



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Marine Drive, Valley & Canal Community Council**

~~May 28, 2008~~

*June 5, 2008*

**TO:** Marine Drive, Valley & Canal Community Council

**SUBMITTED BY:**

  
Paul Dunphy, Director of Community Development

**DATE:** May 20, 2008

**SUBJECT:** Jachimowicz Lands at Halifax International Airport

**INFORMATION REPORT**

**ORIGIN**

- October 26, 2005 - Community Council requested a staff report regarding the lands of Mr. Jachimowicz in response to a letter from Mr. Jachimowicz
- November 17, 2005 - Information report submitted to Community Council
- November 30, 2005 - Community Council requested a supplementary report
- July 25, 2007- Community Council requested an update on the motion passed at the November 30, 2005 meeting regarding several matters concerning the Jachimowicz lands at the Halifax International Airport.

## **BACKGROUND**

An Information Report (Attachment A) was submitted to Community Council at its November 30, 2005 meeting in response to a letter Councillor Snow received, dated August 29, 2005, from Jenifer Tsang, representing the interests of S. Jachimowicz and J. Jachimowicz who own property at Bell Boulevard and Bennery Lake. A number of questions were raised concerning certain topics in the report and as a result Council requested that:

1. Staff report on the initiation of the process of the acquisition of the J. Jachimowicz lands;
2. Staff examine the last sentence on page 3, paragraph 3 of the report a provide clarification on the statement made regarding National Car Rental;
3. Staff initiate the process with the Province of Nova Scotia to obtain approval for more extraction (of water) from Bennery Lake and discharging more effluent into Johnson's Brook;
4. Staff report on the extension of the water service boundary to the airport and the lands of Mr. Jachimowicz; and
5. If approved, the extraction (of water) from Bennery Lake include (the servicing) of the communities of Grand Lake, Oakfield, Wellington, Fletcher's Lake, Goffs and Oldham.

For information purposes, Council is aware that a number of policy and governance changes have occurred since the time of the November 2005 report. In April, 2006, Halifax Water assumed responsibility for the Bennery Lake water supply system. In June, 2006, Regional Council approved the Regional Municipal Planning Strategy, and in August 2007, Halifax Water assumed responsibility for all wastewater and stormwater assets (piped sewer, stormwater, wastewater treatment facilities and pumping stations) within HRM.

## **DISCUSSION**

In response to the questions posed by Council, staff presents the following:

### **Question 1: Acquisition of Jachimowicz Lands**

The Municipal Government Act does not require that all lands within any protected water supply area be in public ownership. In the past HRM has been receptive to possible acquisition of such lands through negotiation with land owners but has seldom actively sought such purchases. Halifax Water does, however, actively seek to acquire lands within water supply areas and has an on-going watershed acquisition program, such that if approached by property owners, discussions on potential purchase may commence.

It is suggested that the Jachimowicz interests make formal contact with the General Manager of Halifax Water in regard to this matter.

Question 2: National Car Rental

The 2005 staff report indicated that between 1987 and approximately 2000, several properties in the vicinity of the airport have been connected to the central water and/or sewer systems. In 1998 an underground water lateral was approved for the Airport Hotel and Scotia Speedway. The report further explains that “the water supply has since been extended to National Car Rental without the approval of HRM”. Council is seeking clarification on this matter.

To the best of staff’s understanding, the water lateral to the National Car Rental property was installed without prior knowledge or consent of HRM, and is thought to have occurred at the same time the water lateral to the Hotel and Speedway was installed (1998). In May, 2000, an application for a building permit was submitted for the Car Rental development, which indicated that the proposed building would be connected to central water. The applicant, J. W. Lindsay (or his agent), was informed that approval could not be granted based on central water service, since the property was located outside the “Airport Service Area”. The application was subsequently revised to indicate that an on-site system (well) would be used. At some point during construction of the development, the water lateral was connected to the building. The Utility Operations unit of the day, based on its knowledge of the adequacy of water supply from Bennery Lake, the estimated water usage of the development, and the history of this matter, deemed the water lateral connection acceptable. An occupancy permit for the development was issued in October 2000.

Halifax Water, the current owner/operator of the Bennery Lake water supply system, indicates that the system is capable of continuing the supply of water to National Car Rental, and that its approval process would remain that any future requests for servicing cannot be provided outside the service area without formal approval by HRM.

Question 3: Additional Extraction of Water from Bennery Lake

Halifax Water is presently undertaking a Servicing Study for the HIAA lands and Aerotech Business Park lands as defined by the ‘Airport Service Area’ of the Municipal Planning Strategy (MPS). The study is evaluating future water and wastewater servicing options to determine the growth potential (opportunities / constraints) for lands within the airport service area. The extent to which additional water might be drawn from Bennery Lake and the implications for additional effluent discharge into Johnson’s Brook are integral to the findings and recommendations of this servicing study.

