

HALIFAX REGIONAL MUNICIPALITY

HALIFAX/HALIFAX COUNTY WATERSHED ADVISORY BOARD

MAY 16, 2001

MINUTES

PRESENT: Ms. Colleen McNeil, Vice-Chair
Mr. Donald Mason
Mr. David Dwyer
Mr. Walter Regan
Mr. Ross Evans
Ms. Ellinor Williams
Mr. Frank Hope
Mr. Shalom Mandaville
Dr. Barry Thomas
Mr. Peter Murray
Mr. Kyle McKenzie

ALSO PRESENT: Mr. Gary Porter, Planner
Ms. Lynne Le Boutillier, Assistant Municipal Clerk
Captain John Owen, Junior, Guest

REGRETS: Mr. Mack McMenemy, Dr. Wayne Stobo, Mr. Peter Shacklock, Mr. Glen Williams, Mr. Keith Manchester and Mr. Mark Leaman

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The meeting was called to order by the Vice-Chair at 6:40 p.m.

0.1 INTRODUCTION OF NEW MEMBER

Mr. Donald Mason, who was recently appointed under Section 2.2 (d) of the terms of reference which reads "such other members as determined from time-to-time by Community or Regional Council in consultation with the Board", was introduced to the Board.

1.0 APPROVAL OF AGENDA

The following item(s) were added to the agenda:

- 2.0 Under approval of the minutes, Mr. Dwyer had two items he wished to raise.
- 4.1 Update Fall River Sobeys Development

2.0 APPROVAL OF MINUTES

The following changes were required to the April 18, 2001 minutes:

- Page 1, Mr. Manchester omitted from those in attendance.
- C Page 6, second to last paragraph - Reference to 'Lower' Sackville River should be changed to 'Little' Sackville River.
- C Page 11, item 4.4 - Change spelling to names from 'Dhillon' to 'Dillon' and 'John Small' to 'Dr. John Smol'.

Mr. Dwyer, who was absent from the April meeting, expressed concern that an e-mail he sent with changes re an item related to a lobster plant application and the Musquodoboit Sobeys on page 7 of the March minutes may not have been acted upon. The e-mail had indicated the need to change some figures in the item regarding attendance at a Marine Drive, Valley and Canal Community Council meeting and the fact the development agreement had been approved. The Clerk assured him this was done and noted his e-mail was referred to under item 2, Approval of March 21st Minutes, in the April 18 minutes.

Secondly, Mr. Dwyer made reference to the comment in the April minutes regarding the fact that he was considering resigning from the Board. Concern was expressed by Board members that he should be considering resigning and he subsequently received a letter indicating the Chair's desire that he continue on the Board. He has reconsidered his resignation and plans to remain, particularly as he would like to see the guidelines with

respect to tree cutting adopted. Present tree cutting practices are destroying watersheds. He noted that information on this topic has been turned over to Margo Cantwell, EDM to be considered in relation to the Water Resource Management Policy. He plans to bring forward a modified proposal to the Board in the form of Tree Cutting Guidelines in the fall. He felt there is a need for a statement from the Board on this subject.

3.0 BUSINESS ARISING FROM MINUTES

3.1 APPLICATION SOBEYS LAND HOLDINGS LIMITED AND CANADIAN TIRE LIMITED TO ENTER INTO A DEVELOPMENT AGREEMENT IN ORDER TO PERMIT RENOVATIONS TO THE DOWNSVIEW MALL INCLUDING THE REMOVAL OF THE FORMER K-MART BUILDING AND THE CONSTRUCTION OF A NEW CANADIAN TIRE STORE

Copies of the draft report prepared by Ms. Williams were circulated in the agenda package.

During review of the draft, the following changes were suggested:

- C The format be changed so that the Recommendations Section follows directly after the Origin Section.
- C The Background Section required a bit of clarification, given the original mall was constructed twenty-five (25) years ago, but the area which is the subject of the application was developed in the early '90s.
- C Recommendation 10 - Reference to a 58" pipe should be changed to 48". The second line to be edited to read - These devices help with debris removal and other pollutants which improves the stormwater quality and allows retention ponds to be smaller and improves the efficiency of wetlands.
- C Addition of a Recommendation 12 - Storm drainage from foundation and roof drains to be directed to ground infiltration galleys (for both the mall and the new Canadian Tire Store).

Thanks were extended to Ms. Williams on the work she had done in drafting the report.

