

## **BILL NO. 85**

### **An Act to Amend Chapter 18 of the Acts of 1998, the Municipal Government Act, Respecting Cape Breton Regional Municipality**

#### **Members of Legislative Committee Ladies & Gentlemen**

Thank you for the opportunity to speak to you today on this important issue.

I would like to begin by providing some background – this will help explain the reasons for my appearance here today before Law Amendments.

The Municipality of the District of Guysborough is proud of our record of providing quality local government to our residents. I have been on Municipal Council for the past 24 years – the past 6 as Warden.

During this time we have witnessed an economic transformation – from one of the poorest Municipalities in NS to a strong, vibrant Municipality that is now the focus of multiple large-scale industrial development projects – 5 of whom are poised to make a Final Investment Decision in 2018 and all of whom will bring significant benefits to the Province of Nova Scotia.

In the early 1990's our region was faced with the impacts of the closure of community fish processing facilities as well as the mechanization of the forestry. As a result, our economy was hit hard. Schools, hospitals, small businesses were hit hard.

In the late 1990's there was renewed interest in the Nova Scotia Offshore. After many years of promise, the Sable Offshore Energy Project was launched and Goldboro was chosen as the landfall site for the development. This decision was made based on geography and economics – not on any incentives provided by Government.

The Province of Nova Scotia collected over \$2 billion in royalties during the 20 years of Sable Operation. This money was shared by all Nova Scotians and funded health care, education, roads, social services, etc. In addition, over \$2.8 Billion was spent in Nova Scotia on goods and services.

The \$3.5 Billion dollar capital cost project also had a tremendous impact on the Municipality of the District of Guysborough. The Goldboro Gas Plant and associated pipeline infrastructure had a total capital cost of approximately \$500 Million. In Nova Scotia, machine & equipment is exempt from property taxation but approximately \$225 Million was added to the assessment roll of the Municipality. Like all Municipal taxes, approximately forty percent of taxes collected flow through directly to the Province. The Sable partners – at the time led by Mobil Canada and Shell understood that property taxation was part of the cost of any viable business operation.

Our position related to Sable and any other development proposed for the Municipality has always been that we expect investors to be good corporate citizens – and to pay taxes like anyone else doing business in our community.

As a direct result of the Sable project, our Municipality has been able to diversify our sources of revenue and diminish our reliance on property taxation. Currently, property taxation only comprises approximately 35% of our annual revenue – the balance comes from business operations – Sable Wind; our 2<sup>nd</sup> Generation Landfill Operation; and our Industrial Property transactions.

Today, we are on the verge of an unprecedented scale of investment decisions - \$11 Billion in 2018.

What has attracted this level of investment interest? In part it is simply nature – deep water harbours, large tracts of available and properly zoned industrial land and also

part physical built infrastructure – particularly pipeline transportation infrastructure.

The Municipality has played a significant role in attracting this investment interest – we have worked closely with the Province – Nova Scotia Business Inc. and Nova Scotia Department of Energy in particular to market investment opportunities to the World.

We have invested millions of tax-payers dollars in preparing the investment climate. We have had numerous property transactions with the Province of Nova Scotia and with private land-owners to acquire land for development purposes. Every piece of property we acquired or sold was at Market Value. No credible, responsible developer has ever complained about paying market value for land. In fact, it has been our experience that those seeking incentives such as land or tax-breaks are simply non-viable business ventures – anyone can start a business and promise to create jobs if Government removes the risks.

The amendments proposed in this Bill represent a thinly-veiled attempt to create a business case that should be determined by the Private sector. If you need land for a dollar, tax holidays, \$100 million from government for upgrading a railway, \$40 million from government for harbour dredging, and probably an ice breaker stationed there for three months in winter – doesn't sound much like a sound business case to our Municipality.

We have been supportive of previous Government involvement in aid of existing businesses. A prime example of such a role for Government was the New Page/Port Hawkesbury Paper situation. What made that circumstance so different was that it was an existing operation directly employing approximately 500 individuals; and, it was not creating a competition between regions within Nova Scotia. If the Government had not assisted with the Mill it would have simply closed – it was not going to move to another region of Nova Scotia.

Passing of this Bill will bring Nova Scotia back to the 1970's – a time when Government thought it could influence investment by creating industrial parks and erecting buildings, investing in wharves, etc. Today local Municipalities are left with empty buildings and costly, unused infrastructure. It appears we have learned nothing. There may be a time for Government to get involved and fulfill its role in assisting with public infrastructure – that time is after private sector has lead with its money – after a Final Investment Decision has been made.

