

HALIFAX REGIONAL MUNICIPALITY

DARTMOUTH LAKES ADVISORY BOARD MINUTES APRIL 30, 2003

PRESENT: Ms. Audrey Manzer, Chair
Dr. Ron Beazley
Dr. Hugh Millward
Mr. Pierre Clement
Ms. Catherine Lunn
Councillor Cooper
Mr. John Osborne
Mr. Robert Bell
Dr. K. Hellenbrand
Dr. Don Gordon
Ms. Christine Hoehne

ABSENT: Ms. Stephanie Bird
Mr. Paul Hines

ALSO PRESENT: Mr. Mitch Dickey, Planner
Ms. Kenda MacKenzie, HRM Engineer
Ms. Renee Roberge, HRM Engineer
Ms. Lynne Le Boutillier, Legislative Assistant

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1. CALL TO ORDER

The meeting was called to order by the Chair at 5:22 p.m., Findlay Community Centre, Dartmouth.

2. APPROVAL OF MINUTES

MOVED by Dr. Millward and Councillor Cooper that the minutes of the March 26, 2003 meeting be adopted, as circulated. MOTION PUT AND PASSED.

MOVED by Mr. Bell and Mr. Clement that the minutes of the April 23, 2003 special meeting be adopted, as circulated. MOTION PUT AND PASSED

3. APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS

MOVED by Councillor Cooper and Dr. Don Gordon that the agenda be adopted, as circulated. MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES

4.1 CONCERNS RELATIVE TO RECENT PROBLEMS WITH RUSSELL LAKE AND LAKE BANOOK CAUSED BY NEARBY CONSTRUCTION

Circulated in the agenda package was a copy of a letter dated April 14, 2003 from the Hon. T.A. Olive, MLA for Dartmouth South to the Mayor commenting on concerns he has associated with two development proposals on the shores of Lake Banook. The proposals are on the lands of the former Dartmouth YMCA and Paddlers Cove property.

Mr. Glen Warner, an Inspector with NSDOE&L, was introduced. Mr. Dickey noted that Mr. Warner is familiar with the situation at MacPhee Pontiac, Evergreen and Celtic Drive. Similarly, Kenda MacKenzie, an HRM Development Engineer has been involved.

Mr. Warner noted that he had been an Inspector with NSDOE&L since 1981, but was not always involved with erosion and sediment control measures. He referred to regulations which were adopted in 1991 that provided the ability to prosecute for infractions involving erosion and sediment control. In 1995 all statutes were rolled into the Environment Act and a number of regulations came into effect.

The Environment Act is required to be reviewed every five years. As a result, the Environment Act was scheduled to go to the Legislature in 2000. There was public

consultation and some changes proposed, however it was decided to deal with some of the Regulations before reviewing the Act. It was noted that there is more public interest in the associated Regulations than in the Act.

Mr. Warner explained the limits of authority he contends with, pertaining to the fact that nowhere in the Regulations is there a requirement to obtain authorization from NSDOE&L before developing land or subdivisions. He explained he can only take action under Section 67, which pertains to the release of substances having a significant adverse affect on watercourses. He explained that he can't do anything about an exposed pile of soil until it causes a problem, for example.

The Chair questioned Mr. Warner on how the Board can help in having this problem addressed. It was noted that it has to be addressed at the Provincial level. However, he didn't know if the Province could adopt any measures which would be more effective than those of HRM.

In reply to a query, Mr. Warner confirmed that he has prosecuted, but the word "significant", in Section 67, has meant that most prosecutions relate to industrial waste.

Mr. Warner in responding to a question, confirmed his current powers are less than HRM's under Development Agreements, but in the case of as-of-right developments, no jurisdiction has power.

Essentially, Mr. Warner can give advice. In some instances the Inspector can declare an emergency, but he explained how the definition of 'emergency' would not apply to erosion and sedimentation issues. The Chair noted that cumulative impact of erosion and sedimentation could create an emergency situation. Reference was made by Mr. Warner to reluctance to give encompassing powers to Inspectors.

