

Report
Related to the
City of Fredericton
Non-Resident User Fees

Office of the Ombudsman
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1. OVERVIEW OF COMPLAINT

Several complaints have been received by the Ombudsman's Office related to the recently announced user fees for non-resident use of the City of Fredericton's (City) ice surfaces. The City's policy is for these user fees to be levied on all users of the City's ice surface arenas who live in local government units outside the City boundaries that have not come to an agreement with the City for a tax-based method of cost-sharing these facilities.

The issues surrounding the complaints are varied but for the most part the non-residents argue that the fees are too high, that non-residents knew little if anything about the pending fees, or that they had little or no input into the process. For the 2006-2007 season the applicable fee is \$340 (plus HST) per user per sport and for the 2007-2008 season the applicable user fee will be \$680 (plus HST) per user per sport. These new user fees are in strong contrast to a \$34.50 user fee levied by the City on non-resident users of their ice arena facilities in past years.

From the City's standpoint, user fees are not the primary issue. The City states that these fees are not its preferred option and that they were only imposed after the failure of a two year process to have the users from the surrounding Local Service Districts (LSDs) and the Village of New Maryland (Village) cost-share these services on a tax-based approach. City records indicate that close to 40% of the ice surface users are from these surrounding areas.

To give some perspective to the issue, 2001 census figures indicate that Fredericton, New Maryland and the surrounding area's unincorporated LSDs have populations of 47,560, 4,284 and 26,759, respectively. It is interesting to note that non-residents total 39.5% of the total, virtually the same number as for the share of non-resident users of ice facilities.

2. PROCESS

In early 2004 the previous City Council commissioned a study to determine the condition of its existing ice surfaces facilities and estimate the cost of refurbishing them. The cost associated with this refurbishment was found to be prohibitive and the City subsequently undertook to study the cost of building two new, two surface, ice complexes and to refurbish the Lady Beaverbrook Rink on University Avenue. It was this initiative that appears to have brought the issue of cost-sharing with surrounding areas to a head.

As part of this process, the City invited the surrounding areas to participate in the initial fact-finding exercise with the view of having these surrounding areas eventually participate in the capital and operating cost-sharing of these facilities. Both area municipalities outside Fredericton, Oromocto and New Maryland, were invited to participate. And, on the advice of the Department of Local Government, only the Chairs of the Local Service District Advisory Committees were invited to participate. Oromocto declined as the town provides its own recreation services for its residents. The LSDs showed little interest in this initial process, but the Village of New Maryland did participate.

The process unfolded through a change of municipal councils and a change in a number of the LSD Advisory Committees. Firm plans were developed by the City for the construction of two new arena complexes, one on the Northside and one on the Southside, as well the refurbishment of the LBR, without any cost-sharing agreements in place. The process then focused on the request for cost-sharing of these new facilities. The City undertook an extensive effort to promote cost-sharing on the basis of significant historical usage by non-residents.

The City considered various levels of tax-based cost-sharing that were not well received by the surrounding areas. The City finally settled on a tax-based contribution of 3 cents per \$100 of property assessment for the LSDs and 4 cents for the Village of New Maryland. Virtually all jurisdictions refused the City's offer to cost-share for its arena recreation services for a variety of reasons. These included: the cost-sharing request by the City was seen as too high; the surrounding areas had little information and a lack of input into the process; several of the LSDs already participated in existing ice surfaces in Burt's Corner and Stanley; a number of LSDs extended far beyond the geographic area that could benefit from the City's facilities; and a lack of accurate information. Through a consultation process of its own, the Advisory Committee of the LSD of Noonan did agree to participate, very late in the process.

With the apparent failure of the tax-based approach, the City decided in June 2006 to levy a non-resident user fee that they believed would closely approximate the actual cost of delivering the service.

3. BACKGROUND ON LOCAL SERVICE DISTRICTS

Local Service Districts are administrative districts established under the authority of the Department of Local Government (Department) and cover virtually all of unincorporated New Brunswick. This system is a legacy of the recommendations of the 1963 Byrne Commission, and subsequent Equal Opportunity program in 1967. Today there are 268 LSDs. Some have been established to cover communities of interest while many are the result of parish boundaries under the old county council system. While most LSDs have Advisory Committees to advise and assist the Minister of Local Government (Minister), all legal and practical authority rests with the Minister and Cabinet.

Advisory Committees are elected for a term of two years. They can reflect the interests of the whole LSD if a meeting called for the purpose of electing them has a significant turnout from all areas of the LSD. In practice however little interest is shown in these elections. In fact there could be a committee legally elected if only three people turn out to a meeting and vote themselves in. These committees have no dedicated paid staff but are directed and assisted by one employee of the department of Local Government, known as the Local Services Advisor, who in the case of central New Brunswick administers 57 LSDs.

The provision of services for these unincorporated LSDs is covered by several pieces of legislation. Some of these services are mandatory with no discretion on the part of residents and some are delivered through a voluntary and democratic process by secret ballots at a public meeting called for this purpose under the *Municipalities Act*. For example, several services are as follows.

