

A special meeting of Town Council for the Town of Mahone Bay was held on Friday, January 20, 2023 at 9:00 a.m. in Council Chambers and broadcast via YouTube live.

Present:

Mayor D. DeVenne  
Councillor P. Carver  
Councillor J. Feeney  
Councillor S. Lohnes-Croft  
Councillor R. Nowe  
Councillor K. Wilson  
CAO D. Heide  
Town Clerk and Deputy CAO, M. Hughes  
Solicitor J. Mailman  
Solicitor P. Rogers

Absent: Deputy Mayor F. Kangata (regrets)

Gallery: online and 9 in Council Chambers

Land Acknowledgement

Let us begin by acknowledging that we are gathered today in Mi'kma'ki. The ancestral, present and future territory of the Mi'kmaw people. Today, we gather with the intent followed by the living Peace and Friendship Treaties - with respect, cooperation and coexistence.

1. Agenda

A motion by Councillor Feeney, seconded by Councillor Carver, "THAT the agenda be approved as presented." Motion carried.

2. Expropriation Resolution

The Mayor offered effected property owners an opportunity to make a statement to Council before Council considered the draft resolution of expropriation which had been circulated in advance of the meeting.

The owner of the property at 804 Main Street made a statement to Council and asked that Council reconsider their intent to expropriate.

A motion by Councillor Wilson, seconded by Councillor Feeney, "THAT Council approve the resolution as amended to replace the word 'lands' with the words 'permanent easement'."

Councillor Carver        yes  
Councillor Feeney        yes  
Councillor Nowe         yes

Mayor Devenne            yes  
Councillor Lohnes-Croft    yes  
Councillor Wilson         yes

Motion carried.

Council adjourned upon motion at 9:20 a.m.

TOWN OF MAHONE BAY

TOWN OF MAHONE BAY

Mayor, David Devenne

Town Clerk, Maureen Hughes



## EXPROPRIATION RESOLUTION

MOVED by Councillor Wilson, SECONDED by Councillor Feeney:

WHEREAS the Town of Mahone Bay owns and operates an electric utility regulated by the Utility and Review Board under the *Public Utilities Act*, R.S.N.S. 1989, c. 380, as amended, and wishes to build and operate a Solar Garden electrical generation project on land owned by the Town and to sell the electrical power to its electrical utility under a Power Purchase Agreement;

AND WHEREAS the Town of Mahone Bay requires for that project the right to erect and maintain electrical lines on poles to connect the Solar Garden to the electrical grid and to the electrical distribution system;

AND WHEREAS for the purpose of erecting and maintaining such electrical lines and poles the Town of Mahone Bay wishes to acquire permanent easements over certain lands within the Town of Mahone Bay, as further described herein;

AND WHEREAS the Town of Mahone Bay has the authority to expropriate real property pursuant to section 52 of the *Municipal Government Act*, S.N.S. 1998, c. 18 as amended, and to expend funds on the generation of electricity and to sell electrical power to its electrical utility pursuant to a Power Purchase Agreement;

BE IT RESOLVED THEREFORE that Council authorize, approve and direct the expropriation for the Town of Mahone Bay, for the benefit of its electrical utility and of the Town's property at 918 Main St, Mahone Bay, bearing PID 60371390, of the permanent easements described as Easements "AUE-M3" and "AUE-M4" together with the rights and restrictions appurtenant to the permanent easements as set out in **Schedule "C"** attached hereto over the lands owned legally and/or equitably by the persons identified below, in respect of the easement lands shown as "AUE-M3" and "AUE-M4" on a Plan of Survey filed at the Lunenburg County Land Registration Office on December 30, 2022 as **Plan No. 121848460** with descriptions shown respectively on Schedules "A1" and "A2" attached hereto:

PID	OWNER(S)	MORTGAGEES	APPLICABLE EASEMENT IDENTIFICATION
60683810	Andrew Bruce Bardon and Irina Bardon	Bank of Nova Scotia	AUE-M3, with legal description at Schedule A1 attached
60371416	Norman A. Mossman and Doreen M. Mossman	not applicable	AUE-M4, with legal description at Schedule A2 attached

AND BE IT FURTHER RESOLVED that pursuant to the provisions of the *Expropriation Act*, the Town of Mahone Bay shall cause to be deposited with the Registrar of Deeds for the registration district of Lunenburg County the required expropriation documents, including a certified copy of

this resolution and attached schedules, and shall take such other actions as may be required to expropriate the permanent easements.