A review followed of the condition of the three problematic sites previously listed and HRM's involvement through Ms. MacKenzie. Ms. MacKenzie confirmed that in situations where a Development Agreement is involved, more can be done, however HRM isn't able to access the bond money immediately to rectify damage. She noted that a tool used is to not issue site inspection orders on properties, especially residential sites. This approach slows down development and gets attention. If the concern is very obvious, a Stop Work Order can be issued, but unfortunately these measures are usually after the problem has occurred however, justification has to be given to obtain these orders.

Ms. MacKenzie advised that consideration is being given to strengthening the environmental measures contained in development agreements. She referred to discussions with Mr. Sibbalt, Enforcement Services, who is involved with By-law W-101, which regulates discharge into storm sewers. At present, the focus of this by-law is mainly

for industrial and commercial situations. Efforts are being made to have the Directors of Planning and Development Services and Environmental Management Services meet with staff to see how By-law W-101 can be expanded to encompass problems in residential situations. Ms. MacKenzie noted the ongoing dialogue with Mr. Warner to determine who has the most power to address a situation. In addition to the actual inspections, follow-ups are made via memorandums and faxes.

Mr. Dickey, referring to item 5.2.1, Proposed Amendments to the Harbour East Land Use By-laws, with respect to implementation of new Erosion and Sedimentation Controls wondered if Mr. Warner was aware of the provisions in the Sackville Drive Land Use Bylaw pertaining to Sediment and Erosion Control, Stormwater, etc.

Mr. Warner referred to the trend to a more regulatory role, rather than advising how a problem can be fixed.

The Chair felt there is sometimes a problem with communication. Often it appears the measures agreed to in development agreements are not conveyed to the actual individual performing the work on the site. It was pointed out that as a condition of receiving authorization to proceed, it is required that the provisions have been read and understood.

In response to how the Board can be of assistance, Mr. Warner indicated he felt that not much more can be done with the process, it just needs to be refined, for example provisions included to acquire the bond money more quickly.

Mr. Warner discussed the Pinnacle Homes, **Evergreen Village** situation. He concluded that there is not much else which can be done, but for them to maintain what they have installed. Unfortunately, due to the soil type and grade of the site, in some rain events, all the erosion and sedimentation control measures will not stop the water going through them, unless it is pumped away.

Referring to **MacPhee Pontiac**, he noted that the soil stockpiled is contaminated. Since the contamination is below a certain level, it can be left on site. He noted that the four stormceptors installed for post development run-off are filled with silt. There is no requirement that they have to be maintained. While there are controls on discharge into HRM storm sewers, i.e. Bylaw W-101, there are no controls for private storm sewers entering a water body.

It was noted that Mr. MacPhee had proposed filling in the marsh across the road with the soil. In such instances, such soils can't be deposited on any site not owned by Mr. MacPhee.

Dr. Gordon proposed it might be worthwhile to find an acceptable use for this

contaminated soil.

Dr. Gordon also expressed concern about the lack of enforcement ability that stormceptors be maintained.

Ms. MacKenzie understood MacPhee Pontiac was scheduling a clean out of the stormceptors.

Dr. Millward reflected that part of the problem is that no development agreement was involved, as it was an as-of-right development. He suggested that a letter be written from the Board to Mr. MacPhee expressing concern. The letter could be accompanied by an extract from the meeting minutes which recorded their presentation to the Board and advice the Board gave at the time.

The third situation reported on was associated with the **Celtic Drive** development. Mr. Warner indicated that he had not been aware of the potential for problems associated with this site until it rained heavily. He instructed the developer to install some erosion and sedimentation control measures. The site was revisited and the developer told to improve them. He referred to the sediment discharge into Lake Banook on March 27 and 30th. The measures taken are still inadequate to deal with the silt conditions. Mr. Clement had previously referred to the storm drain from Celtic Drive to Lake Banook being blocked.

Mr. Warner noted that action is being pursued against Mr. Joe Ross, the property's owner. Mr. Ross will be trying to obtain Occupancy Permits in the near future.

