

# 2008 Resolutions Report

## Resolution 1-2008 - Car Wrecks

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### **Resolution Focus:**

- ! Municipalities Newfoundland and Labrador lobby the Department of Municipal Affairs to make the necessary changes to the Act to give a clear definition of a vehicle wreck.
- ! Municipalities Newfoundland and Labrador lobby the Department of Municipal Affairs to make the necessary changes to the act to give the municipality the authority to order the owner to remove (or the municipality remove it themselves) any wreck that would fall under that definition, at the owner's expense.

### **Results of meeting with Municipal Affairs:**

- the definition is the problem – how do you define what is and is not a car wreck
- the Department proposed that MNL bring forward a definition for consideration, possibly with input from members.
- researching other provinces Municipalities Acts might find an appropriate definition

### **Further Update:**

President Letto and the Executive Director, Craig Pollett, attended a Northeast Avalon Joint Councils meeting in June and presented the group with several definitions that other jurisdictions use in defining a car wreck. The NEAJC was asked to review them and bring back their recommendation to us for presentation to the Department of Municipal Affairs.

### **Official response from Municipal Affairs:**

This resolution requests that the Department of Municipal Affairs amend the Municipalities Act, 1999 to provide a clear definition of a vehicle wreck and to give municipalities the authority to order the removal of any wreck that meets that definition.

The Municipalities Act, 1999 currently provides authority for municipalities to order the owner or occupier of real property to remove from that property solid waste, noxious substances and substances or things which may be a hazard to public health and safety or which adversely affects surrounding properties. While this authority has been used in the past to order the removal of car wrecks, it is recognized that significant difficulty and potential legal issues arise in determining to what degree a vehicle must be deteriorated before it can be classified as a wreck.

Before proceeding with the proposed legislative change I have asked my officials to review this issue in consultation with the Department of Environment and Conservation and to research how other jurisdictions have dealt with this issue. If this review process identifies the need for the proposed or additional legislative changes these changes will be considered at that time.

## Resolution 2-2008 – Registration and Ownership of Land

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### **Resolution Focus:**

- ! Municipalities Newfoundland and Labrador lobby the Provincial Government to make it a requirement for all land to be properly registered, have clear ownership and title, and continue their lobbying to have the province transfer crown land ownership to the governing municipality.

### **Results of Meeting with Ministers Dunderdale, Whalen & Johnston:**

- Our resolution will be reviewed as a part of the Comprehensive Land Use Strategy for Newfoundland and Labrador, and will keep the Board of MNL up to date on progress on this issue.

***No official written response from the Department of Environment and Conservation was received by the MNL office at the time of printing.***

### **Resolution 3-2008 – Signage**

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#### **Resolution Focus:**

- ! Municipalities Newfoundland and Labrador officially endorse and offer support to the Provincial Government for the new TODS (Tourism Oriented Directional Signage) program and encourage all incorporated municipalities to also adopt the TODS program.

#### **Results of meeting with Tourism, Culture and Recreation:**

- Signs across the province will start coming down this spring, with non-compliant signage being the first to be removed – this will cost up to \$400,000 to deal with non-compliant signs.
- TODS to be adopted at the next sitting of the House of Assembly and go through this spring.
- The Department has asked that MNL have a representative on the Advisory Committee that will determine the signage regulations.
- MNL Board to discuss our appointment to the committee at the February Board meeting – possibly a staff member.
- The committee will begin its work as soon as we appoint a member.

#### **Further Update:**

The MNL Board of Directors appointed Mayor Don Drew of Bay Bulls to represent our interests on the highway signage committee.

#### **Official response from Tourism, Culture and Recreation:**

In 2008, the Departments of Tourism, Culture and Recreation and Government Services in partnership with the Department of Transportation and Works, and Municipal Affairs, conducted province-wide information sessions with key stakeholders regarding a proposed new tourism highway signage system for Newfoundland and Labrador, the internationally recognized Tourist-Oriented Directional Signage (TODS) model. This signage model received support from both the tourism industry and the public and has since been endorsed by your organization and Hospitality Newfoundland and Labrador.

A common theme which emerged at the signage consultations was the lack of enforcement of the current regulations. Therefore, as the Provincial Government moves forward with the implementation of the TODS system, we are first removing unapproved/non-compliant private promotional signs along all provincially-maintained highways this spring. Public notices and news released will advise the public of government's intentions to remove all unapproved/non-compliant signs. Owners of these signs are asked to remove them prior to June 8, 2009.

