

Ms. Lana Payne, President of the NLFL wrote on 13 February to express the general support of her organization for the proposed amendments 'as long as the project meets any issues that may arise from such a large-scale development'. She says that opening the two areas for development would provide the land necessary 'to accommodate "Glencrest" and other land development above 190 including Kenmount Road". She notes that

- a) the proposed development will deliver more than 35,000 person-years of employment during construction and will result in a \$4 billion direct investment
- b) St. John's is facing challenges with respect to available, especially 'affordable' housing, as well as space for industrial space. The additional housing 'may serve to somewhat temper (sic) skyrocketing housing prices given the current demand and low vacancy rates.

She raises two points for future consideration:

- a) given the size and scope of the project it makes sense that an affordable housing component be included.



b) given the need to ensure green spaces within the development ‘something we understand the developers are more than aware of – we would hope that the urban forest master plan is taken into consideration.

#### 15. Sam Bromley.

Sam Bromley (54 Gil Eannes Drive) is opposed to the lifting of the 190m restriction against development. He reiterated some of the points which he and others raised during the April 14, 2009 public meeting on the issue, i.e. that allowing development above the current maximum elevation will result in increased noise and light pollution, increased traffic with attendant safety problems, flooding and erosion, wind problems, sewer backup problems and the destruction of wildlife habitat. He argued that the green spaces along the tops of the hills which constitute the frame which contains St. John’s and its neighbouring communities is a vital component of the city’s visual trademark, and contributes in a significant way to its attractiveness to tourists. He pointed out that there have already been two breaches of the height restriction, one in Paradise and one in Mount Pearl, and that there is an undesirable cumulative effect of incremental violations. Development choices made now are forever, but the current economic and population boom is likely to be finite, and that this reality should be borne in mind. He referred specifically to the ‘Smart Growth’ philosophy which holds that there must be a balance between short-term needs and long-term strategies.

He provided copies of the images found on the ‘protectstjohns.wordpress.com’ website which suggest what the hills above Kenmount Road might look like if development is permitted to expand to the highest elevations. He did not provide any information about the criteria used in the creation of these images, or the assumptions on which they were based. He also provided a copy of a petition expressing opposition to the lifting of the 190m ban, signed by 49 people, most of them residents of the Kenmount Terrace development. There is also a copy of an on-line petition (‘Protect St. John’s Hill-tops’) bearing 56 names of people whose place of residence is not known. Copies of all this material are attached to this report.

### **Oral Objections and Representations**

#### 1. Ms. Gaylyne Lambert.

Ms. Lambert spoke on behalf of her family who has owned land on Kenmount Road, some of it above the 190m contour. Their family home has been located here, opposite the site of Kenmount Terrace, for more than 60 years. She and her family fully support the City’s proposed amendments, and look forward to the opportunity of developing some of their land.

Commenting on the concern that development of land in this area would alter the viewplane of those living in Kenmount Terrace, she pointed out that her family once had an unobstructed vista of the forested land north of Kenmount Road – a vista that was considerably altered by recent construction. Her comment reminded those present that all development comes with costs and compromises.

2. Bernard Healy.

Mr. Healy (of 42 Densmore Lane in Kilbride) asked whether the water transmission line from Petty Harbour Long Pond would have a negative impact on property in his area. I told him that I would get the answer to his question and include it in my report.

3. Bruce Pearson, St. John's Community Advisory Council on Homelessness and President of the Canadian Housing and Renewal Association.

Mr. Pearson expressed the hope that new development on lands above 190m would provide an opportunity for competing interests to 'meet in the middle'. By doing so, he argued, it should be possible to satisfy the demands of sustainable development and long-term economic prosperity. He noted that Malmo, a once-struggling industrial and port city in southern Sweden has managed to effect such a compromise in an effective and attractive way.

4. Ms. Kimberley Yetman-Dawson, Newfoundland and Labrador Housing and Homelessness Network.

Ms. Yetman-Dawson noted that several members of Council expressed support for the idea of '1 in 10' housing during the last municipal election. The aim would be to ensure that 10 percent of the units in any new housing development would be 'affordable'. She wondered whether those Councillors still believed in the idea, and would work to make it a reality.

### **Consideration of Objections and Representations**

#### **General considerations:**

In writing this report I am facing an unusual situation. It is obvious that many people expect that these amendments will be approved. The mayors of both cities have indicated that to some extent the future economic prosperity of their communities depends on being allowed to pursue development opportunities on lands located about the 190m contour.