**MOTION CARRIED**



## Schedule A1

AUE-M3

ALL AND SINGULAR that certain access and utility easement AUE-M3 situated, lying and being at Mahone Bay, in the County of Lunenburg, Province of Nova Scotia, said easement, AUE-M3, being shown on Plan of Survey 22-4317-15A, prepared by Strum Consulting, dated the 22<sup>nd</sup> of December, 2022, AUE-M3 being more particularly described as follows:

**PREMISING** that directions are quadrant bearings, derived from GPS observations referenced to the Nova Scotia Coordinate Survey System and are referred to Central Meridian, 64 degrees 30 minutes West (Zone 5).

**BEGINNING** at a survey marker on the Eastern boundary of lands of Mark Cashman Henneberry and Rhonda Yvonne Henneberry (Document #107864200) and the Northern boundary of proposed easement AUE-M2. Said survey marker being referred to as THE POINT OF BEGINNING.

THENCE South 57 degrees 25 minutes 03 seconds East a distance of 38.156 metres to a point;

THENCE following a curve to the left with an arc length of 4.535 metres and radius of 70.000 metres to a point. Said curve having a chord bearing of South 59 degrees 06 minutes 16 seconds East and chord length of 4.534 metres;

THENCE South 60 degrees 47 minutes 32 seconds East a distance of 29.655 metres to a survey marker on the Western boundary of lands of Norman A Mossman and Doreen M Mossman (Document #119242262);

THENCE South 45 degrees 40 minutes 37 seconds West along said Mossman lands a distance of 3.128 metres to a survey marker;

THENCE continuing South 45 degrees 40 minutes 37 seconds West along said Mossman lands a distance of 20.312 metres to a survey marker;

THENCE North 51 degrees 16 minutes 32 seconds West along said Mossman lands a distance of 70.647 metres to a survey marker on the Eastern boundary of said Henneberry lands;

THENCE North 46 degrees 15 minutes 42 seconds East along said Henneberry lands a distance of 13.784 metres to a survey marker. Said survey marker being the POINT OF BEGINNING.

Said AUE-M3 easement described containing an area of 1,264.99 square metres (0.31 Acres).

**BEING AND INTENDED** to be an access and utility easement over lands of Andrew Bruce Bardon and Irina Bardon (Document #106577696) in favor of the Town of Mahone Bay.

## Schedule A2

AUE-M4

ALL AND SINGULAR that certain access and utility easement AUE-M4 situated, lying and being at Mahone Bay, in the County of Lunenburg, Province of Nova Scotia, said easement, AUE-M4, being shown on Plan of Survey 22-4317-15A, prepared by Strum Consulting, dated the 22<sup>nd</sup> of December, 2022, AUE-M4 being more particularly described as follows:

**PREMISING** that directions are quadrant bearings, derived from GPS observations referenced to the Nova Scotia Coordinate Survey System and are referred to Central Meridian, 64 degrees 30 minutes West (Zone 5).

**BEGINNING** at a survey marker on the Eastern boundary of lands of Andrew Bruce Bardon and Irina Bardon (Document #106577696) and the Northern boundary of proposed easement AUE-M3. Said survey marker being referred to as THE POINT OF BEGINNING.

THENCE South 60 degrees 47 minutes 32 seconds East a distance of 172.409 metres to a point;

THENCE South 29 degrees 12 minutes 28 seconds West a distance of 3.000 metres to a point;

THENCE South 60 degrees 47 minutes 32 seconds East a distance of 72.845 metres to a point;

THENCE following a curve to the left with an arc length of 22.499 metres and radius of 43.000 metres to a point. Said curve having a chord bearing of South 75 degrees 46 minutes 35 seconds East and chord length of 22.243 metres;

THENCE following a curve to the left with an arc length of 5.017 metres and radius of 5.000 metres to a point. Said curve having a chord bearing of North 58 degrees 40 minutes 15 seconds East and chord length of 4.809 metres;

THENCE following a curve to the right with an arc length of 35.222 metres and radius of 19.000 metres to a point. Said curve having a chord bearing of North 83 degrees 02 minutes 01 seconds East and chord length of 30.391 metres;

THENCE South 43 degrees 53 minutes 02 seconds East a distance of 23.419 metres to a point;

THENCE North 47 degrees 44 minutes 40 seconds East a distance of 110.114 metres to a point;

