

BYLAW NO. 714/09

**BEING A BYLAW OF MACKENZIE COUNTY
TO AUTHORIZE AN AGREEMENT WITH THE TOWN OF HIGH LEVEL TO
ESTABLISH AN INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT BOARD
FOR THE INTER-MUNICIPAL DEVELOPMENT PLAN AREA**

WHEREAS:

The Councils for the Town of High Level and Mackenzie County have enacted the Town of High Level and Mackenzie County Inter-municipal Development Plan;

The Town of High Level and Mackenzie County Inter-municipal Development Plan establishes an Inter-municipal Development Plan Area;

Section 627 of the *Municipal Government Act*, R.S.A. 2000, as amended, authorizes a municipality to enter into an agreement with a municipality to establish an inter-municipal subdivision and development appeal board; and

The proposed bylaw shall be advertised in the May 20, 2009 and May 27, 2009 editions of the High Level Echo;

A public hearing shall be held on June 17, 2009 at 7:00 p.m. at the Town Hall, High Level, Alberta.

**NOW THEREFORE, the Council of Mackenzie County in the Province of Alberta,
DULY ASSEMBLED ENACTS AS FOLLOWS:**

1. This Bylaw may be cited as the Town of High Level and Mackenzie County Inter-municipal Subdivision and Development Appeal Board Bylaw.
2. The document entitled "Town of High Level and Mackenzie County Inter-municipal Subdivision and Development Board Agreement", attached to and forming part of this bylaw as Schedule "A", is adopted.
3. This bylaw shall come into force and take effect upon the date of third reading and signing by both Mackenzie County and the Town of High Level Council.

READ a first time this 20th day of April, 2009.

READ a second time this 17th day of June, 2009.

READ a third time and finally passed this 17th day of June, 2009.

(original signed)

Greg Newman
Reeve

(original signed)

William Kostiw
Chief Administrative Officer

AN AGREEMENT DATED THIS 30 DAY OF OCTOBER, A.D. 2009,
BETWEEN

THE TOWN OF HIGH LEVEL

(the "Town")

and

MACKENZIE COUNTY

(the "County")

(hereinafter collectively referred to as the "Municipalities")

**THE TOWN OF HIGH LEVEL AND MACKENZIE COUNTY
INTERMUNICIPAL SUBDIVISION &
DEVELOPMENT APPEAL BOARD AGREEMENT**

WHEREAS Section 627 of the *Municipal Government Act*, R.S.A. 2000, c.M-26, as amended, authorizes municipalities to enter into an agreement to establish an intermunicipal subdivision and development appeal board;

AND WHEREAS the Municipalities have adopted an Inter-municipal Development Plan ("IDP") which includes reference to an "IDP Area" as shown in Schedule "A";

AND WHEREAS both Councils for the Municipalities have determined that it is appropriate to establish an intermunicipal subdivision and development appeal board for the purposes of hearing appeals from decisions made by the Inter-Municipal Planning Commission (IMPC) and the County's development authority and subdivision authority pertaining to applications relating to lands located within the IDP Area;

NOW THEREFORE, in consideration of the premises and mutual terms, conditions and covenants to be observed and performed by each of the parties hereto, the Municipalities agree as follows:

1. DEFINITIONS

- a) "Act" means the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, as amended from time to time;
- b) "Appellant" means a person who, pursuant to the Act, has served a notice of appeal on the ISDAB.

- c) "Council" means the Council of either Municipality;
- d) "Development Authority" means the IMPC established by Mackenzie County and the Town of High Level to exercise development powers and duties in the IDP Area;
- e) "IDP" means the Town of High Level and Mackenzie County Inter-municipal Development Plan adopted on July 30, 2009 by the Town of High Level Bylaw No. 881-09 and on 17th of June, 2009 by Mackenzie County Bylaw No. 712/09;
- f) "IDP Area" means those lands as depicted on Schedule "A" which is part of this Agreement;
- g) "Intermunicipal Subdivision and Development Appeal Board" ("ISDAB") means the appeal board established by the Municipalities by this Agreement pursuant to Sections 627 and 628 of the Act;
- h) "Member" means a member of the ISDAB;
- i) "Secretary" means the person(s) appointed to act as secretary for the ISDAB; and
- j) "Subdivision Authority" means the IMPC established by Mackenzie County and the Town of High Level to exercise subdivision powers and duties in the IDP Area.
- k) "Staff" means a member of the Town's planning department or planning consultant.