The City of St. John's began to consider this possibility as early as 2007, when the Engineering Department carried out a feasibility study. The report concluded that it would be possible to

bring municipal water and sewer services to the undeveloped parts of the SWDA and Southlands. Based on this, the City's Budget 2012 contained the following statement:

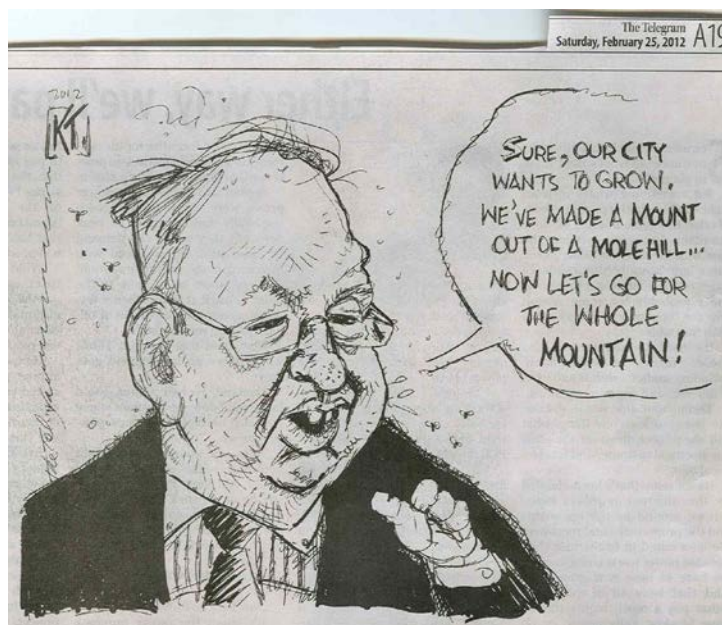
The City also anticipates provincial government approval for an amendment to the SJURRP which will permit development above the 190 meter contour. When approved, thousands of acres of new land will open for commercial and residential development. There is enough land above the 190 meter contour to sustain development for 15 to 20 years and contribute billions of dollars to the economy. This potentially represents a major expansion to the City's tax base.

I note, with apprehension, the use of the word 'when' and not 'if' at the beginning of the second sentence.

On 25 November, 2011, while addressing the public hearing on the Hebron development, the Mayor of St. John's said that, although no formal application had been received by Council, it had been briefed two weeks previously on a 'proposed \$5 billion development for the city's west end'. In the absence of a formal application, the Mayor said he could not identify the developer, but said that the proposal outlined a 20-year concept plan, with a proposed starting date of 2012, on a site about the same size as the town of Gander. (Bartlett, 2011a). On 14 December former Premier Danny Williams confirmed that he is the developer behind the project, on which he has been working 'for the past 15-plus years', since he bought the land from the NLHC in the late 1990s (Bartlett, 2011b). The story continued to 'have legs' because when Mayor O'Keefe gave the 'state of the City' speech to the Rotary Club in January, he referred to the city's application for permission to breach the 190m restriction. Referring to the project as 'Dannyville' he said that this development, worth \$5 billion over the 15- to 20- year development period, is dependent on the province changing legislation to allow development above the 190m elevation. (Bartlett, 2012c). The Mayor of Mount Pearl recently entered the debate. During his annual Mayor's Address, he talked about the things the city could look forward to. One is

opportunities that may arise from former premier Danny Williams' major development project planned for a sprawling area near Southlands. In order for it to go ahead, the provincial government will have to change legislation to allow development above the 190 meter contour. Simms noted Mount Pearl has 69 hectares of land it cannot develop on Kenmount Road as a result of the same legislation. "If they say you can go above the 190, we're going to make somebody really, really rich, and we're going to tax the beejesus out of it" said Simms to roars of laughter from attendees at the Mount Pearl-Paradise Chamber of Commerce luncheon'. (Robinson, 2012).

*The Telegram* responded with this editorial cartoon.



The ‘Dannyville’ development, which is apparently to be called ‘Glencrest’ was the elephant in the room during the February 14 hearing, and no doubt influenced the number and tone of representations I received.

While references have been made to the potential benefits of opening the land above 190m to development, there has not yet been any public discussion of the possible negative consequences of such a huge development. According to current estimates by the City’s Planning Department, the total potentially developable area in the two areas is about 1200 hectares. This is four times the area expropriated in 1942 for the Churchill Park development, which doubled the area of the existing city. Applying the City’s usual density estimate of 40 people/gross hectare, an area this large could potentially house 50,000 people – almost half of the City’s 2011 population of 106,000. Assuming that the growth rate of 1.1% *per annum*, which prevailed during the most recent inter-censal period, were to continue, and discounting the effects of compound growth, these areas could accommodate the next forty years of population growth in the city. This is only a rough calculation, which ignores the proportion of the two sites that would be devoted to streets and open spaces, or the proportion that might be taken over for light industrial and commercial uses. But it serves to emphasize that a decision to open these lands for development will have very significant long-term consequences, and must not be taken lightly.

