

HARBOUR EAST COMMUNITY COUNCIL
SPECIAL SESSION
JUNE 22, 1999

PRESENT: Councillor Bruce Hetherington, Chair
Councillor Ron Cooper
Councillor Clint Schofield
Councillor Jack Greenough

ABSENT: Councillor Harry McInroy
Councillor Condo Sarto
Councillor John Cunningham (regrets)

STAFF: Ms. Donna Davis-Lohnes, General Manager, Planning Services
Mr. Roger Wells, Planner
Mr. Greg Gray, Construction Inspector
Ms. Julia Horncastle, Assistant Municipal Clerk

The meeting was called to order at 3:00 p.m. in the Trophy Room, City Hall, Argyle Street, Halifax by Councillor Bruce Hetherington. The Councillor advised the meeting had been called to address the issue of the filling in of the settling pond in Portland Estates.

1. SETTLING POND - PORTLAND ESTATES

1.1 Portland Estates Residents Association

Representatives of the Portland Estates Residents Association and the Chair of the Morris/Russell Lake Public Participation Committee were in attendance.

Mr. Noel Lewis, Portland Estates Residents Association, addressed Community Council outlining the process to date with regards to development around the Morris/Russell Lake area. He stated issues such as the CDD development process, traffic concerns and environmental concerns were identified and addressed. He noted the Municipal Planning Strategy and Land Use By-law for Dartmouth was amended by Regional Council on January 12, 1999 and one of the ML's contained therein was broken with the filling in of the settling pond.

In response to Councillor Schofield, Community Council was advised the Dartmouth Lakes Advisory Committee had not been consulted prior to the filling in of the settling pond.

Mr. Lewis proceeded to state the residents are concerned as it seems there is very little consultation with the advisory committees in place to address these issues as well as a perception that the approval of the MPS and LUB did not flow through proper procedures for approval by Municipal Affairs.

Ms. Davis-Lohnes stated that the MPS amendments became law upon publication of the ad in the paper.

Mr. Roger Wells summarized the major issues relating to the decision to proceed with the infilling of the settling pond advising the pond was not performing an effective function as a lake protection device. He indicated the pond, being in the state it is in, was actually a contributing factor to siltation of the lake due to lack of maintenance over the years noting, soils are clay. He stated as there are only a very small number of lots left to be developed, and given the state of the pond, it would be much better to treat erosion and sediment control on those remaining lots at the source. Mr. Wells also noted there was a safety issue with the pond as the fence was not staying up and, during the winter, children played on the ice. He also noted a recommendation of the Muecke report, that the adjacent lot be purchased in order to enlarge the pond, could not be fulfilled as the adjacent property had been sold.

Councillor Schofield noted that settling ponds do have a limited life span and over time alternatives control mechanisms have to be put in place.

Mr. Wells advised there is an existing CDD agreement on this property and under the terms of that development agreement, development services has the authority to deal with decommissioning or non decommissioning of the sedimentation pond noting, unfortunately, through an oversight, the significance of ML-16 was not understood and a decision was made in the absence of taking this into account.

Ms. Davis-Lohnes advised development services was acting under the authority of the development agreement which entitled them to make the decision. What they were not cognizant of or overlooked was the fact that there was a policy that said that there is merit to maintaining that pond. Whether or not that would have made any difference in their decision or not, remains to be seen. She stated the reality is that you cannot control the issuance of a permit or approvals just because it conflicts with a policy. She stated staff may have acted in the absence of knowledge of the policy or lack of understanding of the significance of ML-16. She stated the maintenance and operation of the pond whether it is decommissioned or not comes under the authority of the development agreement.

Mr. Wells stated given that it was determined that it was the direction of development services to proceed with the infilling of the pond and knowing the intent of ML-16, this item should have gone to the Harbour East Community Council for discussion and direction.

Councillor Greenough stated the pond was causing as much harm as it was correcting and to leave it in place was probably not the right thing to do noting, any further changes or alterations to the plan would come back to the Community Council before a decision is made.

Mr. Lewis noted that the Muecke report advised keeping the pond and enlarging it.

Mr. Greg Gray, Construction Inspector, advised there are good environmental controls in place but he was under pressure from residents, the councillor and others who were calling complaining about the silt getting into the lake. He stated there was muddy water getting into Ellenvale Run and Morris Lake which was not as a result of water coming off the large sites. He stated the water in the manholes was clean. At the pond the water was filthy going into Ellenvale Brook and, upon investigation, it was found that the settling pond was over one third full of silt, an extremely unsafe amount at the base.

In response to Councillor Greenough, Mr. Grey advised the pond itself is saturated with silt. The water coming in was clean running and it was agitating the silt in the base of the pond. It mixes in the pond and then escapes with the water level through the gravel and through an old berm system that is in place which is no longer effective.

Mr. Grey advised there are some problems still being addressed concerning the piping system going into Ellenvale Run noting, when the developer implemented the infilling he had industrial cleaners try to clean out the section of pipe from the cul-de-sac to the pond as it was half full of silt. He advised when new silt is cleaned out, silt that has been backed up in the line works its way down through the system.

Mr. Lewis stated that no alternative measures were investigated other than someone going out and looking at the water coming out of the pond, no sampling or measurements of samples. He questioned why staff would be checking the amount of silt in the pipe once it is filled in rather than prior to filling in.

On query from Mr. Lewis as to whether there were any meetings with representatives of the Department of Environment, Mr. Grey advised that a representative has met with the contractors and is taking a zero tolerance approach to anyone that is not adhering to the regulations. He noted policing of the regulations is complaint driven from residents of the subdivision.

In response as to why the adjoining lot was sold and not bought by HRM to expand the settlement pond, Mr. Davis-Lohnes advised there were no monies identified in the capital budget to purchase the property.

In response to a query as to whether approval had to be sought for development of the lot, Councillor Hetherington advised the CDD is in place and the development of the lot took place as-of-right.

Mr. Grey advised, at the time of sale, the developer provides each purchaser of a lot in Portland Estates a copy of the environmental measures and, under a new procedure, each person who applies for a building permit will be provided a copy of the erosion and sediment control by-law.

Mr. Lewis expressed concern that the short term solution with regards to runoff control will adequately address the long term problem such as surface runoff of fertilizer, etc. once the subdivision is completed. He stated there would be no sediment in the system if it had been working and suggested that focus be towards other, long term, solutions to address the issues as there will always be runoff and those people who are not environmentally conscious will not adhere to environmental protection measures.

Mr. Phil Elliott, Chair, Morris/Russell Lake Public Participation Committee, stated they are looking at the issue of protection of shorelines because, with the slope of the hills, unless there is some long term protection, surface runoff will go into the lakes causing algae growth.

Councillor Cooper noted that the situation that has to be address at the present time is the runoff into Ellenvale Run and the siltation coming through there. He queried what would be put in place to control that as well as the storm water runoff. He stated some mechanism has to be put in place to ensure development agreements are enforced.

MOVED by Councillors Cooper and Greenough that staff report be prepared addressing the questions of what is going to be put in place to address what is happening on Ellenvale Run, what is going to be put in place to control the storm water runoff, through the system, that ends up in the lake and what action is going to be taken to ensure the development agreements are enforced. MOTION PUT AND PASSED.

2. ADJOURNMENT

There being no other business, the meeting was adjourned.

Julia Horncastle
Assistant Municipal Clerk