The Department of Transportation and Works will begin the removal of any remaining unapproved/non-compliant highway signs on June 8, 2009. Operators will not be able to recover their signs after this date. We are currently sending a similar letter to various stakeholders for their support of this initiative. I look forward to our continued working relationship on the development of a new signage program for Newfoundland and Labrador. The following website can provide further information on this initiative: [www.tcr.gov.nl.ca/tcr/signage](http://www.tcr.gov.nl.ca/tcr/signage)

## **Resolution 4-2008 – Fixed Link**

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### **Resolution Focus:**

- ! Municipalities Newfoundland and Labrador take the lead role in representing all MNL members to put forward a motion to the Federation of Canadian Municipalities seeking its support for the construction of a fixed link across the Strait of Belle Isle to the Island portion of Newfoundland and Labrador. Also ask that the FCM lobby the Federal and Provincial Governments to ensure that such a project is brought to reality.

### **Update:**

- A meeting between members of the Resolutions & Executive Committees could not be secured with Minister Trevor Taylor, but we did receive a written response from the Minister on our resolution.
- MNL representatives met with Mr. Peter Fullarton, Regional Director for the Federal Ministry of Transport.

### **Result of Meeting with Mr. Fullarton, Regional Director for the Federal Ministry of Transport:**

- NL Staff met with Mr. Peter Fullarton, Regional Director with Transport Canada on Friday, September 11th to discuss the resolution on the Fixed Link. Mr. Fullarton advised that the Federal Department of Transport would look to the Provincial Government on their priorities for funding for transportation infrastructure projects within Newfoundland and Labrador. Currently there is no federal position on the issue of a fixed link between the island portion of the province and Labrador.
- With future resource developments in Labrador, provincial priorities could change and it could be re-assessed in the future. The Trans-Labrador highway will need to be completed as well.

### **Official response from Provincial Transportation and Works:**

As you are aware, the Williams Government did contract a pre-feasibility study for a fixed link option in 2004. The study provided an independent examination of the economic and technical implications and viability of construction of a fixed transportation link across the Strait of Belle Isle.

The results of this study did show that a fixed link is technically feasible, however, it is a long term proposition and a national project that will need a significant infusion of financing from the Federal Government, for a project of this magnitude to become a reality. While Government support is usual for public transportation infrastructure, the level of Government assistance required must be considered in context of the broader transportation needs of the Province. As such, the project is not an immediate priority for Government, however, the possibility remains that a fixed link could be constructed during the completion of projects such as the Lower Churchill hydro development or Highway 138 in Quebec.

These options will require future study at a time when priorities and financing dictate.

## **Resolution 7-2008 – Liability for Municipal Taxes and Levies**

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### **Resolution Focus:**

- ! Municipalities Newfoundland and Labrador lobby the provincial government to have the necessary provincial legislation amended to have directors of corporations held personally liable for any and all outstanding municipal taxes and levies.

### **Results of Meeting with Workplace Health Safety Compensation Commission:**

- Lesley Galway, CEO; Anne Martin, Legal Counsel; and Ed Abbott, Director of Assessments met with members of the MNL Board and Staff on the section of their Act which allows them to legally collect from directors of corporations any outstanding fees owed to WHSCC.
- We were advised that it has been very effective in that once individuals are aware that they are liable for outstanding fees, the fees are paid.
- The addition of this section to their Act has added a significant amount of work to the staff, and they have since added additional staff to the division responsible for collections and assessments. (nearly double).
- The MNL representatives discussed the added cost and work that this would bring to their town offices and with limited budgets, it may greatly impede other council work.
- After the meeting it was felt that this was not something that we should rush into asking the Department for, but maybe should be something that is incorporated only into the Cities Act.

### **Recommended Strategies:**

- Bring findings back to the members for discussion at the Resolutions Session in Gander, and recommend that this be reviewed for inclusion only in the Cities Act.

### **Recommendation to the Membership:**

The above noted resolution was amended to ask the Board to seek further information on this issue from the Workplace Health Safety Compensation Commission and to bring our findings back to the membership before the resolution was voted on.

The MNL Advocacy Committee has been working on this and we would like to share with members our findings. Representatives of MNL met with representatives of the Workplace Health Safety Compensation Commission (WHSCC) on this issue and were briefed on the many legal and administrative aspects that such responsibility has brought to their organization. WHSCC cautioned MNL on the fact that they have had to nearly double their assessment division and that it is quite costly to file certificates, etc. for the legal process to begin.