Reference was made to water collecting on Prince Albert Road in the general vicinity. Ms. MacKenzie advised it has no relationship to Celtic Drive. A discussion followed on the condition of **Carter Pond** in this area. Dr. Gordon felt consideration should be given to removing sediment from it. Mr. Dickey suggested that it might be worthwhile for the Board to look into the cleaning up of this wetland. He felt that it might be also worthwhile for Ms. MacKenzie and Ms. Roberge to propose HRM look into the whole drainage basin.

Reference was made to an abandoned silt boom at Paddlers Cove which had been installed when Banook Shores condominiums were being built. Apparently it had been conveyed to Mr. Ross for his use. It is no longer effective and Mr. Warner has requested Mr. Ross remove it.

In closing, the Chair encouraged Mr. Warner to contact the Board if there is anything it can do to expedite his work.

5.0 **NEW BUSINESS**

5.1 **BOSTON PIZZA, 611 PORTLAND STREET, PROPOSED EROSION AND SEDIMENTATION CONTROL PLAN**

In attendance were Jeff Keeler, Boston Pizza and Lorne Gaetz, Thompson Engineering Consultants.

In his introduction, Mr. Dickey recalled that in the early fall this development proposal had been brought to the Board. The developer acquired HRM lands for his restaurant. Mr. Dickey noted that the Board's suggestions following the initial presentation were included in the subsequent development agreement. The proponent was in attendance to present their Erosion and Sediment Control Plan to the Board. Copies were left with the Board.

Mr. Gaetz noted that there have been no substantial changes to the plans originally presented. He noted that due to the lot being fairly flat, with a natural depression toward the centre and the land being below the street grade, erosion and sedimentation control is relatively easy. He noted the catch basin being piped into the stormceptor. He explained why estimates for interception of sediment via the stormceptors have been increased from 85% to 90%.

Reference was made to a silt barrier being installed to contain silt on the site. He noted that there will be a break in the barrier to allow trucks to leave the site. He reviewed the notes on the plans. It was noted that there is some contaminated soil on site. This soil is not contaminated enough to require disposal. All excavated soil will be left on site. It is estimated that less excavation is required than originally planned, ie. 4' to 6' in depth rather than fourteen (14) feet. A question was posed as to whether the excavated soil will be covered to prevent leaching of contaminants. It was indicated that due to the slab construction, this portion of the project will be done very quickly.

Mr. Clement referring to fill, proposed consideration be given to using the MacPhee Pontiac fill, but he understood their reservations.

The proponent noted that some topsoil will be brought in for landscaping. Reference was made to sod being used on a berm and associated fencing. It is estimated that 15% of the lot will be landscaped.

Mr. Dickey referred to provisions in the development agreement requiring maintenance of the stormceptor and a \$10,000 Environmental Protection Bond. Referring to the maintenance requirement, it was recalled that the stormceptors were to be checked twice a year for 'x' number of years. After that the proponent will follow the regular maintenance schedule of the manufacturer. Given the stormceptors discharge into the HRM storm sewer, Ms. MacKenzie indicated HRM has authority to check into the operation of the stormceptors.

4. BUSINESS ARISING FROM MINUTES (cont'd)

4.1 MAYNARD LAKE STUDY

Ms. Renee Roberge, Stormwater and Wastewater Engineer with HRM's Environmental Management Services was present to update the Board on the situation with respect to fecal coliforms in Maynard Lake.

She outlined to the Board the background leading up to the study to determine the cause of fecal coliforms in the Lake. Samples were sent to the US for identification last fall which identified the specific marker for coliforms associated with humans. She outlined HRM's efforts to find the source, through mapping and observation and whether an increase is related to rainfall events. She identified on a map where the sampling was done. It is planned that another sampling be conducted after a rainfall.

The difficulties of finding the source were explained.

A general discussion followed on how useful it would be to have the testing records of the Department of Health for the years Maynard Lake Beach was open. This would provide some baseline data. It was felt that these Public Health records should be located. Concern was expressed regarding what has happened to these provincial records and those of the City of Dartmouth's at the time of amalgamation. Ms. Roberge will ask the Health Department.