All other terms used in this Agreement shall have the meaning assigned to them in the *Municipal Government Act*, as amended from time to time.

2. **ISDAB PURPOSE AND ESTABLISHMENT**

- 2.1 The ISDAB is hereby established.
- 2.2 In accordance with Sections 678 and 686 of the Act, the ISDAB shall hear all subdivision appeals and development appeals from decisions made by the IMPC which relate to lands located within the IDP Area.
- 2.3 The ISDAB has all the powers, duties and responsibilities of a Subdivision and Development Appeal Board under the Act and the *Subdivision and Development Regulations* passed pursuant to the Act.

2.4 The ISDAB shall operate in accordance with the Policies and Procedures attached hereto as Schedule "A1", which is part of this Agreement.

3. ISDAB MEMBERSHIP

3.1 The ISDAB shall consist of six (6) Members who shall be appointed for a term not to exceed one (1) year, as follows:

- a) One Town Council member appointed by resolution of Town Council;
- b) One County Council member appointed by resolution of County Council;
- c) Two members at large appointed by resolution of Town Council;
- d) Two members at large appointed by resolution of County Council.

3.2. Where a member of Council is appointed as a Member, his or her appointment shall terminate upon his or her ceasing to be a member of Council.

3.3 No person who is

- a) a Town or County staff member; or
- b) a member of the IMPC;

shall be appointed as a member of the ISDAB.

3.4 The appointing municipality shall be entitled to appoint a replacement member at any time in accordance with article 3.1.

3.5 Members shall adhere to the Member Rules of Conduct set out in Schedule "A2" attached hereto.

3.6 Any Member may be removed by resolution of the appointing Council where, in the opinion of the appointing Council, the Member has contravened the standards for Member Rules of Conduct as set out in Schedule "A2" or the Member fails or refuses to adhere to the Policies and Procedures as set out in Schedule "A1".

4. ISDAB SECRETARY

4.1 The County's Chief Administrative Officer shall designate a County employee to act as the Secretary for the ISDAB.

4.2 The responsibilities of the Secretary are as follows:

- a) ensure that all statutory requirements of the ISDAB are met,

- b) inform all affected parties of the appeal hearing in accordance with the Act;
- c) inform all statutory parties of the appeal hearing in accordance with the Act;
- d) compile all necessary documentation for distribution to the Members;
- e) make available for public inspection before the commencement of the public hearing, all relevant documents and materials respecting the appeal, including all applications, notices, stop orders, and decisions related to the appeal; and written notice of appeal from individuals who believe that they are affected by the decision, order or notice
- f) attend all ISDAB appeal hearings;
- g) provide services for the recording of the proceedings of the ISDAB and for retention of exhibits including all written submissions to the ISDAB;
- h) prepare the ISDAB hearing minutes including the names and addresses of all parties making representations to the ISDAB;
- i) communicate decisions of the ISDAB to the affected parties in accordance with the Act; and
- j) such other matters as the ISDAB may direct.

5. **MEMBER REMUNERATION**

- 5.1 Members shall be entitled to such remuneration and travel expenses as may be fixed from time to time by each respective Council.

6. **GENERAL**

- 6.1 The fee for an appeal shall be as set by resolution by each respective Council from time to time.
- 6.2 ISDAB Hearings will be held at the Town's Office.

7. **ISDAB COSTS**

- 7.1 All ISDAB costs and expenses, including the costs of holding the hearing and any legal fees the ISAB may incur, shall be paid equally by the Town and the County.