3.2 RESPONSE OF MAYOR TO BOARD'S LETTER RE LIMNOLOGY/BIOLOGY EXPERTISE

Circulated in the agenda package was Mayor Kelly's response to the Board's letter of January 26, 2001 addressing the concerns of the Board regarding water quality monitoring requirements set out in municipal development agreements, in particular the Glen Arbour development and the need for expertise within HRM on water quality monitoring.

Ms. McNeil gave some background on the Glen Arbour development situation for the benefit of the new members. She noted that the Board's recommendations had been essentially watered down. Upon reflection, the Board felt there was a need for HRM to engage an independent limnologist.

It was noted that while the correspondence indicates staff is trying to identify resources to carry out further sampling of Sandy Lake, they have not identified what they will do if a problem is found, other than update the Board or what parameters they intend to use for the testing.

The correspondence indicated that HRM will await the outcome of the Water Resource Management Study to identify what staff resources, with expertise in water quality monitoring, are required.

Mr. Regan felt that the response to be a good one, as staff has taken the Board's concerns seriously and are trying to find resources to conduct the testing, hopefully to be followed by mitigation. He expressed concern with the delay in dealing with such concerns until the Water Resources Management Study is completed. If the policy is not adopted, a lot of work will have been delayed. He felt the letter to be positive and supportive of what the Board is doing.

Reflecting on the Glen Arbour situation, Mr. Mandaville indicated why he is not pleased with the process to date but noted at least there is some admission there are problems and staff is trying to sort them out. Mr. Regan suggested the correspondence be tabled.

Referring to the **development agreement** for the **Sobeys' development in Musquodoboit Harbour**, Mr. Dwyer indicated he has not seen the last draft. He noted that at the Marine Drive, Canal, Valley Community Council meeting where the development agreement was approved, it was done so on condition that Petpeswick Inlet would be monitored before, during and after construction of the Sobeys store. The Board requested that Ms. Corser be contacted for a copy of the signed development agreement, so it can ascertain whether the Board's recommendations are included. It was felt that it is important for the Board to review such agreements to ensure their recommendations are included and if not, staff explain why they are not.

Mr. Porter explained that when staff is negotiating development agreements input is received from a number of groups. In some instances, there are conflicting recommendations which have to be sorted out before staff makes a decision on what to include.

It was decided to adopt a practice that copies of development agreements the Board had input into, be routinely provided. Mr. Porter suggested that if the Board wishes this to be adopted as an official process, a letter be drafted to Paul Dunphy, Director of Planning and Development Services, expressing the Board's concern that some of the Board's recommendations are not making it into development agreements and in such instances the Board would like to know why not. The Vice-Chair will write a letter. Mr. Dwyer suggested the letter be copied to the Mayor. Ms. McNeil will try to work in as response to the Mayor's letter.

Mr. Regan's preference would be to see the Board's recommendations, in their entirety, attached to the Development Agreements. Mr. Dwyer believed that the Board's recommendations were appended to the Sobeys' Development Agreement for Musquodoboit Harbour. Mr. Porter suggested that they might have been attached to the staff report. He noted the various planners adopt different styles. It is standard practice for the Board to provide its recommendations to the proponents as well as to staff and community councillors.

3.3 ASHBURN CORRESPONDENCE

Circulated at the meeting was a draft letter to Kevin Warner re baseline water quality testing for the Ashburn Golf Course expansion. Ms. McNeil noted the correspondence was developed with the assistance of Ms. Corser and Mr. Mandaville. She related the background of the item wherein the Board's recommendations for testing parameters and frequency of monitoring were changed by HRM during negotiations with the developers. The requirements contained in the development agreement were less stringent than the Board's recommendations. The developer asked Jacques Whitford to develop terms of reference. While the terms of reference were reviewed by HRM, the Board and Department of Environment, shortcomings in frequency and units of measurements were missed. It was emphasized the developer was not the problem. The developer followed the conditions of the development agreement. Mr. Mandaville had pointed out the shortcomings to the Board. Dr. Thomas agreed the measurement parameters were not sensitive enough by a thousand fold. Different methodology would have to be used to achieve these more accurate results.

Given the developer is not at fault and the development has not yet proceeded, the Board decided to ask HRM to conduct appropriate baseline testing.

Mr. Mandaville referred to his February 28th submission, observation No. 1 which states "The baseline study for Beaver Pond should be conducted involving water quality parameters and

characterization of the species of benthos present which could act as indicator species of environmental degradation” copied from the Board’s recommendations.