### **Mr. Bernard Healey**

Mr. Healey came to ask a question, and not to raise an objection. He wanted to know if bringing Petty Harbour Long Pond back on stream as a source of water for the regional system would

have any impact on property in his area. The Director of Engineering informs me that it will not. The water main from the Pond is already in place, and no further work will need to be done on it.

### **Support for the proposed amendments**

Not surprisingly there was strong support for the proposed amendments from the Newfoundland and Labrador Construction Association, the St. John's Board of Trade, the Newfoundland and Labrador Federation of Labour, the Newfoundland and Labrador Offshore Oil and Gas Industries Association, Empire Theatres and those who own land above the 190m contour (Acreage Investments, Berjon Holdings, GH Investments, Gaylyne Lambert and BMT Fleet Technology). Several of these submissions argued that there was a shortage of various types of developable land in the city that these amendments would help to alleviate. The Director of Planning has confirmed that such shortages do exist. In the case of residential land, there is still some available in Kilbride, the Clovelly development and Southlands. There are also about 19 hectares in the SWDA, in the existing Kenmount Terrace subdivision. The most critical shortages are in light industrial and commercial lands. About 27 hectares remain below 190m in the SWDA, but none in the O'Leary Avenue Industrial Park. A shortage of land appropriate for the uses now in high demand would clearly have unfortunate consequences for the City's current economy and future growth.

Mr. Bruce Pearson:

Mr. Pearson didn't object to the amendments, but made a heartfelt plea that the goal of ensuring sustainable development should be considered as of equal importance to that of economic prosperity when it came time for the detailed planning of new developments in either of the two areas. He is not alone in thinking that this should be a matter of urgent concern. The participants in the Mayor's Symposium on the Municipal Plan Review, held on February 25, 2012, ranked 'maintenance of a balance between development and environmental sustainability' as the fifth of the top ten environmental concerns.

Ms. Kimberley Yetman-Dawson:

Ms. Yetman-Dawson was another intervenor who did not object to the amendments, but who took the opportunity to remind Council of the commitment made by some its members to promote the idea of 'inclusionary housing', specifically the '1 in 10' idea that has been adopted by some smaller Canadian municipalities'. (Mah and Hackworth, 2011) The idea is laudable, but in the absence of a federal housing policy supporting the idea, difficult to achieve. One might also quibble with the current definition of 'affordable'. Most organizations have based have adopted a definition based on CMHC's concept of 'core housing need', defined as a situation where a household must pay more than 30 percent of its gross income to obtain decent quality housing. For many low-income households such a percentage is far too high. Questions about the definition notwithstanding, this is an important issue. I noted with interest that the subject of

affordable housing was one that generated a great deal of discussion at the recent Mayor's Symposium on the Municipal Plan Review, and the forum's top-ranked idea relating to housing was to 'mandate the inclusion of affordable housing in new and existing development'. (Preliminary Report, Municipal Plan Review Mayor's Symposium. February 25, 2012)

Both Mr. Pearson and Ms. Yetman-Dawson brought legitimate concerns to the hearing. However, my mandate was to consider the general question of whether lands above the 190m contour should be opened for development, and not to evaluate the qualities of a specific development proposal. For this reason I can do no more than bring their concerns to the attention of the Council and the Minister.

### **Opposition to the Proposed Amendments**

Only one intervenor, Dr. Sam Bromley, opposed the amendments. It is difficult to respond to some of the issues he raised, but not to one of them. His letter contains a section entitled 'strong sampling bias' in which he expresses surprise that he was the only resident to raise an objection to the proposed amendment, and wonders 'how the forum could change to allow passionate individuals greater comfort in expressing opposing views. He goes on to say 'I feel that the city has not acted in good faith', basing this conclusion on the fact that many of his neighbours were apparently unaware of the hearing. In my opinion the City took extraordinary measures to ensure that citizens were aware that the issue was to be discussed on February 14. Following normal practice, notice of the meeting was published in *The Telegram* Classified Display section, on Wednesday, January 25 and Saturday January 28. It was also posted on the City of St. John's website. In addition, at the request of the Ward Councillors, 2,500 notices were mailed to property owners and residents in the Southlands area and on Blackmarsh and Kenmount Roads, including the residents of Kenmount Terrace. A copy of the notice is attached to this report.

The issues of traffic, storm runoff and all other engineering-related questions will be dealt with by City staff if and when specific development proposals are received. The aesthetic question of whether development should be allowed to encroach on the top of the surrounding hills is a different matter. There is nothing in the Municipal or Regional plans that would preclude this. The proposed amendments would permit development right up to the crest of the hill. This brings me back to a consideration of what the reasons might have been for the original imposition of the 190m height restriction.