After many discussions by the MNL Advisory Committee it was agreed to recommend to the membership that this be lobbied for inclusion only in the new Cities Act. We strongly urge before lobbying for this addition to the Cities Act that it be further investigated and researched by the three cities and the provincial government for its cost effectiveness. MNL would be pleased to continue our support on this issue, especially in the context of a broader municipal fiscal framework review with the provincial government.

## **Resolution 8-2008 – Provincial Land Use Advisory Council**

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### **Resolution Focus:**

- ! A mandatory land use registry be implemented to provide an adequate database of land and land ownership (as per Resolution 2-2008 – Registration and Ownership of Land)
- ! Municipalities Newfoundland and Labrador Board of Directors lobby the Provincial Government to establish a Provincial Land Use Advisory Council with legislative empowerment which would consist of members from all major land use stakeholders such as, but not limited to, municipalities, agriculture, forestry, tourism, outfitters, etc.

### **Results of Meeting with Ministers Dunderdale, Whalen & Johnston:**

- No support for an advisory council as outlined in the resolution
- Concerns that the many, diverse and strongly held views of the groups involved would stymie any decision-making.
- The provincial government says the Humber Valley Advisory Council was created as a pilot and has made no progress.
- There are significant challenges on consensus within the provincial government that would be compounded by involving outside groups.
- Commitment to create a Comprehensive Land Use Strategy is still there, but too early in the process to consider establishing an advisory council.
- All agreed that municipalities, through MNL should be apprised of the progress of the Comprehensive Land Use Strategy.

### **Recommended Follow-up:**

- A presentation to the MNL Convention on the Provincial Land Use Strategy was agreed to by Minister Johnson.
- MNL write the Department of Environment and Conservation to request regular updates on progress towards the Comprehensive Land Use Strategy.

***No formal written response from the Department of Environment and Conservation was received by the MNL office at the time of printing.***

## **Resolution 9-2008 - Increase of the Utility Taxation Rate**

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### **Resolution Focus:**

- ! Municipalities Newfoundland and Labrador lobby the Provincial Government to increase the Utility Taxation Rate to 5% effective January 1, 2009.

### **Results of Meeting with Municipal Affairs:**

- This issue will be dealt with under the Municipal Fiscal Framework that is currently being conducted.
- Satellite dishes will be included in any new legislation/framework.

### **Official response from Municipal Affairs:**

This resolution requests that the maximum taxation rate municipalities can charge to utility and cable television companies be increased from 2.5% to 5%.

The Fiscal Framework Review that is currently ongoing is examining all aspects of the ways in which municipalities are financed, including the current taxation authorities that municipalities have available to them. The appropriateness of retaining or possibly increasing the utility taxation rate will be considered as part of this review.

## **Resolution 10-2008 – Taxing Waterfront Wharves and Sheds**

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### **Resolution Focus:**

! Municipalities Newfoundland and Labrador lobby the Department of Municipal Affairs to amend the Municipalities Act, 1999 to provide Councils with the authority to levy a separate mill rate for salt water wharfs and sheds on the water front.

### **Results of meeting with Municipal Affairs:**

- Department was not interested in moving forward with this change to the legislation, there are separate mill rates available currently in the Act.
- They do not want to start dictating multiple mill rates.

### **Official response from Municipal Affairs:**

This resolution is requesting that the Municipalities Act, 1999 be changed to provide municipalities with the authority to levy a separate mill rate for salt water wharfs and sheds.

The Municipalities Act, 1999 currently requires that all real property in a municipality be classified as either residential or commercial property for the purpose of property tax imposition and provides the authority for the imposition of a different rate of tax for each of these two property classifications.

This resolution which evolved from a court case respecting the tax imposition policies of one municipality did not highlight any significant weakness with the current statutory authority respecting tax imposition. To acceded to the request put forward in this resolution would open the door to property of various types being taxed at different rates. This would represent a significant change in the way real property has traditionally been taxed and in the absence of a comprehensive analysis of the impact of such a change I do not feel that it would be prudent to proceed with the proposed amendment.

## **Resolution 12-2008 – Mandatory Winter Tires**

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### **Resolution Focus:**

! Municipalities Newfoundland and Labrador Board of Directors lobby the Provincial Government to adopt a law whereby the installation of winter tires becomes mandatory for all vehicles in the province of Newfoundland and Labrador between the months of November and April of each year.

### **Results of Meeting with Government Services:**

- Minister O'Brien advised that he is open for discussion on the issue of mandatory winter tire usage.