The study is anticipated to be completed by June/July 2008, at which time Halifax Water will be in a position to discuss the findings with the Province and HRM.

Questions 4 and 5:      Extension of a Water Service Boundary to the Airport and Jachimowicz lands and to the communities of Grand Lake, Oakfield, Wellington, Fletcher's Lake, Goffs and Oldham

As described in the response to Question 3, the servicing study currently underway will determine the capacity of Bennery Lake as a potable water supply. Should the study conclude that the lake can service lands in addition to the Airport Service Area, then ultimately Council could decide the extent and location of any new or expanded water service district. This could take place through a Council-initiated planning process entailing potential amendments to the Regional Subdivision By-law, Regional Municipal Planning Strategy and the MPS for Planning Districts 14 & 17.

**BUDGET IMPLICATIONS**

None.

**FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

**ATTACHMENTS**

Attachment A - November 30, 2005 Information Report to Marine Drive, Valley & Canal Community Council

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by :                      Roger Wells, Supervisor, Regional&Community Planning, 490-4373



Report Approved by:                      \_\_\_\_\_  
Austin French, Manager, Planning Services, 490-6717



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Marine Drive, Valley & Canal Community Council**  
**November 30, 2005**

**TO:** Marine Drive, Valley & Canal Community Council

**SUBMITTED BY:** Betty MacDonald  
Betty MacDonald, Director , Governance & Strategic Initiatives

**DATE:** November 17, 2005

**SUBJECT:** Lands of J. Jachimowicz

**INFORMATION REPORT**

**ORIGIN**

October 26, 2005 - Request by Marine Drive, Valley & Canal Community Council for a staff report (Status Sheet Item 12.1).

## BACKGROUND

A water and sewer system serves both the Halifax International Airport and the Aerotech Business Park in an area defined as the "Airport Service Area" in the Municipal Planning Strategy for the Shubenacadie Lakes Plan Area (refer to the attached map). All land within the Airport Service Area is owned either by HRM or Transport Canada..

A service agreement was entered into between the Halifax County Municipality, the Halifax County Industrial Commission, and Transport Canada for the County to provide water and sewer services to the land owned by Transport Canada, so there was no need for a service boundary to be included in the Subdivision By-law.

The water and sewer systems were developed in various stages as outlined below.

- The Bennery lake water system was originally developed in 1960 by Transport Canada to supply the Halifax International Airport.
- The water system was subsequently turned over to the Halifax County Industrial Commission and the Halifax County Municipality in 1987. At this time, the County also expanded both the water system and the sewer system to accommodate the Aerotech Business Park.
- HRM has owned the water and sewer systems since Amalgamation in 1996, and the water system is scheduled to be conveyed to the Halifax Regional Water Commission April 1, 2006.
- The service agreement with Transport Canada is still in effect.
- A Watershed Designation Process has been successfully completed by the Provincial Government (see attached map). The Provincial watershed designation places restrictions on activities such as boating, fishing, forestry, pesticide and salt use. Development can occur but is subject to a 100 metre buffer around Bennery Lake, and also subject to other controls that relate to construction activities.

Since expansion of the water and sewer systems in 1987, several private businesses have been allowed to connect to water and/or sewer.

### The Airport Hotel, Scotia Speedway, and National Car Rental

- The Airport Hotel, owned and operated by Mr. Jachimowicz, is currently connected to the central water system. Prior to connecting directly to the system, the Hotel relied on a private well and supplemented this well by trucking water from a hydrant within the Aerotech Park. As the frequency of trips increased and as traffic in the vicinity of the airport increased, a filling station was constructed on the west side of Highway 102.

- In 1989, Halifax County Council approved a water lateral for the Airport Hotel and Scotia Speedway that was installed above ground, as a temporary supply during summer months when private wells could not meet the demand.
- Due to public health concerns surrounding a lateral that was installed above ground, HRM approved the installation of an underground lateral as a year round supply in 1998.
- The approval for the underground water lateral was conditional on an agreement that the lateral would only serve the Airport Hotel and Scotia Speedway, and that any further extensions would require the approval of HRM. The water supply has since been extended to National Car Rental without the approval of HRM.
- The Airport Hotel is not connected to Municipal Sewer.

#### Odessa Car Sales

- Approval was granted to extend water and sewer services to the Grand Master Winery, which has subsequently become the site of Odessa Car Sales.