The 2007 Engineering report 'Potential Servicing Above the 190m contour' did not suggest that development would have been permitted right up to the highest elevation, because of issues related to water provision (City of St. John's, 2007: 4). I was told that this restriction was based on a concern that the regional water supply was not adequate to handle the demand that would result from development of the newly-opened areas, a concern that has been alleviated by

subsequent improvements in the system. But it also seems to have been based to some extent on the issue of how best to achieve the minimum required water pressure. In the case of Southlands, the report said:

The highest point of land in this area is elevation 245m where a new 5,300 cubic meter reservoir must be constructed to allow servicing to be extended to the 215m contour. This restriction is necessary because a vertical height of 30m is required to provide the minimum static pressure of 40 pounds per square inch.

In the case of the SWDA area it said:

The existing reservoirs at Kenmount Hill have a top water elevation of 225m and therefore can only service to the 195m contour. There is no significant developable lands between the 190m and 195m contour. The installation of a new 3,000 cubic meter reservoir at elevation 250m would allow servicing of 200 hectares of new developable land up to the 220m contour.

The height restrictions limited the amount of developable land to 292 hectares in the Southlands area and 200 hectares in the SWDA. (City of St. John's, 2007, Figures 3 and 4. See also the PowerPoint presentation used at the public briefing session on 14 April, 2009, a copy of which is attached).

The City's current proposal, and the estimates of developable land included in it, is apparently based on the assumption that developers might wish, or be forced by economic considerations, to develop above the 215m or 220m elevations. This must assume that the minimum required water pressure can be obtained in some other way. I believe that this could be accomplished in one of two ways: the use of high-pressure pumps or construction of a water tower or some other form of elevated reservoir. This is an important question, but one well beyond my competence to answer. However, it seems to me that the safer option is to require that the necessary water pressure derives from a head of water and gravity, rather than pumps.

The modified approach to the problem of water supply led to the disappearance of the original upper height restriction, and a concomitant increase in the amount of potentially developable land - to 885 hectares in the Southlands area to 382 hectares in the SWDA. It would also permit the forested hilltops to be encroached upon by development. Maintenance of the height restrictions outlined in the 2007 and 2009 documents would have left them undisturbed.

## **Regional Considerations**

Two neighbouring municipalities raised objections which are of regional concern.

The Mayor of Conception Bay South expressed the concern of his Town Council that if the proposed amendments to the St. John's Municipal Plan are approved, and water use increases, the supply of potable water might be insufficient to support the future needs of CBS . He noted that to date, all growth in CBS has been below the 190m level, and therefore in line with the original design parameters of the Bay Bulls Big Pond water supply. However, if other municipalities are permitted to build above this line, CBS will not feel constrained to maintain the old limits. A free-for-all of this kind might very well require an expansion of the regional water supply system; something which CBS is not prepared to support. Nor is it willing to accept a share of an increased budget for maintenance of an expanded system which it had no part in requiring. He asks for a written assurance from the St. John's Regional Water Authority that CBS will not be responsible for any charges related to the operation and maintenance of any infrastructure which is required on account of development occurring above 190m.

It would exceed the limits of my mandate to try and elicit such an assurance. However I have examined all the relevant documents pertaining to the water supply situation, most particularly the 2007 update to the original 1994 St. John's regional water supply report. Despite my lack of expertise in this area, I am convinced by this report that the region is unlikely to face a shortage of potable water in the foreseeable future. The population estimates on which the projections were made seem reasonable, and perhaps even generous. By the time the Petty Harbour Long Pond reservoir is brought back on line in 2013 the regional supply will be 165,600 cm/d. The projected demand in 2056, assuming a 'medium' demand scenario, will be 142,100 cm/d, well within the available supply, assuming success in achieving a significant reduction in the current level of per capita use in St. John's and a moderate reduction in Mount Pearl. It is predicted that these reductions can be achieved by means of the current programs of leak detection and correction. (BAE-Newplan, 2009: Table 4-4; Mills, 2012). Even the amount of water required to satisfy the 'high demand' scenario, which assumes a continuation of present levels of usage in both cities, with a slight increase in per capita use in suburban and rural areas, is only 9100 cm/d in excess of current projected supply. While these are only estimates, based on parameters subject to change, there does not seem to be cause for concern.

The 2009 BAE-Newplan report was based on the comprehensive study carried out in 2007 by Newfoundland Design Associates Limited. The projections in that study are based on estimates of population increase in the region, especially in St. John's, that range from moderate growth in the period up to 2056 (approximately 17,400) to decline (approximately 4,700). In making decisions as significant as those involved in the present discussion, it should be borne in mind that the recently-observed rates of population growth and investment in St. John's and the



surrounding region cannot be expected to continue forever. Decisions made hastily or inadvisedly in the hope of capturing short-term benefits may have unfortunate long-term consequences.

