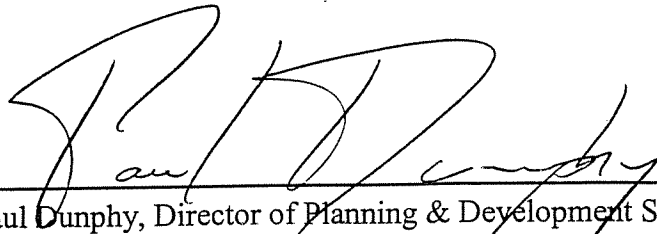


Halifax Regional Council
March 8, 2005

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


Paul Dunphy, Director of Planning & Development Services

DATE: March 4, 2005

SUBJECT: Proposed Highway 111 Interchange

INFORMATION REPORT

ORIGIN

- Letter from Blair Mitchell, representing the Harbour East Friends of the Environment, to The Honourable Joe McGuire, Minister responsible for the Atlantic Canada Opportunities Agency (ACOA), dated February 21, 2005 questioning the lawfulness of the Federal environmental screening undertaken for the Highway 111 interchange.
- On February 24, 2005, The Harbour East Friends of the Environment filed an application for judicial review in the Federal Court.
- At its March 1, 2005 meeting, Regional Council set March 22, 2005 for the public hearing to consider adopting new policies for the Morris-Russell Lake Master Plan area.
- Letter from George McLellan, CAO to ACOA dated March 7, 2005 requesting that ACOA funding be guaranteed until after all legal challenges have been resolved.

BACKGROUND

In 1999, Regional Council amended three Municipal Planning Strategies (i.e. Dartmouth, Cole Harbour/Westphal and Eastern Passage/Cow Bay) to encourage serviced development in the Morris-Russell Lake. Development in the area was pending confirmation of funding for the Highway 111 interchange (i.e. the Circumferential Highway) and development of additional policy to guide the preparation of a storm water management plan. Since that time, funding for the interchange has been announced and detailed policies for development of the area have been finalized. These will be considered by Council at a public hearing on March 22, 2005.

The Highway 111 interchange is a crucial piece of infrastructure for the Morris - Russell Lake master plan area. The interchange is intended to assist in relieving existing traffic congestion on Portland Street and is crucial to accommodating new traffic generated by proposed residential and commercial growth in the area. In addition, the interchange will provide access to the Woodside Industrial Park by extending Mount Hope Avenue and therefore will enhance opportunities for attracting new business to the area.

The interchange project has been identified by the Municipality as its top transportation infrastructure priority and has been approved for funding under the Federal - Provincial Infrastructure program. The \$2.5 million in funding (i.e. \$1.25 million from the Federal and Provincial governments respectively) is a significant financial contribution toward the interchange's estimated \$7 million construction. The remaining construction costs will be split between the private sector and HRM pursuant to the Municipality's Capital Cost Charges policy.

In the Harbour East Friends of the Environment letter of February 21, 2005 to the Minister of ACOA:

- the lawfulness of the scope of the Federal environmental screening process undertaken for the Highway 111 interchange was challenged;
- it was stated that as a consequence, any decisions based upon this environmental screening are unlawful; and
- the Minister was asked not to "make or authorize financial assistance for the purpose of the project" until an expanded environmental screening has been completed.

HRM's Legal staff is conferring with Federal Department of Justice staff to determine the appropriate legal response to the court challenge. In addition, Planning and Development staff have contacted Mr. Mitchell and offered to meet with his clients prior to the public hearing to discuss any concerns they have about development of the Morris - Russell Lake area.

DISCUSSION

In order to actually receive the approved Federal - Provincial funding a project must be completed by March 31, 2006. If not completed, the funding will be lost and cannot be transferred to a new project. At this point it is not known whether the court challenge will be resolved relatively quickly, or whether it will take a very long time to move through the courts. In addition, even if the court challenge is dismissed promptly and Regional Council adopts the Morris - Russell Lake master plan policies, a further delay might be encountered. Prior to construction proceeding, Harbour East Community Council must approve a development agreement. This decision can be appealed to the NS Utility and Review Board, resulting in an additional delay of a minimum of six months.