- (i) **Police and Transportation:** Mandatory and delivered by other departments under separate legislation. Paid through the basic provincial levy of 65 cents per \$100 of assessment.
- (ii) **Animal Control:** Mandatory and administered by the Local Services Advisor and included in the basic 65 cents.
- (iii) **Rural Planning and Cost of Assessment:** Mandatory and provided by others but paid for each year by a separate property tax levy.
- (iv) **Garbage and Refuse Collection and Disposal:** Mandatory and administered by the Local Services Advisor, paid for each year by a separate property tax levy.
- (v) **Fire Protection, Street lighting, Recreation & Community Services and any other services** (provided for under Schedule One of the *Municipalities Act*): Discretionary and must be voted for under Sect. 24 and 25 of the *Municipalities*

Act. If voted for they may be provided if recommended by the Minister. These are paid for each year by a separate property tax levy.

It should be noted that under Sec. 25 of the *Municipalities Act*, a petition of 25 residents of an LSD (or part of an LSD) is required in order to hold a public meeting for the purpose of a new or enhanced service. Or the Minister may call such a meeting if the Minister is of the opinion that the residents of an LSD or part of an LSD ought to consider such a service. The latter approach is not often employed but was used by the Department in the mid 1990's for the Bathurst area regional arena proposal.

Department policy provides that all services in the final category (v) must be first established under the process listed in Sec. 25. Once established the Department accepts that a service can be enhanced without following the procedure under Sec. 25. For example if an LSD is established for a small playground under the title "Recreation and Community Services" then a proposal such as that put forth by Fredericton for the use of their recreational services does not follow Sec. 25 and is not put to the residents for a formal vote. It would appear that this practice is followed regardless of the cost of the addition. In these cases, the Department uses informal methods such as following the Advisory Committees' advice or the committees' own surveys or polling, or public meetings called for the purpose. This was the process employed for the City's proposal. One could question whether this policy is consistent with the provisions of the *Municipalities Act*.

With regards to the City's proposal, the then Minister chose not to call meetings. Instead, the City was advised to deal directly with the Advisory Committees. It was understood that the Minister would not proceed with any cost-sharing unless the Advisory Committees recommended the addition of the service. In the Maugerville LSD, where no Advisory Committee was in place, there appears to have been no process as there was no committee for the City to deal with.

4. FINANCIAL CONSIDERATIONS

4.1 REVIEW OF THE CITY'S TAX-BASED PROPOSAL

4.1.1 Non-Resident Contribution

(a) The City's Tax-Based Proposal

The City considered a number of cost-sharing options and settled on an annual contribution of 4 cents per \$100 of assessment for the Village of New Maryland and 3 cents per \$100 for LSDs. The higher rate for the Village was based on its calculation that Village residents had historically used Fredericton recreational services proportionally more than had residents of LSDs. The City believed the proposed level of taxation and resulting contribution to the rinks was very reasonable and could be sold to non-residents. This package was drawn up after there was strong opposition at a number of information meetings, and perhaps understandably so, given that the City had provided recreation services to non-residents for many years at little or no cost.

The final offer of a tax-based cost-sharing formula meant that non-residents would have access to all of the City's winter and summer recreation services with no user fees for a proposed agreement term of 20 years. Under this arrangement, the Village or Department of Local Government on behalf of LSDs, would have paid the City the full amount raised by the 4 or 3 cents. Based on the City's calculation, the proposed agreement would have raised funds, as follows for 2006-2007:

Village of New Maryland	\$91,996
LSD Douglas	48,141
LSD Keswick Ridge	25,692
LSD Estey's Bridge	23,523
LSD St Mary's	45,300
LSD Noonan	12,816
LSD Kingsclear	37,000
LSD Hanwell	68,637
LSD New Maryland	32,886
LSD Maugerville	19,812
Total Non-Resident Contribution	\$441,751

To illustrate the impact of the above figures on, for example, a \$100,000 home, the cost for a family in the Village would have been approximately \$40 per year, compared to \$30 for a family in an LSD. For a \$200,000 home, the cost would have been \$80 in the Village and \$60 in the LSDs. For this price, non-residents would have access to all recreational facilities in Fredericton from rinks and swimming pools to ball fields and senior centers.

(b) Old User Fees

Prior to the City making its new tax-based proposal and the new higher user fees for ice based sports, the City collected from non-residents a user fee of \$34.50 per user per sport for all ice based sports and a fee of \$17.25 per user per sport for non-resident participation in summer sports. For the present discussions, it is useful to look at the historical contribution that was made via the old user fees.

The approximate totals collected in 2005 were:

	Amount per User	Revenue
Ice Sports	\$34.50	\$31,000
Summer Sport	\$17.25	\$17,250
Total Annual Non-resident User Fees		\$48,250

4.1.2 Annual Cost of Different Recreation Options

To appropriately consider the relative contribution of non-residents, three scenarios are considered in light of the City's annual costs. They are (a) Basic Ice Surface Concept (No extras), (b) Full cost of City's new and refurbished arenas (Includes extras), (c) City's existing recreation budget.