The City of Mount Pearl:

As noted above, the City of Mount Pearl has no objections, in principle, to the proposed amendments to the SJURRP or the St. John's Municipal Plan. There is apprehension, however, about the proposed rezoning process for the Southlands area. The City has proposed to re-zone this area to Comprehensive Development Area (CDA). The conditions attached to this designation would permit existing uses to continue, but preclude any new development until the Department of Engineering determines that the areas are ready to support serviced urban development. At that time, City Council would consider rezoning the lands to appropriate zones capable of accommodating either the plans of a developer or, perhaps, the City's desired outcome. But because only a rezoning would be required, there would be no necessity for a public hearing chaired by an appointed Commissioner. The City of Mount Pearl has recommended

that the development regulations amendment should be revised to reflect that, when the detailed land use plan is prepared and information with respect to water and sewer services and the transportation network is available, the City of St. John's prepare and adopt a Comprehensive Development Scheme pursuant to the provisions of the Urban and Rural Planning Act.

The adoption of a Planning Area Development Plan (PADP), which would constitute a 'development scheme' under Sections 29 and 30 of the Urban and Rural Planning Act, would undoubtedly extend the review process but the requirement of another public hearing would provide the City of Mount Pearl with a formal opportunity to provide input to the process.

It is unlikely that the entire Southlands area will be developed all at once. In the absence of a conceptual development plan there is a legitimate concern that piecemeal rezoning of the entire area will cause incremental problems of traffic flow, retail demand, sewer and water construction, etc., for Mount Pearl, given the location of the Southlands parcel. The professional staff of the two cities already cooperate in matters of mutual concern, and there seems to be a new resolve, at least on the part of St. John's, to restore civility to the relations between the two City Councils (Barrett, 2012e). But given the history of relations between the governments of the two cities it is not surprising that the City of Mount Pearl would like to know that it will have a chance for meaningful input on events in an adjacent jurisdiction that might well have significant spill-over effects.

## Recommendations

Given the absence of technical or engineering constraints which would, in and of themselves, preclude the possibility of urban development of various kinds being undertaken above the current limit of 190 metres above sea level, **I recommend that:**

1. St. John's Urban Regional Regional Plan Amendment Number 1, 2012 be approved;
2. St. John's Municipal Plan Amendment Number 69, 2011 be approved;
3. St. John's Development Regulations Amendment Number 457, 2011 'Development of lands above the 190 metre contour' be approved,

### PROVIDED THAT

4. No changes in the CDA zoning in either of these two areas be considered until the City has adopted a comprehensive storm water policy. If any part of these areas were to be developed in a way that was not runoff-neutral – i.e. if the runoff was to exceed that which is currently generated by the land in its current natural state - the downstream costs, both physical and temporal, would be enormous.
5. No changes in the CDA zoning in either of these two areas should be considered until the City has adopted and promulgated a formal cost-recovery policy to ensure that none of the marginal costs of providing trunk water and sewer services or major transportation infrastructure to either of these two areas are borne by the City. All new developments must be capital-cost neutral to the City's taxpayers. In the event that it is decided that the City should undertake to provide interim financing for the installation of such services, the per-unit cost assessed to the developers must be high enough to ensure that both the direct and indirect costs of the financing are recovered from the developer(s).

***If such policies are not drafted and incorporated into appropriate municipal legislation, either the Municipal Plan or the Development Regulations, my recommendation would be that none of the three proposed amendments be approved at this time.***

### **I further recommend that:**

6. The text of Municipal Plan Amendment No. 69, 2012, paragraph (3), be amended to indicate that the required map amendment will be made to Map IV-4 and not Map IV-3 as stated in the original document. I presume this is just a typographical error, but it should be corrected.

7. Section 1.2.16 (page III-6) of the St. John's Municipal Plan 'Development Restrictions: Land above the 190 metre contour' be amended to take account of the amendments to the St. John's Municipal Plan and the St. John's Development Regulations (i.e. number 2 and 3 above). This should be considered a subsidiary or 'housekeeping' change which will be necessitated if the proposed amendments are approved. City staff is already aware of the fact that reference to this section was inadvertently omitted from the original proposal.

8. Planning Area Development Plans be developed for both the SWDA and the Southlands area. At the moment, neither lie within a Planning Area. The portion of the SWDA considered by the proposed amendments lies immediately west of PA-9 (O'Leary/Southwest Development Area) and the Southlands area immediately west of PA-20 (Southlands). If the proposed amendments are approved, either the two existing PA's should be expanded to incorporate these areas, or new PA's designated to enclose them.

