



Fishing boats are tied up at the Meteghan wharf on Friday. TINA COMEAU ■ SALTWIRE NETWORK

## Fishery about Mi'kmaq asserting right to self-governance

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The real story isn't that the Sipekne'katik First Nation is exercising its right to fish lobsters in St Mary's Bay but that the Mi'kmaq are finally exerting their right to self-governance, says Mi'kmaq lawyer Shelly Martin.

The Mi'kmaq's right to fish for a moderate livelihood is non-negotiable. It's written in the centuries-old Peace and Friendship Treaties and affirmed by the Supreme Court of Canada Marshall decision 21 years ago.

With that landmark decision, it was the federal government's responsibility to negotiate with Sipekne'katik and Mi'kmaq on terms for a moderate livelihood fishery. But the federal government dropped the ball, said Martin, a resident of Millbrook First Nation and legal counsel for the Mi'kmaq community located about 90 kilometres outside Halifax.

On Sept. 17, Sipekne'katik took matters into its own hands, evoking its right to self-governance under Section 35 of the Canadian Constitution. In other words, the community decided to take control and regulate its own fishery, issuing seven lobster licences, each allowing the setting of 50 traps.

"What you're seeing right now is communities coming forward in an effort to exercise that right of self-government," said Martin.

Potlotek First Nation has plans to also pursue a moderate livelihood crab fishery in Cape Breton.

"The Department of Fisheries knows that we have been working on these plans for a while. They have to come to the table and communicate what it is they object to."

Federal Fisheries Minister Bernadette Jordan is now forced to hammer out a deal with Sipekne'katik Chief Michael Sack and the Assembly of Nova Scotia Mi'kmaw Chiefs amid escalating protests from local commercial fishers. The Sipekne'katik and Mi'kmaq chiefs remain steadfast in their intention to continue on their terms, which they believe constitutes a moderate livelihood.

The question of whether the Mi'kmaq have the power to regulate their own fishery has yet to be determined in the courts. While the treaties and the Marshall Decision clearly spell out the First Nations' right to a moderate livelihood, neither say anything one way or another about aboriginal regulation or self-governing of the fishery, said Wayne MacKay, a Dalhousie University law professor.

But MacKay, an expert in constitutional law, says Martin's argument has merit. The Mi'kmaq's claim to self-governance is arguably an aboriginal right protected by the Constitution. A convincing legal argument could be made that it is the Mi'kmaq right to control and regulate their own

fishery, he said.

"While there has been no decision made by the court, there is an argument, and it hasn't been rejected, that they have the right to regulate their own fishery as a part of their aboriginal traditional rights because historically they would have regulated their own fishery.

"Given the fact that the feds have done nothing for 21 years, they are now going to assert their aboriginal right to self-government and pursue

this moderate livelihood fishery."

As it stands now, the Department of Fisheries and Oceans has the power to regulate or interfere with the Mi'kmaq's right to a moderate livelihood fishing, but only for substantial reasons, such as conservation, and only after consultation with Mi'kmaq. Even then, the Department of Fisheries and Oceans is required under law to interfere in the most minimal way possible, said MacKay.

Prime Minister Justin Trudeau came into office back in 2015 pledging to mend the relationship between Canada and First Nations peoples and to move towards "a nation-to-nation relationship based on recognition, rights, respect, co-operation and partnership."

Martin remains optimistic that the Trudeau government will stay true to those values and negotiate in good faith with the Mi'kmaq.

"What that means is that our communities decide what

are the acceptable limits, how we implement their plans for a moderate livelihood that expresses Mi'kmaq cultural values and beliefs," said Martin. "That's what I'd like to see."

Delaying that process is no longer an option, said MacKay.

"It's clearly now at a point where the feds must act and negotiate with the Mi'kmaq," said MacKay. "It's their right to a modest livelihood fishery and there has to be some structure for them to do it."

## MUNICIPAL GOVERNMENT NOTICES

Halifax Regional Municipality Notices will generally appear each Saturday in this section of the newspaper. Readers are still encouraged to look throughout the paper for information which might appear in a different section or on another day.

### NOTICE OF APPROVAL

#### HALIFAX PENINSULA

**TAKE NOTICE THAT** Halifax and West Community Council did, on Thursday, September 24, 2020 approve the following application:

**Case 22624 - Application by James Thibault requesting to enter into a development agreement on lands at 2322-24 Hunter Street, Halifax to allow for the conversion of a legal nonconforming commercial use to two residential units creating a 6-unit residential building.**

Any aggrieved person, the Provincial Director of Planning, or the Council of any adjoining municipality may, within fourteen days of the publishing of this notice, appeal to the Nova Scotia Utility and Review Board (902-424-4448) in accordance with the provisions of the *Halifax Regional Municipality Charter*.

ACC# CPC02310

### NOTICE OF APPROVAL

#### BY-LAW S-449, RESPECTING CHARGES FOR STREET IMPROVEMENTS

**PUBLIC NOTICE** is hereby given that By-law S-449, Respecting Charges for Street Improvements was adopted by Halifax Regional Council on September 22, 2020.

By-law S-449 amends By-law S-400, Respecting Charges for Street Improvements. The purpose of the amendment is to make the street paving requirements for provincially-owned village and subdivision gravel streets, otherwise known as "J" class streets, consistent with street improvements for HRM-owned gravel streets by eliminating surveying the property owners abutting the "J" class streets and requiring them to pay only 33% and HRM to pay 16.67% of the paving costs pursuant to a cost sharing agreement with the Province. This replaces the current process where residents pay 50% and are petitioned.