IN WITNESS WHEREOF, the Municipalities have executed this Agreement as evidenced as by the duly authorized signatures below:

TOWN OF HIGH LEVEL

MACKENZIE COUNTY

Per: 

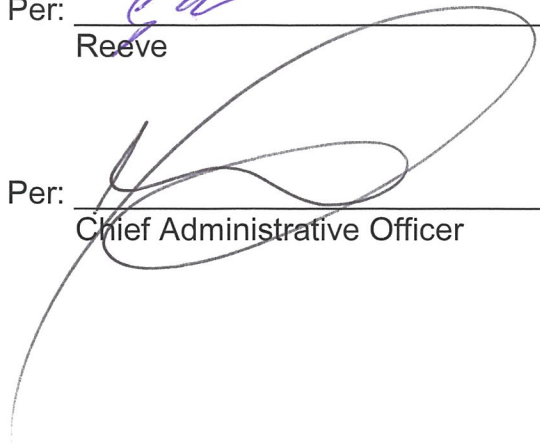
Mayor

Per: 

Reeve

Per: 

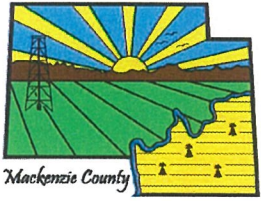
Chief Administrative Officer

Per: 

