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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 stage 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 business 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

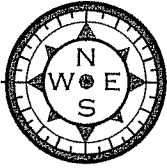
ATTACHMENTS

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.

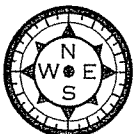
HRM indicated that land acquisition of the Jachimowicz lands is desirable but that only Council can initiate that process. HRM staff was not willing at that time to take the matter to Council. However there were letters between HRM and the Halifax County Waters Advisory Board that land acquisition was 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 Jachmowicz 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.

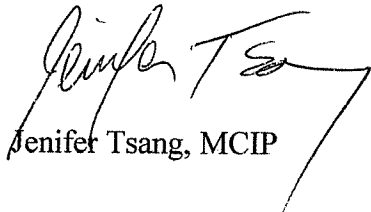


While Jachimowicz wishes to continue to be cooperative and available to further discussion with HRM staff, we feel that we must write to you, our Councillor, with a plea to be heard. We thank you very much for hearing us out during our recent meeting and expressing your support. We are requesting that:

1. HRM not negatively impact the Jachimowicz lands located on Bell Boulevard and Bennery Lake through the Regional Planning process.
2. The Jachmowicz 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.

