



May 26, 2021

Chief Wilbert Marshall, Chair

The regular meeting of the AFNWA Board will be held Wednesday 26 May 2021 at 9:30 AM via the ZOOM virtual platform: <https://zoom.us/j/95306021265>

### **In Camera Reports**

1C Approval of Minutes of the In-Camera Meeting held on 31 March 2021.

2C Business Arising from Minutes

3C Appointment of Board Members

**Motion:** That the AFNWA Board approve the recommendation as outlined in the confidential report dated 20 May 2021

4C AFNWA By-Laws

**Motion:** That the AFNWA Board approve the recommendation as outlined in the confidential report dated 20 May 2021

5C Transfer Agreement Update (Information Report)

### **Regular Reports**

1. a) Ratification of In-Camera Motions  
b) Approval of the Order of Business and Approval of Additions and Deletions

2. Approval of Minutes of the Regular Meeting held on 31 March 2021.

3. Business Arising from Minutes  
a) Transition Implementation Plan Update (20 May 2021)

4. *Economic Regulator Framework*

**Motion:** That the AFNWA Board approve the Economic Regulator Framework in the substantive form attached

### **Information Reports**

1-I Transition Implementation Plan Update (20 May 2021)

5-C Transfer Agreement Update

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James MacKinnon  
Board Secretary



**Atlantic First Nations Water Authority  
MINUTES**

**26 May 2021**

**PRESENT:**

Chief Wilbert Marshall, Chair  
Chief Ross Perley, Vice Chair  
Chief Terry Paul, Director  
Chief Darlene Bernard, Director  
Chief Arren Sock, Director  
Chief Andrea Paul, Director

**REGRETS:**

Chief Leroy Denny, Director

**STAFF:**

Carl Yates, interim CEO  
James MacKinnon, interim COO  
Adam Gould, Manager of Communications and  
Outreach  
Chantal Leblanc, Manager of Corporate Services/  
CFO  
Rayleen MacDonald, Administrative Assistant

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**CALL TO ORDER**

The Chair, called the regular meeting to order at 9:55AM via the Zoom virtual platform. The Board moved In Camera at 9:58 AM and the regular meeting reconvened at 10:50 AM

**1.a) RATIFICATION OF IN-CAMERA MOTIONS**

**MOVED BY Chief Terry Paul, seconded by Chief Ross Perley, that the AFNWA Board ratify the In- Camera motions from 26 May 2021 meeting.**

**MOTION PUT AND PASSED.**

**1.b) APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS**

**MOVED BY Chief Andrea Paul, seconded by Chief Darlene Paul that the AFNWA Board approve the agenda as presented.**

**MOTION PUT AND PASSED**

**2. APPROVAL OF MINUTES – 31 March 2021**

**MOVED BY Chief Darlene Bernard, seconded by Chief Andrea Paul, that the AFNWA Board approve the minutes of the regular meeting of 31 March 2021**

**MOTION PUT AND PASSED.**

**3. BUSINESS ARISING FROM MINUTES****a) Transition Implementation Plan Update (verbal)**

James MacKinnon, interim COO, presented on the 26 May 2021 Transition Implementation Plan Update Board Report, with color coded items showing progress to date.

Chief Terry Paul asked if Step 6 was missing from this update. James MacKinnon advised it is not missing from the TIP, however, is not indicated in the update report as the work has not yet begun on that particular step. The attached color coded Transition Implementation Plan shows work that has been completed (green), work that is underway (yellow) and work that has not yet started (red).

#### 4. Economic Regulator Framework

Carl Yates spoke to this report; this is a very important piece of work and something that we have been exploring for quite some time, before the AFNWA was formed, as there was acknowledgement that an Economic Regulator would be required to provide oversight to the utility. Economic regulation of utilities is common. and for water and wastewater utilities in particular, it is important to recognize they are natural monopolies.

Notwithstanding that economic regulation of utilities is considered a best practice, this is new from a First Nation's concept, and we wanted to explore this in a meaningful way with Indigenous Services Canada (ISC). We have had some fruitful outcomes from these discussions. Our initial search focused on two potential options for economic regulation. One was the Nova Scotia Utility and Review Board [NSUARB] for its maturity and the other was looking at the agencies that fall under the First Nations Fiscal Management Act. The latter was the preferred option due to potential legislative restrictions with the NSUARB and from a cultural standpoint as well.

The AFNWA prefers a simplified "One Window" approach for economic regulation and views the FNFMB as the prime agency that could fulfill that role.

Chief Terry Paul asked about # 6: Regulation of Development Charges and asked the CEO for a definition on what is "a well-established cost causation principle". Carl Yates advised that in this situation, this principle is that growth pays for growth. In some First Nations communities (and also municipalities) a developer /development will come in and create a big demand for capacity of the water and wastewater systems. It can be very difficult sometimes for a community to be able to provide those services without a recovery of costs. An example could be a fish plant or a hotel which would both put a significant demand on your wastewater system; it is in the First Nation's (or municipality's) best interest to ensure there is some way to pay for it (as sometimes you may have to upgrade your treatment plant, increase the size of pipes, etc.). The First Nations Tax Commission does recognize this and have legislation in place that allows the recovery of these types of charges. While it hasn't been used extensively across Canada at present, there are a few First Nations that are trying to implement this type of charge. AFNWA is currently working on a pilot project with the First Nations Infrastructure Institute to look at the potential for recovery of costs for future growth in Paqtnkek, one of the communities participating in the AFNWA.

**MOVED BY Chief Terry Paul seconded by Chief Andrea Paul, that the AFNWA Board approve the AFNWA to enter formal discussions with the First Nations Financial Management Board and related agencies under the First Nations Fiscal Management Act to establish a Framework for the economic regulation of AFNWA.**

**MOTION PUT AND PASSED.****7. DATE OF NEXT MEETING**

The next meeting is scheduled for 28 July 2021 @ 9:30 AM

The meeting was adjourned at 12:10 PM

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*James MacKinnon*  
*Board Secretary*

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*Chief Wilbert Marshall*  
*Chair*

The following Information Items were submitted:

1-I Transition Implementation Update (26 May 2021)