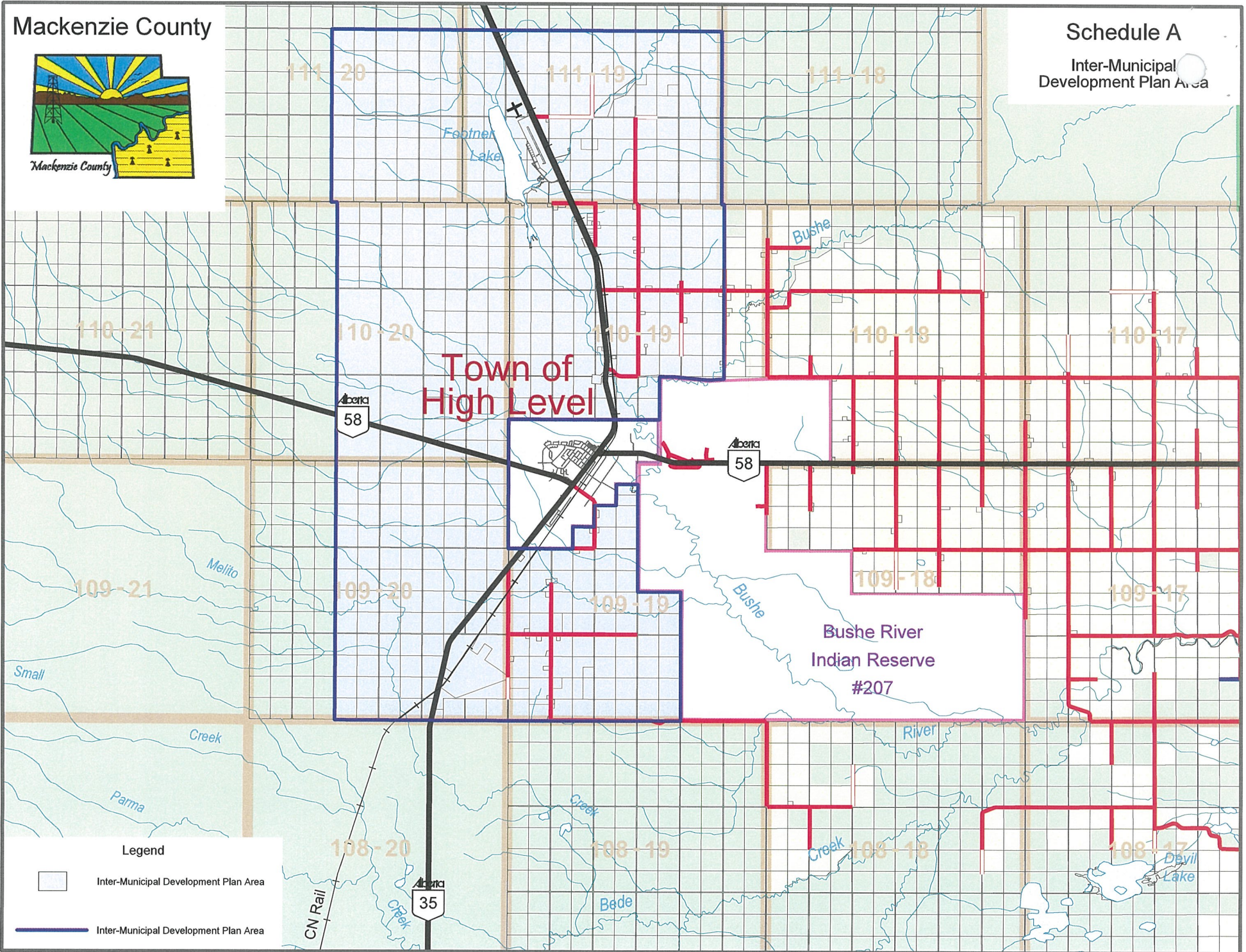
Chief Administrative Officer

SCHEDULE "A"
INTERMUNICIPAL PLAN AREA

Mackenzie County



Schedule A Inter-Municipal Development Plan Area



Legend

- Inter-Municipal Development Plan Area
- Inter-Municipal Development Plan Area

SCHEDULE "A1"

INTERMUNICIPAL SUBDIVISION & DEVELOPMENT APPEAL BOARD POLICIES AND PROCEDURES

1. DEFINITIONS

- 1.1 Unless otherwise specified herein, all terms shall have the meaning assigned to them in the Agreement or, where not specified in the Agreement, in the *Municipal Government Act*.
- 1.2 "Agreement" means the Intermunicipal Subdivision and Development Appeal Board Agreement dated OCTOBER 30, 2009.
- 1.3 "Appellant" means a person who, pursuant to the Act, has served a notice of appeal on the Subdivision and Development Appeal Board.
- 1.4 "Board" means the ISDAB.
- 1.5 "In Camera" means a meeting of the Board which is held in private pursuant to Section 197 of the Act.
- 1.6 "Point of Order" means the raising of a question by a Member with the view of calling attention to any departure from the Policies or Procedures, or the customary modes or proceedings in debate, or in the conduct of the Board's business.
- 1.7 "Secretary" means the person(s) appointed by the County to act as secretary for the Inter-Municipal Subdivision & Development Appeal Board (ISDAB).
- 1.8 "Staff" means a member of the Town's planning department, a member of the County's planning department or a planning consultant.

2. APPLICATION

- 2.1 These Policies and Procedures shall apply to all meetings of the Board.
- 2.2 Any matter of meeting procedure which is not herein provided for, shall be determined according to the most current edition of Robert's Rules of Order.
- 2.3 Procedure is a matter of interpretation by the Chair.
- 2.4 In the event of a conflict between the provisions of these Policies and Procedures and Roberts Rules of Order, the provisions of these Policies and Procedures shall prevail.

3. CHAIR

3.1 When a hearing is required the Members appointed by the respective municipalities shall select a Chair for the hearing.

3.2 The Chair:

- a) shall ensure that all Board hearings are conducted in a fair and impartial manner, in accordance with the rules for such hearings as set out in the Act and the rules of natural justice;
- b) is authorized to rule that evidence presented at a hearing is irrelevant to the matter at issue and may direct the Members to disregard the evidence, and
- c) may limit a submission if he/she determines it to be repetitious.

4. QUORUM

4.1 A quorum shall consist of four Members, comprised of two Members appointed by the Town and two Members appointed by the County.

5. DECISIONS

5.1 Only Members present for the entire Board meeting shall participate in the making of a decision on any matter before it.

5.2 The decision of the majority of Members present at the meeting shall be deemed to be the decision of the whole Board.

5.3 In the event of a tie vote, the appeal shall be denied.

5.4 The Board may make its decision with or without conditions, in accordance with Act.

5.5 If an appeal is recessed for any reason following the submission of evidence, the appeal hearing may be recessed to the next scheduled meeting or to a scheduled meeting. However, only those Members present at the original hearing shall render a decision on the matter.