(a) Basic Ice Surfaces Option (No Extras):

One scenario contemplated by the City for its cost-sharing formula with non-residents was to determine the theoretical cost of constructing four basic ice surfaces with no extras. They reasoned that for cost-sharing purposes non-residents should not be asked to pay for the "extras" planned for the new complexes such as walking tracks, meeting rooms, etc. but only cost-share on the basis of four basic new ice surfaces. The estimates provided to the City by its consultants were as follows:

	Cost
Capital Cost:	
Four Basic Ice Surfaces (No extras)	\$20,000,000
Minus Provincial & Federal Grants	4,000,000
Total Capital Cost	\$16,000,000
Annual Operating Costs:	
Debt Service on \$16 million @ 20 year term and 5.5% interest	\$ 1,340,000
Operating Deficit @ \$200,000 per ice surface	800,000
Total Annual Operating Cost	\$ 2,140,000

(b) Cost of New Arena Complexes and Refurbished LBR (Includes extras)

This scenario encompasses all costs proposed for the City's planned two new Northside and Southside arena complexes and the cost of renovating the LBR, plus extras.

	Cost
Capital Cost:	
Five Ice Surfaces (Includes Extras)	\$34,000,000
Minus Provincial & Federal Grants	4,000,000
Total Capital Cost	\$30,000,000
Annual Operating Costs:	
Debt Service on \$30 million @ 20 year term and 5.5% interest	\$ 2,460,000
Operating Deficit	800,000
Total Annual Operating Cost	\$ 3,260,000

(c) Fredericton's Existing Recreation Budget (2006)

Since the City's proposal offers non-residents the use of all of its recreation services on the same basis as its own residents, in exchange for the tax-based proposal outlined in Sec. 4.1.1(a), it is also useful to compare the City's present day budget for these services to the amount requested in Sec. 4.1.1(a). It should be pointed out that this budget figure does not include the annual principal repayments for the City's new recreation capital construction program.

2006 Recreation Budget..... \$ 6,232,418

4.1.3 Table of Non-Resident Comparative Financial Contribution

The following table outlines the share of non-resident financial contribution under the proposed City tax-based formula [Sec.4.1.1(a)] as well as the share under the old user fee regime [Sec. 4.1.1(b)]. The resulting percentages of contribution should be considered in light of the 40% facilities usage rate for non-residents.

	Annual City Operating Cost	2006 onward % Non-Resident Contribution Tax-Based Option (\$441,751)	Pre-2006 % Non-Resident Contribution-Old User Fees
Basic Ice Surface Option (No extras)	\$2,140,000	20.1%	(\$31,000) 1.5%
Full cost of New Arenas Option (Includes Extras)	\$3,260,000	13.5%	(\$31,000) 1.0%
Current Total City Recreation Budget	\$6,232,418	7.1%	(\$48,250) 0.8%

Note to table: It would also be useful for this table of comparison to include the City's revenue from the new user fees; however they are still being collected for this fiscal year. Indications are, however, that there has been a significant decline in numbers paying. For example, FYHA has stated that they have experienced a 17% decline with comparable or greater decline for other sports. The FYHA has noted a serious decline in the number of coaching Dads as many were from outside the City boundaries. Suffice to say that the City's calculation with respect to new user fee will not generate the expected revenues.

Sec. 4.1.4 Observations

It is not for this report to establish appropriate cost-sharing formulas. This is up to the parties to the agreement to decide based on what is appropriate and fair. Nevertheless, some comments are in order.

Considering the financial comparisons above and the fact that non-residents account for up to 40% of users, the proposal from the City on the basis of tax-based contribution, for access to all of its recreation services, appears to be a fair offer to non-residents.

It should be noted that the proposed tax-based contribution by non-residents is not a fixed amount in annual terms and will fluctuate over the life of the agreement depending on the level of the contributing partner's assessment base. One can safely conclude, if past history is any guide, that the assessed value of properties will continue to increase and so the amount to be contributed by individual non-residents would also increase accordingly. Therefore there is a justifiable concern by non-residents that their contribution will increase automatically without limit. On the other side of the ledger, the City's recreation budget will also not be constant and can be expected to increase annually. How the two sides should be protected against cost changes should be recognized in any financial proposal and could be one of the duties assigned to the City's proposed advisory committee on recreation services.

4.2 REVIEW OF THE CITY'S NEW USER FEES

Fredericton has employed user fees for many years to partially offset the costs of non-resident use of City recreation services. Until the 2006-2007 season, non-resident user fees were established at \$34.50 for ice related sports and \$17.25 for summer sports. With the failure in achieving any consensus on a tax-based cost-sharing formula, the City moved to a stronger fee-based system. It levied a fee of \$340 plus HST for 2006-7, given that the new facilities would, for the most part, still be under construction. The fee would then move up to \$680 plus HST for subsequent years.