#### MacDonald Lands

- No new connections have been allowed since the Grand Master Winery and the Hotel were approved. In fact, a formal request for servicing lands owned by Bernie MacDonald has been denied. The MacDonald land was intended to be used for another car sales business.

#### DISCUSSION

On October 26, 2005, the Marine Drive, Valley and Canal Community Council requested a staff report on the lands of J. Jachimowicz with respect to the letter sent to Councillor Snow, a copy of which is attached.

Three requests were made in the letter, which will be addressed in this report.

1. *"HRM not negatively impact the Jachimowicz lands located on Bell Boulevard and Bennery lake through the Regional Planning Process."*

The Regional Plan is not proposing to change the zoning on any of the lands owned by Mr. Jachimowicz. The area will be designated part of the Rural Commutershed, and all uses that are currently permitted will continue to be permitted after adoption of the Regional Plan.

2. *"The Jachimowicz lands be included in the municipal service district so that they may someday be serviced with municipal water and sewer."*

The sewer and water systems were designed and constructed to accommodate the airport and

Aerotech Business Park. HRM is reviewing the Land Use Designations within the Airport Service Area, and it is expected that this process will be completed in February, 2006. This process is not anticipating extending services beyond the Airport Service Area at this time, and the extent to which additional lands may be considered depends on the capacity of the water and sewer systems.

**Table 1 - Water & Sewer System Capacity, Imperial Gallons per Day (Cubic Metres/Day)**

	(1) Existing Capacity	(2) Existing Average daily Flows	(3) Ultimate Capacity	(4) Allocated to Transport Canada
Water	400,000 (1 818)	250,000 (1 136)	750,000 (3 410)	440,000 (2 000)
Sewer	300,000 (1 364)	250,000 (1 136)	750,000 (3 410)	440,000 (2 000)

Provincial approvals are required for extracting water from Bennery Lake as well as for discharging treated effluent into Johnson's Brook. Approvals are currently in place for the existing water and sewer system capacities given above in column (1).

An additional Provincial approval is required in order to draw in excess of 400,000 Imperial Gallons per Day (1 818 cubic metres/day) from Bennery Lake, and it is not known if this approval can be obtained. An earlier study prepared for Transport Canada recognized that water in Bennery Lake will need to be supplemented with water from Grand lake in order to meet the combined needs of Aerotech Park, the Airport, and surrounding uses within the Airport Service Area.

If an expansion is made to the Bennery Lake water system, the Municipal Planning Strategy requires that consideration be given to servicing the existing developed communities of Grand lake, Oakfield, Wellington, Goffs, and Oldham.

It is even less certain that an expansion to the Sewage Treatment Plant will be permitted due to the low dilution potential of the receiving water.

Extending services beyond the Airport Service Area cannot be considered until Provincial approvals are obtained for extracting more water from Bennery Lake and for discharging more treated effluent into Johnson's Brook. No such approvals are currently being sought by HRM.

3. *"HRM Initiate land acquisition discussions within the watershed lands."*

Although it is desirable to own land within a watershed designated for public water supplies, it is not essential. In the case of Bennery Lake, there have been negotiations with one other private land owner which did not result in a purchase. As well, some Provincially owned lands have been appraised but not purchased.



Apart from lands required for infrastructure and related uses, NO land within the Bennery lake watershed has been purchased, and no negotiations are underway at present.

**BUDGET IMPLICATIONS**

None

**FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

**ALTERNATIVES**

None

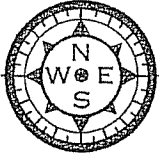
**ATTACHMENTS**

Attachment A - Letter from Jenifer Tsang dated August 29, 2005

Attachment B - Map

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208

Report Prepared by: Peter Duncan, P.Eng., Manager Environmental Assets, Regional Planning, 490-5449



August 29, 2005

Councillor Krista Snow  
Halifax Regional Municipality  
P.O. Box 1749  
Halifax, NS  
B3J 3A5

Dear Councillor Snow:

**RE: S. Jachimowicz Ltd. and Jan Jachimowicz et al (Jachimowicz) Lands located at Bell Boulevard and Bennery Lake**

On behalf of my Client, Jachimowicz, this letter is to respectfully request action on a number of issues affecting their lands (approximately 1200 acres) located at Bell Boulevard and Bennery Lake in the Halifax Regional Municipality (HRM). They are the primary land owners for the lands in both the Bennery Lake Watershed and the commercial lands along Bell Boulevard, including the Airport Hotel.

After having met recently with HRM staff and again with you, it appears that HRM acknowledge that the Jachimowicz lands have unique circumstances and our requests should be addressed in the near future, with benefits to both my Client and HRM.