The Southlands development will be a 'legacy' development – of such a scale that it will have significant, long-term consequences for land use, transportation and commercial patterns and commuting. The City should be proactive in its planning for this area. Having a PADP in place before decisions that will affect the city for the next century are made would help to ensure that the needs of the school board, Eastern Health and other relevant agencies are accommodated. It would also provide an opportunity to ensure adequate provision for parks, trails, recreation facilities and floodplain mapping. Having a well-defined concept plan in place, in conjunction with clear and enforceable policies for cost recovery and storm water runoff would certainly help assuage some of the concerns voiced by the Board of Trade in their submission.

9. The City of St. John's address the question of whether urban development should be permitted to envelop the surrounding hilltops. The technical feasibility of providing water and sewer services to the highest elevations of these two areas should not preclude the possibility of a considered decision being made that they should not be.

10. If the new CDA Zones are approved for Southlands and the SWDA, no changes to the zoning should occur until the current review of the St. John's Municipal Plan has been completed. It would be inappropriate to contemplate the initiation of large-scale, long-term programmes of land use development in the absence of a Plan which takes them into account – as the current one does not. As already noted, the Plan review process has begun and the goal is to have it complete within 18 months.

11. The review of the SJURRP be taken in hand again as soon as possible. I understand that there are several reasons why development of the long-awaited and much-needed North-East Avalon Plan has stalled, and that it may not be easy to clear the obstacles. However, the

development pressures which may come to bear on the region's municipalities in the near future cannot be properly assessed using a 36-year-old Plan. One of the questions which an up-to-date regional plan should consider is 'which municipalities should be allowed to develop beyond the 190m contour' (BAE-Newplan, 2009: 18). As the attached map, prepared by Dr. Alvin Simms of the Department of Geography, Memorial University of Newfoundland, shows, there is a total of 11,730 hectares of land above the 190m contour within the St. John's Census Metropolitan Area, which includes all of the north-east Avalon region. Not all of this land could be developed, but the question of how much demand there might be for future development, and which municipalities should be allowed, or encouraged to accommodate it, is one which only a revised regional plan could help to answer. The map also shows that much of the land above 190m is also above 220 metres – and as indicated above, it might be appropriate to consider whether it would be beneficial for the region if a height restriction of some form was maintained.

Respectfully submitted,

Christopher Sharpe

8 March, 2012

### Sources Consulted

- BAE-Newplan Group (2009) 'Development above 190 metre contour. Final report'. Prepared for Mount Pearl and Paradise, April, 2009.
- City of St. John's, Department of Engineering (2012) 'Water servicing above the 190m elevation'.
- City of St. John's (2012) *Budget 2012*.
- City of St. John's (2009) 'Minutes of a public meeting held on Tuesday, 14 April, 2009 in the Foran Room, City Hall'.
- City of St. John's (2007) 'Potential servicing above the 190m metre contour' Department of Engineering, July, 2007.
- Mah, Julie and Jason Hackworth (2011) 'Local politics and inclusionary housing in three large Canadian cities'. *Canadian Journal of Urban Research* 20: 57-80.
- Municipal Plan Review Mayor's Symposium. Preliminary Report. 25 February, 2012.
- Newfoundland Design Associates Limited (2007) 'St. John's Regional Water Supply: Update to 1994 report'.
- 'St. John's Urban Region Regional Plan 1976 with Forestry Policy Amendment, 1978, Watershed Protected Areas Policy Amendment, 19080 and Subsequent Amendments'. An unofficial consolidation as of May 1, 2007 prepared by the Engineering and Land Use Planning Division, Department of Municipal Affairs.

### Press Reports

- Bartlett, Dave (2011a) 'The size of the town of Gander. City of St. John's hears pitch for \$5 billion, 20-year, multi-use development'. *The Telegram*, November 25, A1.
- Bartlett, Dave (2011b) 'Danny the developer: Former premier confirms he's behind major west end development'. *The Telegram*, December 14, A1.
- Bartlett, Dave (2012a) 'City working on water runoff policy'. *The Telegram* 16 January.
- Bartlett, Dave (2012b) 'Development above the 190 contour takes next step: City gets provincial blessing to move to public meeting'. *The Telegram*, January 17, A4.
- Bartlett, Dave (2012c) 'Restoring downtown to its past glory: St. John's mayor talks up city's future at Rotary Club' *The Telegram* January 27, A1.
- Bartlett, Dave (2012d) 'Reaching for the sky: City holds public hearing on allowing development above the 190 metre contour' *The Telegram* February 15, A4.
- Bartlett, Dave (2012e) 'Stop the sniping: City councilors say it's time St. John's, Mount Pearl worked together'. *The Telegram*, 5 March, A1.
- Robinson, Andrew (2012) 'Simms sees opportunities. Mount Pearl Mayor says his city has plenty of room to grow' *The Telegram*, 24 February, A3.