4.2.1 User Fee Calculation

The City concluded that non-residents should pay their fair share of usage costs, taking into account the cost of operation (capital and operating) and rate of usage of facilities. In calculating the capital cost, the City did not charge the full cost of the planned facilities but rather a smaller amount that did not include "extras" such as walking tracks. Thus, the figure used was \$20 million instead of \$34 million. [See example in Sec. 4.1.2 (a)] The \$20 million figure was further reduced by the amount of senior government grants (\$4 million) for a net total of \$16 million.

In its consultation with non-residents, the City received a number of comments that non-residents spend their money in the City, thus contributing to the City commercial tax base and to the cost of recreation services. The City accepted this argument by further reducing the operating cost in its proposal by 30 per cent.

	Cost
Capital Cost:	
Four basic ice pads @ \$5million each	\$ 20,000,000
Minus Provincial & Federal Grants	4,000,000
Net Total Capital Cost	\$16,000,000
Annual Operating Costs:	
Annual Debt Service Cost: Non-resident 40% usage of (\$16 million for 20 years @ 5.5% interest)	536,000
Plus Operating Deficit (40% of \$800,000)	320,000
Total Non-Resident Annual Operating Cost	856,000
Minus Commercial Base Reduction (30%)	257,000
Net Non-Resident Annual Operating Cost	\$ 599,000

The City calculates that non-resident usage of their ice related facilities is about 900 users annually. Therefore the cost per non-resident user:

$$\$599,000 \text{ divided by } 900 = \$665 \text{ per user}$$

With rounding and approximations, the City arrived at a **user fee of \$680 per user.**

4.2.2 Is the User Fee Amount Appropriate?

Many complaints and comments have centred on this question. The typical non-resident reaction is that an increase from \$34.50 to \$340 per year, not to mention the upcoming \$680 per year, is exorbitant. From the City's point of view, the previous \$34.50 user fee contributed only a fraction of the true cost for the non-resident use and reinforces the

point that non-residents have been getting services paid for, in large part, by the City ratepayers.

While the City's user fee calculation appears to provide, in the absence of a tax-based contribution, the necessary revenue related to non-resident use, it will only do so if the levels of non-resident users continue to number the present 900. If the higher user fees result in a significant drop in the number of users, then fees could increase again, accordingly. For example if the level of non-resident usage drops to 450 per year, the City's present user fee formula could result in an annual user fee of \$855 per year. It now appears certain that there will be a significant drop in non-resident usage and this could lead to a spiral effect and further reduced non-resident participation. At that point based on reduced use, the City should logically ask if it really needs five City-owned ice surfaces.

As with most municipal services, recreation services have been mainly paid for on the basis of general taxation. This approach is based on the philosophy that public services should be available to all in a community without regard to an individual's ability to pay. This is especially true for essential services or services that are provided to the community's youth. It could be argued that a pure user pay approach to recreation services would lead ultimately to that service being provided by the private sector and only being accessible to those with financial means.

4.3 EFFECT OF UNCONDITIONAL GRANT ON FINANCIAL CONSIDERATIONS

It is important to make a final note on the financial impact on this situation of the conditional grant from the Province. Residents from the unincorporated areas have commented that the City receives provincial funding in the form of unconditional grants and this should be considered as a contribution for the use of City facilities by non-residents.

While there are differing interpretations of the purpose of this grant, it does in fact subsidize municipal budgets, effectively lowering the tax rate that the municipality levies for the services it provides. The grant level varies greatly from one municipality to another based on a complex provincial formula. These grants apply to all municipalities and LSDs have their own version of unconditional grant funding.

The City's most recent unconditional grant stands at 8.7% of its budget, while that of New Maryland represents 6.8% and the average for surrounding LSDs represents 7.6% (a low of 6.4% to a high of 10.3%). While there are differences in the percentages received by each party, they are minor and do not significantly affect the respective tax burden for recreation services.

5. FINDINGS AND RECOMMENDATIONS

5.1 FINDINGS

After careful consideration of the complaints and significant input from the municipalities involved, representatives of Local Service Districts, the Department of Local Government, interested sports groups and associations, and interested citizens, it is clear that there has been a failure of process.

This failure of process is particularly painful as the principal beneficiaries of the intended recreation services are the area's youth. They have had little voice in the process but they are the ones who potentially have the most to lose in an unsatisfactory outcome. Having recreational services that are available only to the few that can afford high user fees is not the outcome that New Brunswickers desire. When our young people are consistently receiving deplorable scores in national surveys for fitness and obesity, all parties should place a high priority on the universal availability of recreational services.