- The Department does not have the data to prove one way or the other whether having winter tires on vehicles would prevent or reduce the severity of accidents on our highways.
- The enforcement of winter tire usage is another major issue, policing it would be a problem. Non-compliance on this issue – people will just not comply.
- Assessment of the conditions of people's tires would also need to be considered. How does the Department say when tires need to be replaced, etc?
- Communication on the importance of using winter tires and communicating that message far and wide could help raise awareness and change opinions of drivers and encourage them to change to winter tires.
- Government Services Safety Committee will begin collecting information on the tires on vehicles involved in accidents (information they have never collected before). These statistics from the RNC, RCMP, Registrar and other stats from other provinces can be collected and will be reviewed by the Minister.
- Stats collected in the next year can be looked at as well and see if there is a trend that needs to be communicated to the Minister on this issue.
- Minister offered to make a presentation on winter tires at the Convention this fall if the Board was interested.

### **Further Update:**

The Advocacy Committee has written to the RCMP, the RNC and the Insurance Bureau of Canada asking for a meeting to discuss the ways in which information can be gathered at the scene of accidents as to the type of tires that are on the vehicles involved during the winter months.

### **Official response from Government Services:**

I am following up on our January 28<sup>th</sup> meeting with you and representatives of your Board of Directors with respect to your association's resolution regarding the mandatory use of winter tires in Newfoundland and Labrador.

As we discussed, there are a number of factors which need to be considered in any decision to legislate the use of winter tires in this province. Firstly, I reiterate this is not a question of whether using winter tires in snowy or slippery winter conditions is the preferred option, provided the tires are in good condition. This is generally common sense.

It is also noted that many people restrict their driving during the winter to days or times when roads are clear and dry, and there is a question as to whether it would be reasonable or fair to require them to invest in winter tires for the limited driving that they do. The all-season tires, continue to provide safe all weather performance but may not always be suitable for severe snow conditions and colder weather below certain temperatures.

In addition, I am advised that recent testing of winter tires by Transport Canada and a research group representing tire industry manufacturers has shown a high degree of variation among tires rated as "winter" tires, with performance differences as great as 30% between models. The researchers also advise that vehicle handling improves when all four tires are of the same type, size, speed and load ratings. Regardless of the type of tire, road traction is reduced as tires wear. Worn winter tires may not perform as well as all-seasons in good condition. Winter tires, which are softer and more pliant, tend to wear more quickly than all-season tires. Keeping all these factors in mind, the type of regulatory requirement and practicality of enforcement have to be considered. For example, would we require all four tires to be winter and of the same make, would we require a certain type of tire based on quality, and how would tire wear be assessed?



We also know from collision data that driver performance, including driving according to the conditions, reducing speed in adverse weather of all types, and other human factors, are the primary contributors to road safety. While we do not have specific data on the type of tires on vehicles involved in collisions, we do know that less than 1% of causes recorded as contributing to these collisions involve 'defective' tires. As discussed, we are currently exploring the possibility of having police record information on tire type in future to provide specific data to inform a decision in this area. The feasibility of this has not yet been determined.

We will also explore the benefits of promoting winter tires in the form of public education during the upcoming season as a method to encourage their use. This may be a preferable alternative to legislation, particularly given the polarization of opinion on this matter among the general public. I note that you had also indicated there was an almost split among your membership in terms of supporting the resolution, with only a narrow margin in favour.

I trust you will agree that this is an accurate account of the discussion at our meeting and that you will hopefully find this information helpful in reporting back to your membership on this matter.

### **Resolution 14-2008 – Public Service Accounting Board (PSAB) Tangible Capital Assets**

#### **Resolution Focus:**

! Municipalities Newfoundland and Labrador lobby the provincial government to provide financial assistance to all municipalities to set up PSAB.

#### **Results of meeting with Municipal Affairs:**

- Deputy Minister will check to see if municipalities can use their gas tax monies to become PSAB compliant
- Currently the Municipal Training and Development Corporation (MTDC) offers training on PSAB – offering .50 dollars for the cost of training, and the Department feels that this is their financial assistance to help municipalities learn about PSAB, how to set it up, etc.
- There will be no further financial assistance offered to municipalities to set up PSAB except training through MTDC.

#### **Official response from Municipal Affairs:**

This resolution requests that Government provide financial assistance to all municipalities to assist with the cost of setting up PSAB Financial Reporting Standards.

The costs that municipalities are incurring to become compliant with PSAB are a normal operating expense of doing business as a municipality. Consequently Government is not currently considering providing additional financial assistance to municipalities for this specific purpose. I would point out, however, that the Department of Municipal Affairs successfully negotiated an agreement with the Federal Government in 2008 that resulted in \$50,000 being provided to the Municipal Training and Development Corporation, from the interest earned on the Gas Tax funding. This \$50,000 is dedicated as match training funding that municipalities can access to offset a portion of the costs that they incur in participating in training initiatives related to PSAB.