The text of the amended By-law S-400 may be viewed on the Internet in the Legislation & By-law section at [halifax.ca/city-hall/legislation-by-laws](http://halifax.ca/city-hall/legislation-by-laws) or copies obtained from the Office of the Municipal Clerk by emailing [clerks@halifax.ca](mailto:clerks@halifax.ca), calling 902-490-4210 or faxing 902-490-4208.

Effective date: September 26, 2020

HR0P-6912-A121

Phoebe Rai, Acting Municipal Clerk

## TAX RELIEF FOR NON-PROFIT ORGANIZATIONS PROGRAM 2021-2022

(Administrative Order 2014-001-ADM)

Halifax Regional Municipality is pleased to announce the Tax Relief for Non-Profit Organizations Program is now accepting applications for 2021-2022. Organizations applying for acceptance into the program (or the addition of another property) must submit a complete application on or before Monday, November 30, 2020. Applications for renewal of tax relief (organizations previously accepted into the program) are due no later than March 31, 2021 (post-marked). Late renewal applications may be pro-rated.

The Tax Relief Program for Non-Profit Organizations application and renewal forms are available online at:

[www.halifax.ca/business/doing-business-halifax/tax-relief-non-profit-organizations](http://www.halifax.ca/business/doing-business-halifax/tax-relief-non-profit-organizations) or please call 902.490.7191 or email [nonprofittax@halifax.ca](mailto:nonprofittax@halifax.ca).

Act A811-6912

### NOTICE OF APPROVAL

#### BY-LAW S-311, RESPECTING STREETS

**PUBLIC NOTICE** is hereby given that By-law S-311, Respecting Streets was adopted by Halifax Regional Council on September 22, 2020.

By-law S-311 amends By-law S-300, Respecting Streets. The purpose of the amendment is to:

- 1) broaden the Engineer's power to grant Annual Permits, and
- 2) remove gender specific language.

The text of the amended By-law S-300 may be viewed on the Internet in the Legislation & By-law section at [halifax.ca/city-hall/legislation-by-laws](http://halifax.ca/city-hall/legislation-by-laws) or copies obtained from the Office of the Municipal Clerk by emailing [clerks@halifax.ca](mailto:clerks@halifax.ca), calling 902-490-4210 or faxing 902-490-4208.

Effective date: September 26, 2020

HR0P-6912-A121

Phoebe Rai, Acting Municipal Clerk

### NOTICE OF APPROVAL

#### REGIONAL CENTRE

**TAKE NOTICE THAT** Regional Centre Community Council did, on Wednesday, September 23, 2020 approve the following application:

**Case 22990 - Housekeeping amendments to the Regional Centre Land Use By-law to establish a geographical limitation to the application of the Halifax Citadel Rampart regulations.**

Any aggrieved person, the Provincial Director of Planning, or the Council of any adjoining municipality may, within fourteen days of the publishing of this notice, appeal to the Nova Scotia Utility and Review Board (902-424-4448) in accordance with the provisions of the *Halifax Regional Municipality Charter*.

ACC# C002-6912

### NOTICE OF APPROVAL

#### BY-LAW G-200, RESPECTING GRADE ALTERATION AND STORMWATER MANAGEMENT ASSOCIATED WITH LAND DEVELOPMENT AND BY-LAW L-402, RESPECTING LOT GRADING AND BY-LAW S-701, RESPECTING SWIMMING POOLS

**PUBLIC NOTICE** is hereby given that By-law G-200, Respecting Grade Alteration and Stormwater Management Associated with Land Development, By-law L-402, Respecting Lot Grading and By-law S-701, Respecting Swimming Pools were adopted by Halifax Regional Council on September 22, 2020.

The purpose of By-law G-200, Respecting Grade Alteration and Stormwater Management Associated with Land Development is to set out grade alteration standards for the Municipality and to replace the following By-laws:

- (a) Former Town of Bedford By-law 23290: Respecting the Movement of Topsoil, the Movement of Earth and the Alteration of the Grade Land,
- (b) Halifax County Municipality By-law 40: Respecting the Regulations and Controls of the Removal and Movement of Topsoil and Earth and the Alteration of the Grade of the Land, and
- (c) Halifax County Municipality By-law 41: Respecting Gravel Pits and Excavations.

By-law L-402 amends By-law L-400, Respecting Lot Grading. The purpose of the amendment is to include lot grading requirements for the installation of swimming pools, the construction of residential accessory buildings, and the construction of retaining walls over 1 metre.

By-law S-701 amends By-law S-700, Respecting Swimming Pools. The purpose of the amendment is to include the requirement of a lot grading permit.

The text of By-law G-200, amended By-law L-400 and amended By-law S-700 may be viewed on the Internet in the Legislation & By-law section at [halifax.ca/city-hall/legislation-by-laws](http://halifax.ca/city-hall/legislation-by-laws) or copies obtained from the Office of the Municipal Clerk by emailing [clerks@halifax.ca](mailto:clerks@halifax.ca), calling 902-490-4210 or faxing 902-490-4208.

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PLEASE SEE SECTION 158 - EMPLOYMENT OPPORTUNITIES IN SATURDAY'S PAPER AND SECTION 258 - TENDERS IN CLASSIFIEDS FOR ALL TENDERS AND REQUESTS FOR PROPOSALS ADVERTISEMENTS IN SATURDAY AND WEDNESDAY'S EDITIONS

HALIFAX

FOR MORE INFORMATION ON MUNICIPAL MEETINGS AND EVENTS VISIT [WWW.HALIFAX.CA/CALENDAR](http://WWW.HALIFAX.CA/CALENDAR) BOX 1749, HALIFAX, NOVA SCOTIA B3J 3A5

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