From strictly a wellness perspective, user fees are not a viable answer as they prevent children and adults from participating and being physically active. Dr. Mark Tremblay from Active Healthy Kids Canada voiced his concerns regarding this issue:

"The prevalence of childhood obesity, inactivity and other risk factors for chronic disease development are systematically higher in New Brunswick than most other provinces in Canada. In an effort to start to address this disturbing reality, New Brunswick has recently invested in the development and implementation of a province-wide wellness strategy. Providing improved infrastructure, equitable access and inviting opportunities for enjoyable movement experiences are central to the success of the wellness strategy. The current suggestion of imposing large users fees for the new arenas for those not living in the City of Fredericton is not only counter to the key principles of a wellness strategy but also serves to further marginalize the already vulnerable low income segment of the community. Though there are obviously complex jurisdictional and tax-related issues at play, more creative solutions are required which will contribute to healthy living opportunities for all children and youth. Success in a wellness strategy will be achieved when we treat physical activity, recreation and sport facilities with the same respect and importance as hospitals and other health care facilities."

With respect to recreational services in unincorporated areas, the process was flawed from the very beginning largely due to the lack of a regional structure for such services. The City's attempt to negotiate cost-sharing agreements lacked the necessary in-depth

promotion required to convince these little-organized rural units, especially without strong input by the provincial Department of Local Government. This resulted in a lack of a consistent message to rural residents and the lack of clear choices for them. The Local Government Minister and department are the legal and accountable partner for unincorporated areas, and they must provide leadership in such proposals.

For its part, the City considered numerous options for cost-sharing by the outlying areas. These options were based, in part, on the City's belief that non-residents benefit from free or virtually free service paid for by City taxpayers and that this situation contributes to urban sprawl. It was unclear whether the City, in seeking non-resident financial participation, was motivated by the need to cost-share existing recreation services, the new ice surface projects planned or for the full range of recreation services offered by the City. In some cases, the differing and changing options were developed in order to find a saleable proposal for non-residents. This led to confusion about what the City's real proposal was and suspicion as to what constituted a fair cost-sharing formula.

5.2 A NEW APPROACH: CITY AND LOCAL SERVICE DISTRICTS

In its proposal, the City of Fredericton is not just offering non-residents the use of its ice surfaces in exchange for the proposed tax-based cost-sharing. The final proposal covered all of its recreation services including ice arenas, soccer fields, ball fields, seniors' centres, indoor and outdoor pools, tennis courts, lawn bowling, aquatic centre, sports lessons and the City's parks and trail systems. There is no doubt that a non-resident tax-based contribution over a user fee concept should be the preferred approach for residents and non-residents alike. Considering the importance of recreation to all residents of New Brunswick and the unacceptable ratings of New Brunswick residents on national scales for fitness and obesity, it is strongly recommended that all parties revisit this issue with the goal of developing a fair and transparent option for all affected.

The recommended renewed approach should involve the following components:

- (1) Redefine in clear concise language, one proposal for all LSDs;
- (2) Develop a clear definition of the proposed Recreation Advisory Committee, ensuring that it has a meaningful role for advising on the administration of the facilities and a meaningful role in reviewing the annual budget and resulting property tax implications;
- (3) Include a cap on the annual dollar amount contributed by non-residents, taking into account the annual increase in the City's annual operating and maintenance budget for the facilities;

- (4) Include an opting out provision of the proposed 20-year life of a cost-sharing agreement;
- (5) As a gesture of goodwill, the City declare a moratorium on collection of its new user fees for the duration of the "renewed" process and, should an agreement be reached, rebate those who have paid the user fees for the year 2006-07;
- (6) The Department of Local Government communicate this proposal clearly to all LSD residents;
- (7) The Minister of Local Government defines the LSDs or areas within LSDs that "ought to consider the addition of services" under the *Municipalities Act*, and call for formal votes in those areas. Thus, areas distant from Fredericton and having little interest in the recreational services of the City, could remain outside the plan.
- (8) Encourage residents outside the areas defined by the Minister, who have an interest in participating, to avail themselves of the Act's provision for petitioning for new services".

5.2.1 Details and Notes on the Recommended Components

(1) Redefine the Proposal:

Under the tax revenue plan already provided to the LSDs by the City, the 3 cents per \$100 of assessment appears on face value to be a reasonable offer by the City. However, the City should clarify how it is calculated, what services it includes (e.g. ice surfaces, swimming pools, seniors centres, ball fields, soccer fields, community rooms, lawn bowling, instruction courses, etc.), the term of the agreement and whether there is an option to renew or terminate such an agreement by either party, and the duties and role of the proposed recreation services advisory committee.

One of the reasons for the failure of process is that the various units have very different capabilities and staffing at their disposal. Fredericton has significant services and professional staff at its disposal while the many smaller unstructured communities have little in the way of staff resources for dealing with the issue. Current administrative services available for LSDs are inadequate. For Central New Brunswick including most of Carleton, York and Sunbury counties, one individual is charged with the administration of over 50 LSDs that have a population exceeding 60,000 (roughly the same as the City of Moncton).

It is recommended that the provincial department dedicate one individual to be the contact with the City and to be responsible for defining a new proposal. It would be unfair to assign this responsibility to the overworked LSD Advisor. This is an important

matter, and if necessary the department should hire an individual who would be dedicated to this task with a mandate to reach a solution.