The long history of these lands started well before amalgamation with the construction of the Airport Hotel in 1978 and the construction of the Bennery lake water main in the early 1980's. During these years, there was an understanding that the Jachmowicz lands were likely to be developed in the future, in fact, they have been zoned to allow residential and commercial development since the Municipal Planning Strategy/Land Use By-law (MPS/LUB) was adopted. There was also an understanding that there would be an ability to connect to municipal water and sanitary sewer services. In fact, the airport hotel, and subsequent development projects located on Bell Boulevard were connected to municipal water. The expropriation of the Jachimowicz lands for the municipal water main has still not been resolved.

In 1998, HRM made application to the Province to designate the majority of these lands as a protected watershed. My Client participated in this process for over two years, with a very cooperative approach. We appreciated the importance of protecting the watershed and inquired about the timing of land acquisition, which is normally part of any watershed designation process. We also inquired about the impacts the designation would have on the development potential of the commercially lands located along Bell Boulevard.

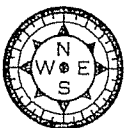
HRM indicated that land acquisition of the Jachimowicz lands is desirable but that only Council can initiate that process. HRM staff was not willing at that time to take the matter to Council. However there were letters between HRM and the Halifax County Waters Advisory Board that land acquisition was recommended and would be initiated. HRM staff explained to us that land acquisition could occur in a number of ways: land purchase, land swap, or an exchange for something else, such as the ability to connect to municipal services for the commercial lands on Bell Boulevard. In September 2001, HRM indicated that the Real Estate Department would look into HRM's land holdings and begin a discussion with Jan Jachimowicz on this issue. No action to date on this issue has been forthcoming from HRM.

During the Provincial designation process, HRM also acknowledged that the Provincial watershed designation would impact the development potential of the commercial lands by increasing the development costs. A twenty percent increase was estimated by Jachimowicz's consultants and that estimate was acknowledged by HRM. HRM assured Jachimowicz that there would be no further negative impacts affecting the Jachimowicz lands, and that the MPS/LUB would not be amended in the future to negatively impact his lands.

In 2003, HRM began the MPS/LUB amendment process affecting the Aerotech Business Park and the applicable policies. This amendment package affects the Jachimowicz lands located along Bell Boulevard because the commercial lands are zoned AE-4. We have been participating in this amendment process since 2003, and have made attempts to initiate the land acquisition discussions because of their relationship to the Bell Boulevard AE-4 zoned lands. In a recent meeting, HRM indicated that it should be HRM rather than the HRWC to discuss land acquisition because HRM have more options for addressing this. Given that the water utility will be transferred to HRWC in April 2006, it was acknowledged that now is the time to get these discussions underway, which will benefit both Jachimowicz and HRM.

When we learned that HRM intended to include a service district boundary (for water and sanitary services) in the AE zone amendment package, we became very concerned because this would very significantly negatively impact the Jachimowicz lands. Following discussions with HRM on this matter, the service district boundary was removed from the amendment package and transferred to the Regional Planning project.

Now we have to be concerned with what the Regional Planning process has in mind for the Jachimowicz lands. The recent part of the history affecting development rights on the Jachimowicz lands has been going on for over seven years. It has been very frustrating, stressful, and costly for Jachimowicz to stay abreast of the latest initiatives by HRM that negatively affect his lands, and to follow along the unfortunate change of staff involved in these initiatives. Jachimowicz has been very cooperative and reasonable with HRM during this time.

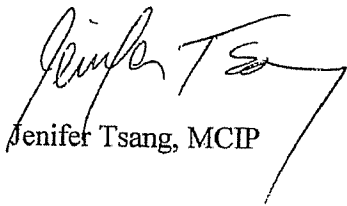


While Jachimowicz wishes to continue to be cooperative and available to further discussion with HRM staff, we feel that we must write to you, our Councillor, with a plea to be heard. We thank you very much for hearing us out during our recent meeting and expressing your support. We are requesting that:

1. HRM not negatively impact the Jachimowicz lands located on Bell Boulevard and Bennery Lake through the Regional Planning process.
2. The Jachimowicz lands be included in the municipal service district so that they may someday be serviced with municipal water and sewer.
3. HRM initiate land acquisition discussions for the watershed lands.

Thank you again for your support. If you require any additional information please do not hesitate to contact Jan Jachimowicz or myself anytime.

Sincerely:



Jenifer Tsang, MCIP

Cc: Paul Dunphy, Director Planning & Development Services  
Jim Donovan, Manager of Planning Applications  
Peter Stickings, Acting Director of Real Property  
Brad Anguish, Director of Environmental Management Services  
Mike Wile, Coordinator, Business Parks  
Jan Jachimowicz, President S. Jachimowicz Ltd.



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