## Attachments

1. Copies of all written submissions
2. Copies of all relevant press reports
3. CD containing:

Copies of the submissions from:

Bergon Holdings  
 Empire Theatres  
 KMK Capital  
 Anne Newhook (and the reply from the City Manager)  
 Newfoundland and Labrador Construction Association  
 G.H. Investments  
 City of Mount Pearl  
 Town of Conception Bay South  
 Newfoundland and Labrador Federation of Labour  
 Newfoundland and Labrador Oil and Gas Industries Association  
 The St. John's Board of Trade  
 BMT Fleet Technology

Copies of consultants' and background reports

Powerpoint presentation from the public meeting of 14 April, 2009  
 BAE-Newplan Group (2009) 'Development above 190 metre contour. Final Report'. Prepared for the City of Mount Pearl and the Town of Paradise.  
 Newfoundland Design Associates Limited (2007) 'St. John's Regional Water Supply: Update to 1994 report'.  
 City of St. John's, Department of Engineering (2012) 'Water servicing above the 190m elevation'.

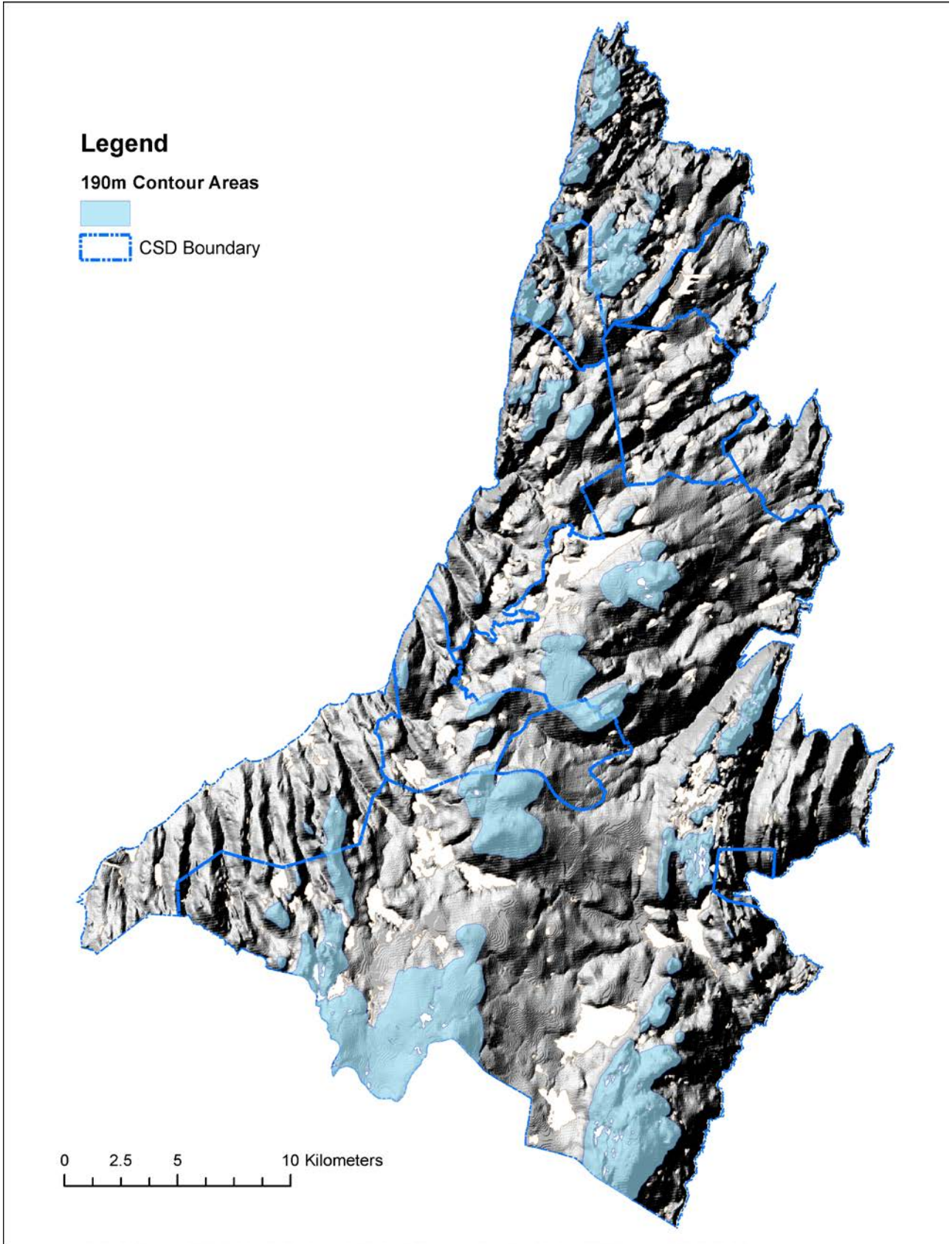
Preliminary Report, Mayor's Symposium on the Municipal Plan Review. 25 February, 2012.