It should be emphasized that in ensuring that the province focuses more resources to this matter, the LSD Advisory Committees must remain a key part of the picture. They must be kept informed by the Department and their advice sought as a proposal is developed with the City.

It is also recommended that the City dedicate one individual to be the contact person with the Department with responsibility for developing the proposal for LSD consideration. This will reduce the possibility of differing messages which can be counterproductive.

(2) Recreation Advisory Committee:

This component of the City's proposal is an important one. As significant funding partners and users of the City's facilities it is natural for participating non-residents to desire meaningful input in the operation of the facilities. The City's proposal to form such a committee is a step in the right direction but needs to be better defined as to composition, role and responsibility. Without this detail it may appear as an empty gesture.

(3) Cap on Contributions:

In order to avoid suspicion that non-residents are entering into an open-ended financial participation due to the annual increases in property assessments, it is recommended that a cap form part of this agreement in order to limit the annual increase while taking into consideration the City's annual cost increases related to delivering the service. This would provide a measure of comfort and protection to both parties and could be a meaningful part of the responsibilities of the proposed Recreation Advisory Committee.

(4) Opting Out provision:

Some non-residents have been reluctant to consider a long term proposal such as 20 years. While the City must enter into long-term commitments in order to achieve this proposal, an opting out or renegotiation provision could work to the benefit of either party should conditions change. This provision would provide a greater degree of comfort to non-residents.

(5) A moratorium on collection of the user fee:

In recognition that a new process is being undertaken, the City should declare a moratorium on the collection of the \$340 and \$680 user fees. This gesture of goodwill would take effect at the commencement of the renewed process. It is not suggested that there be a rebate of past user fees collected, but that the City would return to the previous \$34.50 user fee during the renewed process as a gesture that, while largely symbolic,

would nevertheless contribute greatly to the creation of a more positive climate. However, should the renewal process lead to the successful conclusion of a tax-based proposal, the City should seriously consider rebating all new user fees (\$340 + HST) for individuals within communities that have agreed to participate.

(6) Provincial role to communicate to LSDs

The proposal must be communicated effectively to all the LSD residents who will be potentially affected. This includes the costs and benefits of participating in the City's proposal. While some LSD Advisory Committees have done a remarkable job in communicating to their residents, the efforts in some cases have been less than effective. Some LSD Advisory Committees had simply decided to take a position on behalf of their residents and did not provide the information to residents. In one instance, no Advisory Committee exists; therefore, in the absence of a proactive role by the Department of Local Government, no communications were undertaken. Often, communicating with LSD residents was through informal methods such as surveys, corner store polls, and in some cases, public meetings. For some large LSDs, the residents' only access to information was through articles in the media.

As it is common practise to employ a direct mail-out to all LSD residents for many other matters such as information meetings, it is recommended that the Department use this method to convey a clear and concise overview of the proposal, outlining the potential overall costs and benefits for residents. In fairness this communication should also include the City's position of addressing the need for non-residents to contribute financially for the recreation services they presently receive at little or no cost.

(7) Defining outlying areas more likely to want to participate:

This is perhaps the major component that has been absent from the process to date. The Minister of Local Government is the de facto "Mayor and Council" for all of unincorporated New Brunswick. Whether this is an effective system or not isn't the issue. The Minister must provide leadership to the LSDs for any important regional issue such as this one. This is particularly so when the service involves a large number of LSDs and can impact many of its residents with the withdrawal of existing services. It is surely not in the interest of the Province and its municipalities to encourage a multitude of competing arenas and other recreational services all of which may require significant annual subsidies.

As the Act provides the Minister with the authority to call public meetings for a service which LSDs "ought to consider", it is recommended that the Minister define those areas that should consider this service and call separate meetings for a formal vote in each of these separate communities. This would facilitate the process for rural residents to decide for themselves. Nonetheless the Minister must provide leadership and direction during this process. In the final analysis the Act requires that residents decide at a formal and fair vote in each community.

In reviewing the boundaries of LSDs in the area surrounding Fredericton it is evident that the present boundaries in many cases do not serve communities of interest. The recent exercise of gauging interest in the City's proposal has typically produced mixed results due to the very extensive boundaries of some LSDs, especially those that partially followed civil parish boundaries. Here are some examples, the New Maryland LSD includes Charters Settlement and territory right to the Charlotte County line; Maugerville LSD includes not only the subdivisions adjacent to the City but territory up to the Northumberland County line; St. Mary's LSD includes Pepper Creek Subdivision and Lower St. Mary's, but also Nashwaak Bridge and Glencoe; and Douglas LSD includes not only the Carlisle Road and Keswick but also Napadogan and Williamsburg. Many of these more distant community residents may have little interest in City services and usually tend to gravitate around more local facilities such as those in Stanley, Burt's Corner or Oromocto.