6. APPEAL HEARINGS

6.1 The Board shall consider and decide all subdivision and development appeals

which have been properly filed in accordance with the Act.

- 6.2 The Board shall hold a public hearing respecting the appeal within thirty (30) days from the date of receipt of the written notice of appeal.
- 6.3 The Board shall give notice of the hearing in accordance with the Act.
- 6.4 The Board shall make available for public inspection prior to the hearing all relevant documents and materials respecting the appeal.
- 6.5 The Board shall hear from parties in accordance with the Act.
- 6.6 Letters previously submitted to the Development Authority or Subdivision Authority will not be considered by the Board unless resubmitted for the appeal hearing. The author of the letter must be identified on the document.
- 6.7 The Board shall hear appeals in public, but it may at any time recess and deliberate in private.
- 6.8 If the Board desires at the hearing of the appeal to request further technical information, legal opinions, or other assistance, it may recess the hearing pending receipt of such information.
- 6.9 Electronic or similar recording devices shall not be used during the hearing by anyone in attendance except the Secretary.
- 6.10 The Board shall make and keep a written record of its proceedings which may be in the form of a summary of the evidence presented at the hearing.
- 6.11 The Board shall give a written decision together with the reasons for the decision within 15 days after concluding the hearing.

7. **HEARING PROCEDURE**

- 7.1 At appeal hearings, the following procedure will typically be followed:
 - a) The Chair for the meeting will call for a motion to go into public hearing and ask if the appellant is present to speak to the appeal.
 - b) If the appellant indicates his/her presence to speak to the appeal, then the Chair will outline the public hearing procedures.
 - c) The Secretary will confirm that notice of the appeal has been provided to all parties in accordance with the Act.

- d) The Chair will ask if anyone objects to any Member hearing the appeal.
- e) A member of the Staff will introduce the appeal and present the administrative report outlining the background to the appeal.
- f) The Chair shall call upon the appellant to present his/her appeal submissions.
- g) After identifying him/herself, the appellant will be requested to present his/her appeal within a reasonable time period.
- h) The Chair shall then call upon any persons in attendance at the Public Hearing who are entitled to be heard by the Board under the Act and who wish to speak in favour of the appeal.
- i) After identifying themselves, persons or representatives of any group or persons, in favour of the appeal may address the Board in turn. The Board reserves the right to abbreviate repetitious oral submissions. Individuals may speak for a maximum of five minutes. One spokesperson per petition or group may speak for a maximum of ten minutes.
- j) The Chair shall then call upon any persons in attendance at the Public Hearing who are entitled to be heard by the Board under the Act and who wish to speak in opposition to the appeal.
- k) After identifying themselves, persons or representatives of any group or persons, in opposition of the appeal may address the Board in turn. The Board reserves the right to abbreviate repetitious oral submissions. Individuals may speak for a maximum of five minutes. One spokesperson per petition or group may speak for a maximum of ten minutes.
- l) The Chairperson shall then call upon the appellant and those persons in attendance at the public hearing who spoke in favour of the appeal for any rebuttal to the points raised by those who spoke in opposition to the appeal. Rebuttal comments are restricted to addressing new points raised by those who spoke in opposition to the appeal.
- m) After a presentation is concluded, any Member may ask the presenter relevant questions.
- n) After all presentations from the public have been completed, any Member may ask Staff, if present, relevant questions.
- o) Following the public presentation and Member questions, the Chair shall close the public hearing.

- 7.2 Following the close of the public hearing, the Board shall deliberate and make its decision. The Board may deliberate and make its decision In Camera.

Petitions and Letters

- 7.3 Persons signing petitions are deemed to have had their position advanced by the petition and accordingly they may not speak unless they remove their names from the petition.
- 7.4 Individuals who have submitted a letter may only address the Board on new non-repetitious information not contained in the letter.
- 7.5 With the Board's approval, an individual or group may submit written submissions as part of their presentation at the public hearing, by providing eight (8) copies of same to the Board at the start of their presentation.