Additionally the Gas Tax agreement allows municipalities to use the interest they earn on their gas tax funding to cover administrative costs they incur in administering the projects funded from this source. Since the requirement to become PSAB compliant is a part of this agreement, costs associated with this requirement would be administrative cost for which interest income could be used.

### **Resolution 15-2008 – Assessment Act - Appeal Process & Commissioner's Role**



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**Resolution Focus:**

- ! Municipalities Newfoundland and Labrador lobby the Government of Newfoundland and Labrador to amend the Assessment Act to include checks and balances and to clearly detail the expectation and role of the commissioner.

**Results of Meeting with Municipal Affairs:**

- The Department in cooperation with the Municipal Assessment Agency could do some education on this issue – possibly a session if time allows at the convention this fall.
- The Department could prepare a list of basic qualifications/responsibilities for the position of Commissioner that could be used by municipalities for their own selection (minimums for the role).
- Municipalities need to think more about the role they play in selecting a commissioner and ensuring that they are qualified to do the job.

**Official response from Municipal Affairs:**

This resolution requests that the Assessment Act, 2006 be amended to include checks and balances and to clearly detail the expectation and the role of the commissioner.

The Assessment Act, 2006 requires each municipality to appoint an Assessment Review Commission (Commissioner) to hear appeals filed by property owners of the assessed values established for their properties. While the Act outlines the duties and powers of commissioners it does not establish qualifications for persons appointed as commissioners or in any way limit the authority of a municipality to appoint who it sees fit for this role.

While it is recognized that the complexity of some appeals that have been files in recent years highlight the need for municipalities to be very prudent in determining the skill set they would want their commissioners to possess, this is not something that, in my view should be legislated as is being proposed in this resolution, but rather should be left to each municipality to determine.

The problems that this resolution highlights, can in my view, be addressed more appropriately by municipalities having a better understanding of the critical role that the commissioner plays in their whole taxation system. Such an understanding would allow municipalities to make more informed decisions when choosing commissioners.

Consequently I have asked my officials to work with the Municipal Assessment Agency, the Municipal Training and Development Corporation and other stakeholders to develop an educational program on this important matter.

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**Resolution 16-2008 – Urban and Rural Planning Act Appeal Process - Advertising Cost**

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**Resolution Focus:**

- ! Municipalities Newfoundland and Labrador lobby the Government of Newfoundland and Labrador to include the associated advertising requirements in the appeal processing fee.

**Results of Meeting with Municipal Affairs:**

- Ad costs could easily be added to the appeal processing fee, they will look into making this change.

## **Official response from Municipal Affairs:**

This resolution requests that the cost associated with the advertising required when an appeal of a municipal decision is filed be included in the appeal fee that an appellant is required to pay in order to have his/her appeal registered.

Currently a person who wishes to file an appeal of a decision made by a municipal council is required to pay an appeal fee of \$100 plus HST in order to have his/her appeal registered. The cost associated with the advertising of this appeal is currently the responsibility of the municipality whose decision is being appealed.

I concur with the request to have the appellant assume responsibility for the associated advertising cost and accordingly I have asked my officials to review the matter to determine what if any legislative changes may be required and to determine the most appropriate means of administering the monetary aspect of this procedural change.

## **Resolution 17-2008 - Provincial Cell Phone Coverage**

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### **Resolution Focus:**

- ! Many regions of the province currently do not have reliable cell phone coverage. Member municipalities have asked MNL to lobby for improved coverage province wide.
- ! With the high number of cell phone owners/users in the province, the service must be there for all of their customers.
- ! With the geography and weather (emergencies) that our province endures having reliable cell phone coverage throughout the province is necessary.

### **Recommended Strategies:**

- Meet with officials from Bell Aliant to determine their schedule for improving cell phone coverage in the province.

### **Results of meeting with Bell Mobility & Bell Aliant:**

- Decisions for the installation of new services are conducted as a business case. The service in areas needs to break even or make a profit, otherwise there is no justification.
- Remote areas are covered by not all.
- Geographic make up and terrain of the area plays a role in reception and the cost of having service in areas.
- The TCH and higher traffic areas are being covered.
- No service upgrades are planned for 2009, first year in several years that no upgrades are planned.

***No formal written response was received from Bell Mobility & Bell Aliant was received by the MNL office at the time of printing.***