THENCE South 42 degrees 06 minutes 03 seconds East a distance of 11.567 metres to a survey marker on the Western boundary of lands of the Town of Mahone Bay (Book 526, Page 1045);

THENCE South 47 degrees 53 minutes 57 seconds West along said Town lands a distance of 48.340 metres to a survey marker;

THENCE South 46 degrees 07 minutes 42 seconds West along said Town lands a distance of 94.698 metres to a survey marker;

**Schedule A-2 (continued)**

THENCE South 48 degrees 00 minutes 45 seconds West along said Town lands a distance of 8.509 metres to a survey marker;

THENCE North 59 degrees 52 minutes 43 seconds West a distance of 93.133 metres to a point;

THENCE North 60 degrees 47 minutes 32 seconds West a distance of 251.860 metres to a point;

THENCE following a curve to the right with an arc length of 6.136 metres and radius of 104.200 metres to a point. Said curve having a chord bearing of North 59 degrees 06 minutes 16 seconds West and chord length of 6.136 metres;

THENCE North 57 degrees 25 minutes 03 seconds West a distance of 44.776 metres to a survey marker on the Eastern boundary of lands of Mark Cashman Henneberry and Rhonda Yvonne Henneberry (Document #107864200);

THENCE North 46 degrees 15 minutes 42 seconds East along said Henneberry lands a distance of 14.210 metres to a survey marker on the Southwestern corner of said Bardon lands;

THENCE South 51 degrees 16 minutes 32 seconds East along said Bardon lands a distance of 70.647 metres to a survey marker;

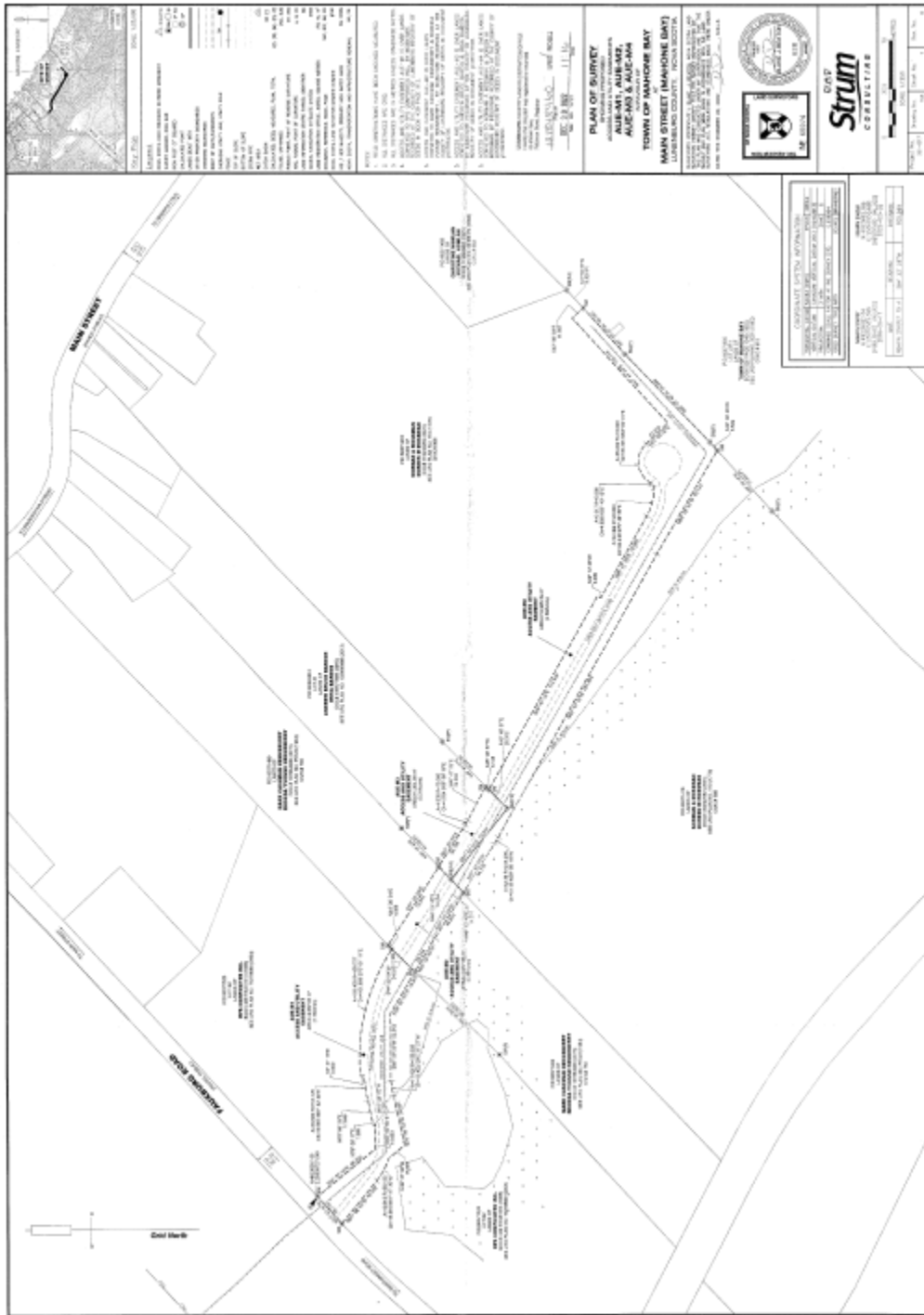
THENCE North 45 degrees 40 minutes 37 seconds East along said Bardon lands a distance of 20.312 metres to a survey marker. Said survey marker being the POINT OF BEGINNING.