During review of the draft, it was felt that the last paragraph should be deleted and reference be made to any further testing conducted should follow the Board’s recommendations with measurements by microgram/litre for accuracy and sensitivity if the future monitoring is to provide meaningful and worthwhile comparisons.

Mr. Mason questioned what standards are being used. Mr. Mandaville noted that the Province has no standards. The only province which does is Ontario. Mr. Mandaville referred to the Eutrophication of Waters Report, extracts of which were provided to the Board last March. The Vice-Chair noted that the Board tailors its recommendations to the individual development proposal. She also referred to the Parameters for Water Quality Testing Report, drafted by a sub-committee headed by Dr. Burnie. While this report has been forwarded on to HRM, it has not been approved by the Board. The Board is awaiting input from the DLAB and BWAC.

Mr. Mason reflecting on the above, questioned whether the Board’s recommendations are enforceable. It was noted that if they are written into a development agreement, they are enforceable. The recommendations reflect the combined expertise of the Board members. Mr. Mason concluded they were thus based on good practice versus legislation.

Referring to the development agreement, Mr. Regan noted that while it might be signed, there is nothing stopping the two parties getting together to renegotiate portions. He hoped HRM will discuss with the developer. Mr. Mason questioned what the cost implications would be to changes in testing. Mr. Mandaville indicated tests conducted at the VG are in the order of \$15.00 a sample.

Referring to the recommendations dated October 24, 1996, Mr. Mandaville noted that the indicator species referred to in the second recommendation were not included in the development agreement. Ms. McNeil will make reference to this in the redrafted letter.

Mr. Porter suggested the letter be addressed to Paul Dunphy, Director of Planning and Development Services instead of Mr. Warner. Ms. McNeil recalled Susan Corser suggesting the correspondence be written to Mr. Warner, copied to Paul Dunphy. It was noted that neither Kevin Warner or Tony Blouin have the authority of Paul Dunphy. The Vice-Chair will discuss with Ms. Corser. In the correspondence to the Mayor, previously discussed, Ms. McNeil will reference this case.

4.0 NEW BUSINESS

4.1 SOBEYS - FALL RIVER

Ms. McNeil advised that she received a telephone call from Kevin Warner, Development Officer, updating her on the Fall River Sobeys situation. She provided background on the development for the new members, noting the problem with stockpiling of pyritic slate on the site has been ongoing for two years. Mr. Williams, an area resident and member of the Board, has been quite active in monitoring the situation and writing letters.

Mr. Warner reported he made a site visit last week, to determine if erosion and sedimentation is affecting Lake Thomas. He has requested the developer to set up temporary measures to deal with the soil erosion. The measures involving riprap rock will be set up next week. In the interim, the developer has made application to the Department of Environment to have the acid slate disposed of. Ms. McNeil assured the Board that Mr. Williams will provide them with future updates.

Mr. Mason posed questions on procedure. He wondered if the Department of Environment plays a role and if the Board had complained to them about the situation. No one could recall if the Department had been contacted regarding this matter. It was felt that it was more a problem of enforcement of the development agreement by the HRM. Enforcement problems have been encountered by HRM due to lack of staff resources which Mr. Evans noted that Mayor Kelly made a commitment to address.

5.0 CONCEPT PLANS

None.

6.0 STATUS SHEET

Midyat Investments Mainland South - Mr. Porter reported this item has been on the back burner for awhile. Objections were raised by the Engineering Department re the staff report. A number of problems need sorting out including traffic volumes, overflow of the pumping station, etc. The development is not a big priority for the developer, but is likely to be coming forward to Community Council sometime in September. The Board will not see the item again.

Subdivision Concept Plans - Mr. Porter recalled Paul Morgan was to write a report on under what circumstances concept plans would come before the Board. He will remind him.

Subcommittee on Parameters for Water Quality Testing - No response has been received to date from either BWAC or DLAB. The Board had been waiting for their

responses before adopting the report. Ideally it was desired that both the DLAB and BWAC would adopt the report as well. The Vice-Chair will write another letter to these committees, attaching a copy of the report requesting input by September. Mr. Mandaville noted that a copy of the report has been provided to EDM and HRM.

For the benefit of the new members, it was noted that besides Dr. Burney being on the sub-committee, there was representation from the Department of Environment and Environment Canada.

Once adopted Mr. Mason felt it would be worthwhile to provide copies to those involved in the development industry.