Dr. Gordon referred to a study the Board did in the 1970s. It would contain data on Maynard Lake. He will provide Ms. Roberge with a copy. He noted that a number of Board members would be interested in seeing a copy of the report of the US findings. Ms. Roberge will send the Secretary a copy of the final report.

Reference was made to septic systems being used in this area until the installation of sanitary sewers. It was suggested the contamination might be associated with these decommissioned systems. Ms. Roberge explained why dye testing would not be useful in identifying if, one or more of them, is causing a problem.

Ms. Roberge referred to a sewer video having been done and the identification of a lateral no longer in use in the vicinity of the beach. Measures have been taken to take care of this.

Referring to the drop in the level of Maynard Lake due to a stuck valve identified in January, Dr. Gordon observed that having the ability to drop the level of the lake could be beneficial when carrying out subsequent shoreline surveys. This is a capability not recognized before.

Dr. Millward questioned if there is any way to find out the portion of human versus animals contributing to the fecal coliform count. Ms. Roberge will check her notes.

Reference was made to the benefits of the Board receiving copies of water testing results for the various lakes from the Board of Health. The Chair referred to successful initiatives in the past to acquire these on a regular basis. Given the state of the infrastructure, Mr. Clement felt it would be worthwhile for the Board to review the results. Ms. Roberge indicated that any information she receives she will pass along to the Board. Should there not be a central file, Dr. Gordon recalled that he and the Chair likely have some of this information in their files.

4.3 EROSION AND SEDIMENTATION CONTROL HANDBOOK FOR CONSTRUCTION SITES

The Chair noted that at the last meeting reference was made to the Erosion and Sedimentation Control Handbook for Construction Sites dated 1988 and whether it would be beneficial to have it updated, given procedures developed since its adoption. She discussed the matter with Glen Warner before the meeting and he suggested Don Waller be contacted to see what he thinks about a review. The Chair will discuss further, with a few people, the pros and cons of a review at this time.

5.0 NEW BUSINESS - Cont'd

5.2 NEED FOR INCREASED LAKE PROTECTION MEASURES

5.2.1 PROPOSED AMENDMENTS TO THE HARBOUR EAST LAND USE BY-LAWS WITH RESPECT TO IMPLEMENTATION OF NEW EROSION AND SEDIMENTATION CONTROL, STORM WATER MANAGEMENT AND NATURAL BUFFER REQUIREMENTS

Mr. Dickey circulated a draft report entitled "Implementation of Environmental Protection Requirements in the Land Use Bylaw for Dartmouth" prepared for the HECC meeting of June 5, 2003. The report recommends that Harbour East Community Council request staff to undertake appropriate public consultations, in partnership with the Board, and prepare appropriate amendments to the Land Use Bylaws.

Mr. Dickey reviewed the report with the Board. Mr. Clement had to leave, but will review the draft and provide any comments to the Chair.

During the review, the following points were highlighted:

- C Requirements which a municipal land use bylaw might contain, according to the Municipal Government Act.
- C The need to update the land use bylaw to deal with as-of-right developments.
- C Four areas where improvements could be made to address the inadequacies of current environmental protection requirements in Dartmouth related to the following:
 - C Inclusion of Erosion & Sedimentation Requirements in the Land Use Bylaw.
 - C Establishment of required setbacks & buffers from watercourses.
 - C Identification and Zoning of Wetlands and Sensitive Areas to be included in the "Conservation Zone".
 - C Implementation of Storm Water Treatment Requirements.

Mr. Dickey proposed implementation would have to be phased in, noting the staff resource issues.

It is anticipated that a couple of public meetings would be required to obtain input from residents associations and environmental groups. Mr. Dickey referred to the desirability of the Board's involvement in helping staff. Essentially the initiative would just allow the Dartmouth Land Use Bylaw to catch up in this area with the rest of the municipality.

Clarifying the process, it was noted that the report would be forwarded to the Harbour East Community Council (HECC) and HECC then, if in agreement, would direct staff to propose a public consultation process. After the public consultation phase, the Board and staff would draft amendments to the by-law. The amendments would go to a Public Hearing.