In our Municipality we are fortunate to have Pieridae Energy poised to make a Final Investment Decision on a \$10 Billion LNG Liquefaction facility. Pieridae have paid millions of dollars to acquire land – and they paid full market value. We have no tax agreements! They will need a short (3 or 4 km) road replaced. The NS Government has told them they will make no commitment to provide support in advance of a Final Investment Decision.

The Melford Atlantic Gateway is a \$400 million private sector lead development for a new Container Terminal/ Logistics Park at Melford in the Strait of Canso. The Melford group stands on the verge of a Final Investment Decision within months. They have purchased land from the Province, Municipality of Guysborough and Private Land Owners – in all cases they paid full market value. We have negotiated a Community Benefits Agreement that provides no provision for tax concessions. And, they are financing the construction of a rail corridor to the terminal.

Both of these examples – Pieridae (or Goldboro LNG as it is better known) and Melford stand as prime examples of the inherent unfairness of the amendments proposed today. It is impossible to argue that the effect of this amendment is intended to do anything else other than tilt the field in favor of one region of Nova Scotia over others.

As far as the silly argument that the Province is willing to look at similar requests from other Municipalities to provide the same provisions outlined in the Amendment,



this simply ignores the fact that there was no consultation on this issue outside of CBRM and that the effect will be that future investors that have already chosen to come to Nova Scotia will then simply “shop” their development to Municipalities to see who will provide the greatest concessions. How does Nova Scotia win in this scenario? There is a reason that Local and Atlantic Chambers of Commerce oppose these Amendments – it makes no business sense and is viewed as purely political. We have not encountered a single government bureaucrat that supports these proposed Amendments.

As is required under the Municipal Government Act, the Minister is required to give Municipalities 12 months’ notice of any provincial legislation, regulation or administrative actions that could have the effect of decreasing revenues or increasing the required expenditures of Municipalities. I have attached the two most recent letters from the Minister to Municipalities, one dated March 23, 2017 and a second dated October 27,

2017 and in neither does the Minister reference any content related to Bill 85.

After selling land to the two developments referenced in this speech for more than \$6 Million and collecting full taxation from them, we will lose significantly going forward as we will have to seek the same legislation as CBRM just to compete. Our finances will suffer dramatically. All Municipalities will hurt financially, as they too will have to seek to have the same ability to cut deals, and we'll all be competing with each other. Everyone will now lose financially. With this legislation and the Minister's intent to allow other Municipalities to have the same ability, the official 'Race to the Bottom' has begun. In this case, with no notice, and no consultation with the Federation of Nova Scotia Municipalities or any other Municipality except CBRM, the Minister has contravened his own legislation.

Our legal team has advised us that the Province of Nova Scotia should also be concerned that the proposed amendments to the Municipal Government Act giving a

“Special Charter” to CBRM are in violation of provisions of Chapter 11 of the North American Free Trade Agreement (“NAFTA”). These amendments to the MGA would unjustly and disproportionately impact the United States-based investors of the proposed Melford Atlantic Gateway container terminal and logistics park and provide for a successful claim for damages under NAFTA.

NAFTA Article 1102 regarding National Treatment, Article 1103 regarding Most-Favored Nation Treatment, and Article 1105 regarding Minimum Standard of Treatment may be violated by these proposed MGA amendments. Under these NAFTA provisions, governments, including provincial governments, are required to treat the investors from NAFTA parties as favourably as they treat, in like circumstances, their own investors and investments, or any other foreign investors or investments. It is clear that the investors of the Melford Atlantic Gateway would not receive fair and equitable treatment if these proposed MGA amendments were passed. Such amendments would give preferential treatment to the investors of a

proposed container project in the CBRM by allowing the transfer of property at less than fair market value and by allowing CBRM to give preferential tax treatment

If these legislative amendments go forward as proposed, both the Province of Nova Scotia and the Government of Canada could face serious financial impacts, as the affected investors have a right to make a claim to a NAFTA tribunal for their losses. As the Province may be aware from cases concerning Bilcon of Delaware, Inc. and AbitibiBowater Inc., settling these claims can be very costly, with amounts in the hundreds of millions of dollars.

We ask all members to honour the legislation we're governed by, to stand on principle, to be aware of all the financial implications of passing this legislation and finally, to allow ample time and opportunity for the Federation of Nova Scotia Municipalities and Departmental Staff to consult all Municipalities. Modernizing Municipal Government should not start with divisive legislation.

I want to thank everyone for your time.

Respectfully Submitted,

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Warden Vernon Pitts  
Municipality of the District of Guysborough