It is recommended that the Minister identify those areas within LSDs that are more reliant on the City's recreation services. For this purpose it is recommended that named communities that were developed for the province-wide 911-response system and adopted by Canada Post for civic addressing, be the basis for separate meetings and votes for the City's recreation services proposal (See Appendix I). These represent communities of interest and should give a more representative vote than any LSD-wide vote. Should a positive vote be recorded, a "taxing authority" can be established for that service, as is presently done when street lighting is undertaken for a specified area within an LSD. Having a specific civic address would also make it simpler, once the votes are taken, to identify which residents are eligible to partake of the City's service and which are not. Examples of civic addressed communities surrounding the City include Killarney Road, Penniac, Richibucto Road, Lower St. Marys, Lincoln, Nasonworth, Charters Settlement, Island View, Douglas, Estey's Bridge and McLeod Hill. Some, such as Lincoln and Keswick Ridge, have the same boundaries for its LSD and civic addressed community.

(8) More Distant communities could still participate

As noted above, there may be communities outside the area that the Minister has determined which may have an interest in participating in the City's recreation services. In this day and age, rural populations are much more mobile and commute more readily for services than previously was the practice. These communities should be advised of the possibility under the Act that a petition of twenty-five residents to the Minister requesting a public meeting for a formal vote will start the process. Should a majority of a quorum in attendance at such a meeting vote for the service, the Minister may deliver that service.

5.3 A NEW APPROACH: CITY AND VILLAGE

Complaints from the Village of New Maryland focus on the lack of information provided to its residents and the lack of input to the process. As the Village is a duly incorporated

municipality with an elected council, it is fully within the Council's competence and authority to conclude agreements with the City or any other body. The provincial Department of Local Government is not involved.

To date, the Village has declined the City's offer of a tax-based contribution of 4 cents per \$100 of assessment for all recreation services. Instead, it has undertaken to pay half of each participating individual's user fees. While this approach will limit the Village's financial expenditures, it does so at a cost of limiting access for its residents and causing village residents, especially youth, still to incur significant fees. For example, for the 2007 calendar year recreation facilities users will still incur a user fee of one half of \$680 or \$340 plus HST per individual per ice activity, no doubt creating significant hardship for families with several children involved in sport activities. In addition, there is no assurance that non-resident user fees will not rise in the future for the existing ice surface users or for the other City activities such as swimming, soccer or baseball.

For many years, Village residents have enjoyed unlimited access to the City's recreation services at no cost or at low user rates. While this has been very favourable to the Village, it is understandable that the City now seeks fair contribution from users from the surrounding communities. It might be useful for Village residents to compare the annual arena costs that apply to other similar sized communities that provide this service themselves. For example, the Town of St. Stephen with a population of 4,667 and a tax assessment base of \$262 million contributes in excess of \$110,000 annually to its Border Arena. This level of annual subsidy appears to be the norm for similar sized municipalities in New Brunswick. With its population of 4,284 and tax base of \$230 million, New Maryland is very comparable in size to St. Stephen. The City's offer of \$0.04 per \$100 assessment for all of its recreation services would have cost the Village approximately \$92,000, based on the Village's 2006 assessment. It can be concluded that the City's offer to the residents of New Maryland is a fair one.

As stated, the choice of whether to participate in the City's recreation services is properly that of the Village Council. In order to avoid undue hardship on its residents, particularly for the youth, and to avoid unnecessary duplication of recreational facilities, it is recommended that the Village Council review its decision in order to fairly assess the City's offer and restart the process with the City. Many of the recommended steps for the LSD renewed process could apply to this effort. A regional approach to services should be to the benefit of all concerned.

In the final analysis, should the Village Council not wish to take such a decision itself, it has recourse to the plebiscite provisions of the *Municipalities Act*, which permit a Council to hold plebiscites on matters within its powers. Should at least 60% of those voting vote in favour of the plebiscite question, the Council is directed by the Act to implement the decision.

6. REGIONAL SERVICE DELIVERY OPTIONS FOR THE FUTURE

6.1 BACKGROUND

The question of regional participation in municipal services is not one that is limited to the Fredericton area. This has been the subject of debate in New Brunswick ever since the abolition of the County Councils in the late 1960's.

The New Brunswick Royal Commission on Financing and Municipal Taxation, commonly known as the Byrne Commission after its Chairman, Edward Byrne, was tasked by the Province to study the financial health and ability of local governments to deliver the mandated municipal services. A number of then counties and municipalities were in poor fiscal health, some teetering on the edge of bankruptcy.

The Commission delivered comprehensive recommendations that had consequences for virtually every facet of local government and provincial government life. The effects of implementing the Commission's report by the Equal Opportunity program are, 40 years later, still reverberating in New Brunswick. Key services such as Education and Health were entirely transferred to the provincial level of government and away from property taxation. Local government was totally altered through the abolition of County Councils, the creation of a large number of new villages and the designation of large areas of New Brunswick as unincorporated. Property taxation, assessment and collection was centralized with the Provincial Government, as was all municipal borrowing.