Dr. Gordon noted that issues being brought forward are addressed in the HRM Water Resource Management Study. It was confirmed that this is essentially another route to get things done, specifically changes for Dartmouth. The proposal under the Land Use Bylaw may have a faster route as it may be two or three years before the measures contained in the Water Resource Management Study take affect, thus there is benefit to having interim measures in place.

Reference was made to the draft indicating the update of the land use bylaw was to deal with the important issue of as-of-right developments. Mr. Dickey assured the members that adoption of the changes would have a spill over effect to development agreements.

It was decided that the report should be amended to reflect the following:

- C Lot grading and drainage for commercial areas - 5th suggestion.
- C Include Cole Harbour/Westphal

A question was posed regarding whether Harbour East Community Council has the authority to approve all the recommendations. Mr. Dickey assured the Board that most of

what the Board wished achieved can be done through HECC, but items related to the Cole Harbour/Westphal Municipal Planning Strategy would require Regional Council's approval.

MOVED by Dr. Millward and seconded by Dr. Hellenbrand that the draft report be approved with appropriate amendments in light of discussions and be forwarded to HECC at the first opportunity. MOTION PUT AND PASSED.

5.2.2 IMPROVEMENTS FOR WORDING IN DEVELOPMENT AGREEMENTS

One of the aspects being investigated, to improve the wording of development agreements, relates to more easy access to bonding funds if it is determined that there isn't compliance with the environment protection measures agreed to. Mr. Dickey noted this item will come back to the Board.

6. CHAIRMAN'S REPORT

- C The Chairman advised that Wallace MacDonald & Lively have changed their name to Terrain.
- C She will be attending tomorrow night's HECC meeting to give an update on the work of the Board. The Chair indicated she would be giving HECC a heads up that a report will be coming forward re implementation of environmental protection requirements in the Land Use Bylaw for Dartmouth. Secondly, she will stress the limits of the Board's role as an advisory board to Council through staff, versus some of the expectations of the public.
- C The Chair advised of the appointment of Mr. Brad Anguish as Director of Environmental Services for HRM.

7. STAFF'S REPORT

7.1 WATER QUALITY TESTING PARAMETERS REVISED LIST

- C Baseline Water Quality Testing Program for Lake Banook - YMCA and Paddler's Cove Sites

Mr. Dickey indicated the document has been reviewed and the developers have agreed to do the chemical analysis at a number of locations in Lake Banook, described on the accompanying map. The purpose of the testing is to better understand the current water quality.

The Chair questioned where the resultant information would be stored. Mr. Dickey indicated it would put into the individual case files. Dr. Gordon suggested that it should

also be required that a digital copy of the data base be provided to the Planning and Development Services Department.

Reflecting on the location of the test samples, Dr. Gordon recommended that samples also be taken in the middle of Lake Banook, roughly in the area of the words "Lake Banook" on the map. He noted that in previous years samples had been taken from this location. Mr. Dickey will follow-up on this suggestion.

It was noted that these baseline data will also be useful when work commences on the Parclo.

Mr. Dickey suggested that the sampling listed be a requirement in every case involving development on a lake.

Dr. Gordon recalled that about a decade ago, Mr. Bernard engaged a summer student to develop a data base of lake water quality. He wondered what happened to the data base. He felt it would be nice if HRM had the resources to maintain these data bases. Mr. Dickey will enquire about the whereabouts of the above noted data base.

It was proposed that a suggestion be made to Mr. Sheppard's group, Environmental Services regarding having a person(s) designated to track the data bases over time.

HRM WATER RESOURCE MANAGEMENT STUDY

Tomorrow is the deadline for input into the Water Resource Management Study. It was confirmed that the comments made by the Board in the approved minutes would constitute the Board's input. The Secretary noted that a meeting of the three WABs has been tentatively set for Wednesday, June 4th to deal with the Study.

8. DATE OF NEXT MEETING

The next meeting is planned for Wednesday, May 28, 2003.

9. ADJOURNED

The meeting adjourned at 7:55 p.m.

Lynne Le Boutillier
Legislative Assistant