Copies of the proposed amendments.

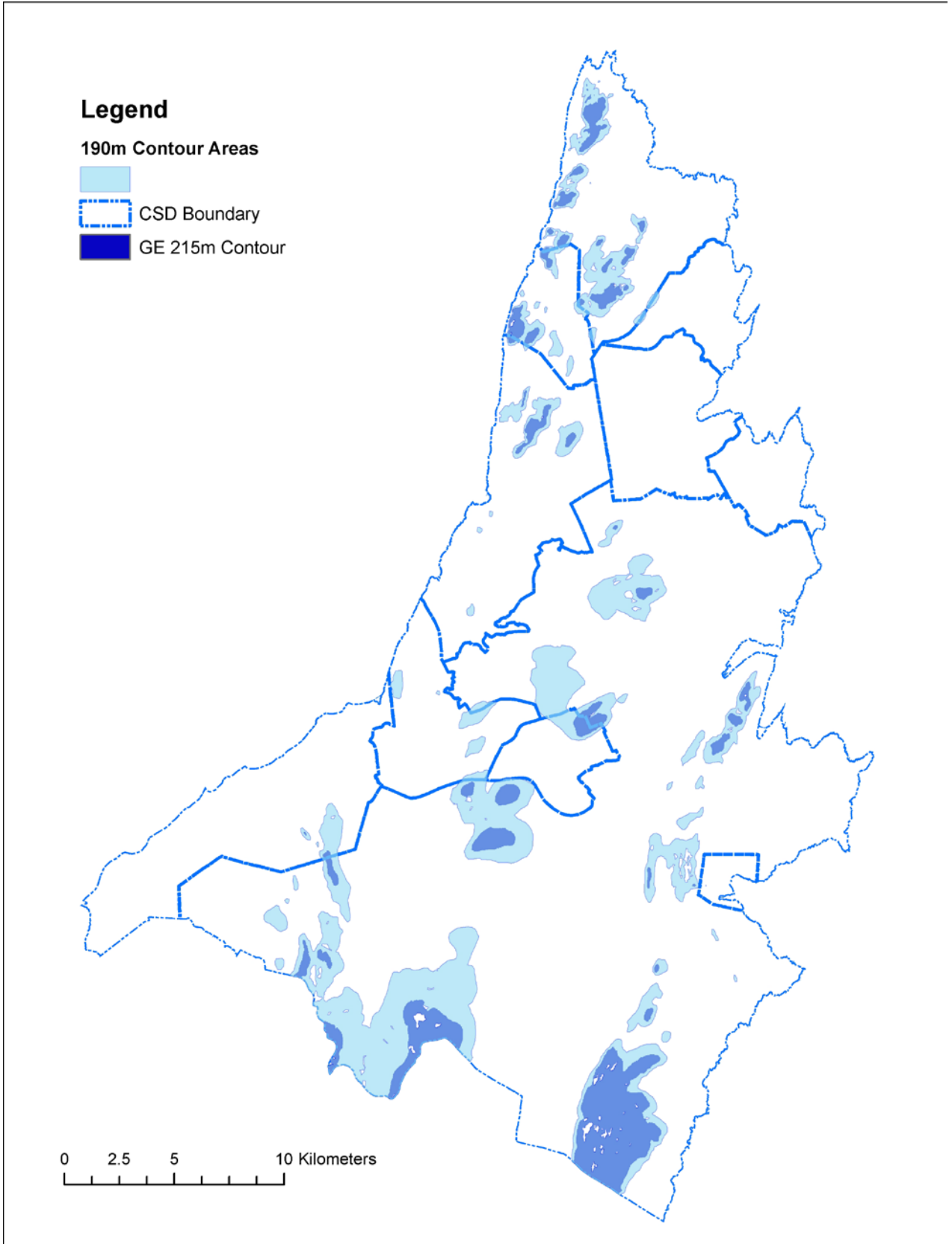
Provincial release of the proposed amendments.

Letter of appointment as Commissioner.

Two maps prepared by Dr. Alvin Simms showing the extent of lands above 190m on the north-east Avalon peninsula.



Land above 190 metre contour



Land above 190m contour and above 215m contour