The resulting newly incorporated areas were to be divided into local service districts and administered by one central provincial commission for the provision of necessary local services. Instead the provincial government opted for the administration of the LSDs through the Minister and Department of Local Government. The original LSDs were more or less divided along the civil parish lines of the old counties but many more were eventually created to reflect local demand for services and to reflect communities of interest. Today there are 268 LSDs in addition to 102 municipalities and 2 rural communities.

A new municipal unit, called a Rural Community, is an offshoot from the 1990's Commission on Land Use and the Rural Environment that sought to devolve some community planning responsibility to the LSDs. The present revised Rural Community concept is the result of recent legislative changes that will allow the transformation of LSDs into a form of incorporated local government, with limited powers as defined by the Minister of Local Government. In substance it resembles somewhat the Byrne Commission recommendation to create villages with limited power from the then Local Improvement Districts. They are presently created at the initiative of LSD residents.

Equal Opportunity legislation initially served the unincorporated areas of the province well. However, where LSD residents once reflected, by and large, the farming, fishing and forestry occupations of rural New Brunswick, improved mobility has allowed those who work and participate in the urban lifestyle to live in these unincorporated areas. With major services being delivered by the provincial government and with rural residents enjoying virtually unfettered access to municipal services, residents of outlying areas have been reasonably content with their areas' unincorporated status and generally lower property tax rates. Where regional service delivery has been desired or required, ad hoc arrangements have been enacted to deal with the problem. These have ranged from voluntary arrangements such as the regional arena and pool in the Bathurst and Woodstock areas, to a legislated solution for recreational and cultural services of the Saint John area. For other services such as solid waste collection and disposal and for ambulance service, a provincially legislated solution was imposed.

6.2 STRUCTURES FOR THE DELIVERY OF REGIONAL SERVICES

There are two classical methods for achieving an improved method of regional service delivery: a two-tier system of local government or a single-tier. The two-tier or "metropolitan" concept has historically been the favoured first step. Examples are found in the original metro concepts for Toronto, Ottawa and Montreal; however, the respective Provinces subsequently abolished these two-tier models and legislated a single-tier amalgamation on the units. The two-tier model is still in use, nevertheless, especially in larger urban centres. The advantage for employing the two-tier concept is that the existing municipal units can be retained while a second tier regional unit can be superimposed. A disadvantage is that the second tier yields administrative duplication and is generally less responsive or accountable to the electorate.

Scotland offers another example. In 1995, a longstanding system of two-tier municipal government was abolished in favour of single-tier municipal units. With a surface area similar to New Brunswick and a population of 5 million, Scotland now has only 32 municipal units covering all of its territory. There are no smaller units such as New Brunswick's LSDs. Another example is New Zealand that has a population of 4 million and an area four times that of New Brunswick and only has 74 municipal units. New Zealand does have a second-tier district system but it is restricted to the delivery of provincial type services such as the delivery of civil defence, water and air quality, and flood control. A further example closer to home is Nova Scotia with a population of 938,000 and a total of 55 single-tier municipal units.

New Brunswick, with its relatively small population of 750,000 has, by comparison to many other jurisdictions, a very large number of municipal jurisdictions: 102 municipalities, 2 rural communities and 268 local service districts, or approaching 400 units. In addition it has no formal two-tier structure for addressing regional services. Since Equal Opportunity, the Province has addressed the need for a more regional approach to the delivery of municipal services by the previously mentioned ad hoc arrangements and by a large number of amalgamations. These specific regional delivery

issues were addressed by significant amalgamations in the Bathurst area in the '60's; St. Stephen, Moncton and Fredericton areas in the '70's; Miramichi, Edmundston, Rothesay, Quispamsis, Grand Bay-Westfield, Belledune, Memramcook, and Grand Manan areas in the '90's.

6.3 OPTIONS FOR NEW BRUNSWICK

While the recommended steps for a renewed process as contained in this report may provide a solution to the specific Fredericton area delivery of recreation services, it is cumbersome at best and still fraught with difficulties. New Brunswick deserves an effective, accountable and responsive system of local government for regional decision-making and the provision of high quality services.

There is no doubt that recreation services can benefit from a formal regional delivery structure. There are also others such as land use planning, water, sewage disposal and fire services that could benefit from a formal regional system that would address many long standing issues such as urban sprawl. The present Provincial initiative to create Rural Communities would create bodies that have the authority to provide services for that community or negotiate for regional delivery of services with larger urban centres. The disadvantage of this approach is that, while it potentially reduces the number of LSDs, it will result in still more incorporated units in a province that, it could be argued, already has too many. This could in fact lead to a further fracturing of service delivery instead of towards more effective regional delivery units. Another downside is the present approach of creating these units voluntarily, which may take many years to effectively cover unincorporated New Brunswick.

It is recommended that the Province review its system of local government with the view of enacting reforms that will allow for a more accountable and efficient form of local government that covers all of New Brunswick and allows for the effective delivery of regional services. There are many models available throughout the western world and all have their advantages and disadvantages, including the single and two-tier systems. There is no doubt that this exercise would be a major one but its results could endow this province with a more effective system of local government and contribute greatly to its long term development.