At this time, we cannot foresee the outcome of the court challenge, Regional Council's public hearing or the subsequent Harbour East Community Council public hearing. Having said that there is a significant possibility that these legal challenges will frustrate Council's ability to make effective

land use and infrastructure planning decisions by virtue of losing the ACOA funding for the interchange. If the legal challenges extend beyond ACOA's funding deadlines, the risk of losing their funding is very real.

In order for Council to keep its options open in this unusual situation it is critical for ACOA to confirm that the Federal and Provincial funding will be guaranteed until all legal challenges have been dealt with. In addition, there needs to be sufficient time following this for the Municipality to construct the interchange. A letter has been sent to ACOA requesting this assurance (see attached).

ALTERNATIVES

None at this time.

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

Letter dated March 7, 2005 from George McLellan, CAO, to ACOA

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 & Approved by: _____
Paul Dunphy, Director, Planning & Development



P.O. Box 1749
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March 8, 2005

John Knubley, V-P of Halifax ACOA
1801 Hollis St., St. 600
PO Box 2284, St. M
Halifax, NS B3J 3C8

Dear Mr. Knubley:

RE: Highway 111 Interchange

As you are aware, \$2.5 million has been approved under the Federal - Provincial Infrastructure Program toward construction of a new interchange on Highway 111. This interchange will improve existing traffic congestion on Portland Street and accommodate new traffic generated by proposed residential and commercial growth in the Morris - Russel Lake area. In addition, the interchange will attract new business to the Woodside Industrial Park by extending Mount Hope Avenue.

In a letter dated February 21, 2005, from Blair Mitchell to the The Honourable Joe McGuire, Minister responsible for the Atlantic Canada Opportunities Agency (ACOA), the Minister was asked not to "make or authorize financial assistance for the purpose of the project" until an expanded environmental screening has been completed. Furthermore, I understand a court challenge has been filed questioning the validity of the environmental screening process used by the Federal Government during their review of the Highway 111 interchange.

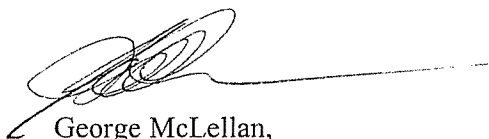
It is our concern that the court challenge has thrown into doubt funding for the Highway 111 interchange. This will cause construction to be sufficiently delayed that, even if the court challenge is dismissed, there will be insufficient time to complete the project prior to ACOA's funding deadlines. We do not wish to see this funding opportunity lost.

In addition to this, I am today in receipt of a letter from your joint Infrastructure office with the Province (attached) which references an exposure "to schedule risk" on this project. While, we will be responding to this letter and its other aspects in separate correspondence, this raises further concerns as to your position in this matter as we see the project as achievable.

Given the unusual circumstance, we request an assurance from ACOA that the \$2.5 million of Federal and Provincial funding will be guaranteed until these legal challenges have been dealt with and the Municipality has sufficient time to actually construct the interchange without risk of the funding being withdrawn.

This situation is not due to any fault of HRM's. The court challenge is with regard to a Federal process and we hope you will be flexible in applying ACOA's spending deadlines to accommodate the extenuating circumstance we both find ourselves in. If not, there is a very real possibility the long anticipated traffic solution and the settlement-growth opportunities will be in serious jeopardy for what will likely be unsubstantiated concerns regarding your process. We look for your support in ensuring this project is not lost while this legal action runs its course.

Yours truly,



George McLellan,
Chief Administrative Officer

cc: Dan English, Deputy CAO for HRM
Mayor Peter Kelly
Charles Gaudet, Special Assistant to the Hon. Geoff Regan
Hon. Geoff Regan, Minister of Fisheries and Oceans
Mike Savage, MP for Dartmouth-Cole Harbour

CHIEF ADMINISTRATIVE OFFICE

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