Presentation Materials

- 7.6 The use of slides, maps, videos, and Power Point presentations are permitted, and these materials along with any written submissions become the property of the Board as exhibits to the public hearing.

Introduction of Speakers

- 7.7 Persons addressing the Board shall give their name, location of residence, and indication as to whether they are speaking on their own behalf or for another person or for a group, and address the Chair when responding to questions or providing information.
- 7.8 A Person who does not identify him/herself will not be given the opportunity to address the Board.

8. CONDUCT AT HEARINGS

- 8.1 Members of the public in attendance at a hearing:
- i) shall address the Board through the Chair;
 - ii) shall maintain order and quiet; and
 - iii) shall not applaud or otherwise interrupt any speech or action of the Members or any other person addressing the Board.
- 8.2 The Chair may order a member of the public who disturbs or acts improperly at a hearing by words or actions be expelled.

9. **MEMBER CONDUCT**

- 9.1 A Member wishing to speak at a hearing shall obtain the approval of the Chair before speaking.
- 9.2 When a Member or member of the public is addressing the Chair, every other Member shall:
- i) remain quiet and seated;
 - ii) not interrupt the speaker except on a Point of Order;
 - iii) not carry on a private conversation; and
 - iv) not cross between the speaker and the Chair.

SCHEDULE "A2"

ISDAB MEMBER RULES OF CONDUCT

1. For the purpose of this Schedule:
 - a) the following terms shall have the same meaning as in Section 169 of the Act:
 - "Corporation"
 - "Director"
 - "Distributing Corporation"
 - "Officer"
 - "Shareholder"
 - "Voting Rights"
 - "Voting Shares"
 - "Spouse"
 - b) the term "Member's Family" shall have the same meaning as the term "Councillor's Family" under Section 169 of the Act.
2. No Member shall participate in the hearing of any matter before the Board in which that Member has a pecuniary interest.
3. A Member has a pecuniary interest in a matter if:
 - a) The matter could monetarily affect the Member or an employer of the Member; or
 - b) The Member knows or ought to know the matter could monetarily affect the Member's family.
4. A Member is monetarily affected by a matter if the matter monetarily affects:
 - a) The Member directly;
 - b) A distributing corporation in which the Member beneficially owns voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation or of which the Member is a director or officer; or
 - c) Each Corporation, other than a distributing corporation, in which the person is a shareholder, director or officer;
 - d) A partnership or firm of which the Member is a member.

5. For the purposes of determining whether a Member has a pecuniary interest in the matter before the Board, the provisions of Section 170(3) of the Act shall apply, substituting the term "Member" for the term "Councillor".
6. Where a Member has a pecuniary interest of the matter before the Board, that Member shall:
 - a) Disclose the nature of the pecuniary interest to the Chair and Secretary of the Board;
 - b) Abstain from participating in the hearing of the matter;
 - c) Abstain from any discussion of voting on the matter;
 - d) Be absent from the room in which the appeal is heard, except to the extent that the Member is entitled to be heard before the Board as an appellant or a person affected by the matter before the Board.
7. Where Council becomes aware of a breach of these provisions by a Member of the Board, the Council shall review the facts of the case and make a determination as to whether the Member, in the opinion of Council, has breached pecuniary interest provisions of this Schedule.
8. Where, after its review pursuant to Section 7, Council determines that a breach of the pecuniary interest provisions has occurred, Council may remove the Member from the Board.
9. A Member of the Board shall:
 - a) Not discuss any matter under appeal with any party to that appeal, outside of the formal hearing process;
 - b) Keep in-camera discussions of the Board and the Committees, and any legal advice provided to the Board or Committees confidential, except where required to disclose that information by law;
 - c) Attend all Board and Committee hearings to which he or she has been assigned unless prior written consent has been received from the Chair; and
 - d) Participate in the deliberation and decision making process on all matters to which he or she has been assigned and has attended the public hearing for.
10. Where the appointing Council has reasonable grounds to believe that a Member has breached any of the provisions of Section 9, Council may remove that Member from the Board.