Said AUE-M4 easement containing an area of 10,905.39 square metres (2.69 Acres).

**BEING AND INTENDED** to be an access and utility easement over lands of Norman A Mossman and Doreen M Mossman (Document #119242262) in favor of the Town of Mahone Bay.



# Schedule B





**Schedule C**  
**Description of Easement Rights and Restrictions**

1. An **easement** in favour of and benefiting the **TOWN OF MAHONE BAY** and its electrical utility and their successors and assigns, (collectively the “**Town**”), including but not restricted to benefiting the Town’s lands located at 918 Main St, Mahone Bay bearing PID 60371390, and burdening that portion of the owners’ lands shown as AUE-M3 and AUE-M4 on the plan attached to this Expropriation Document as Schedule “B” and filed at the Lunenburg County Land Registration Office as **Plan No. 121848460**, and as described in Schedules “A-1” and “A-2” to this Expropriation Document, for the following purposes and uses:
  - (a) inserting, laying, erecting and maintaining a line or lines of poles, towers, and wires with all necessary foundations, excavations, anchors and guy wires (collectively the “Distribution Line”), for the purpose of conveying electric power and energy in all forms, as well as any and all other communication or other signals capable of being transferred over, under, through and across the Easement;
  - (b) to clear or remove in any manner deemed expedient by the Town, all vegetation, brush, trees, and other obstructions and impediments to construction, excavation, and maintenance of the Distribution Line upon the Easement and to use any method deemed expedient to keep the Easement clear of trees, vegetation, brush, or other obstructions, and to remove any such trees, vegetation or brush beyond the limits of the Easement that are a potential hazard to the Distribution Line and to enter upon such Lands to the extent necessary for that purpose;
  - (c) to enter upon and across the Easement from time to time with vehicles, machinery, equipment and materials as deemed expedient for any purpose whatsoever to fulfill the privileges granted herein and to access lands owned or used by the Town (“Town lands”);
  - (d) to erect, maintain and replace an access road with all appurtenances thereto upon the Easement under or adjacent to the Distribution Line;
  - (e) to generally to do all acts necessary to exercise the rights and privileges granted herein together with all rights and privileges necessarily ancillary thereto.
  
2. **Restrictions** burdening the Easement Lands whereby no owner shall, or shall permit another to, undertake any of the following prohibited activities:
  - (a) excavate, drill, install, erect, construct, or permit to be excavated, drilled, installed, erected, or constructed on, under or over the Easement, any foundation, building or other structure or installation, pile material or plant any growth upon the Easement that, in the opinion of the Town,

may interfere with or endanger the Distribution Line or access road or access to Town lands;

- (b) disturb or otherwise interfere with the Distribution Line, access road or the Easement;
- (c) plant or establish within the Lands, including the Easement, any trees, shrubs or other vegetation which could encroach and interfere with the Distribution Line or access to Town lands or the Easement at any time unless previously consented to in writing by the Town; or
- (d) damage or obstruct any access road constructed or maintained by the Town, including without limitation damage to the surface of the road.

If there is a breach of any of the above restrictions, the Town, in its discretion, shall be entitled to remedy the breach and to be reimbursed by the owner therefore.

- 3. The rights and restrictions herein run with the land and are binding upon the respective heirs, administrators, executors, successors and assigns of the owners.