Mr. Mason proposed that if the Board is not contacted by the next meeting, he will suggest it be recommended to those drafting the by-law that the Parameters for Water Quality Testing constitute part of the approval process for future applications, thus everyone will be forewarned that the Board expects reasonable standards and good practices to apply.

The Chair felt there will be a need for the document on parameters for water quality testing to be reviewed by the members again.

Construction Demolition Landfill Sites - Ross Evans reported that this subject has been put on the back burner, maybe until fall. Mr. Porter offered to contact Mr. Pyle. He anticipated Mr. Pyle would be returning to the Board in July. Mr. Mason posed questions about the role of the Board in this process. Mr. Regan noted the Board was asked to comment on it from a waters perspective. Mr. Mandaville noted that Mr. Pyle indicated there would be a combined meeting of the three waters groups. The Chair reflected that the Board does not have enough information to date to comment. Mr. Mason indicated that he knew of other groups who were asked for input and have responded. Confidence was expressed that the Board will not be overlooked.

Location of on site disposal beds in new subdivisions - Circulated at the meeting was a letter from the Mayor in response to the Board's letter of March 13, 2001 regarding proposed policy on location of onsite disposal beds in new subdivisions. Mr. Mandaville reflected that the correspondence is very positive and obviously John Sheppard is supporting the Board. He felt Mr. Sheppard should be congratulated.

Comprehensive Water Resource Management Policy Steering Committee Update - Mr. Dwyer questioned the status of this item, noting Mr. Mandaville and Mr. McKenzie would be representing the Board. Reference was made to a copy of an e-mail provided as an information item from Mr. Sheppard advising that a work plan and schedule has been

received from EDM to complete the remainder of the project. These are being reviewed by staff. The workplan includes interaction with the Watershed Advisory Boards.

Mr. Mandaville advised that he is routinely in touch with Margo Cantwell, EDM. For the benefit of the new members, he noted that the Board had contributed to the drafting of the terms of reference for the Study. He concluded the delay reflects Mr. Sheppard not wanting to involve the HRM in matters which should fall under Federal and Provincial jurisdictions. Ms. Cantwell has given him a number of suggestions. These will be reviewed by a Committee John Sheppard chairs. The Committee is made up of Tony Blouin, Austin French and Alan Brady. Two meetings with stakeholders are planned. Mr. Mandaville assured the members that he will push for everything the Board wants, including Mr. Dwyer's tree cutting guidelines. Mr. Mandaville understands from Margo Cantwell that the Policy will come back before the Board. The project is at least four months delayed.

Mr. Mason questioned if the Policy will deal with sewage systems predominately. He was advised this is not the case and he was referred to the HRM's Website to review the terms of reference.

Glen Arbour - Discussed earlier. See item 3.2.

Bonding - Mr. Evans requested this item be deferred to the June meeting. He would like to discuss with the Mayor's Executive Assistant and Paul Dunphy current practices. Mr. Mason noted that any bond has to be quantifiable.

Membership - Ms. McNeil advised that the three members with poor attendance have been contacted in writing. A letter of resignation has been received from Mr. O'Toole.

Jurisdiction Update - Changes in jurisdiction proposed by DLAB reflecting watersheds had been previously agreed to by the Board. A decision on Anderson Lake has been deferred by BWAC. Before taking a recommendation to the Community Councils, it was felt the DLAB would be desirous of a letter in writing from the Board.

7.0 DATE OF NEXT MEETING

The next meeting is scheduled for Wednesday, June 20, 2001. Mr. Mason questioned whether meetings will be held the months of July and August. This matter will be addressed at the June meeting.

INFORMATION ITEMS:

- 1 **Membership List** - It was suggested that the membership list reflect which district or organization each member represents.

- 2 **BWAC Minutes** - Approved minutes for April circulated at the meeting. Ms. McNeil noted reference to Councillor Goucher and Mr. Hoyle are to meet on the WAB's submission.

- 3 **Paleolimnology: an important tool for effective ecosystem management.** Information on this subject was provided by Mr. Mandaville. He encouraged the members to read the material as it had a lot of practical value.

- 4 **Meeting Schedule** - A schedule of hearings and planning advisory committees was provided. Ms. McNeil highlighted a Public Hearing, May 22 related to the Northland Fisheries proposed conversion.

- 5 **DLAB Approved Minutes** - Mr. Mandaville expressed concern that the approved minutes of the January and March DLAB meetings were not provided. The Clerk explained that it had been agreed by the Chair of the DLAB and Dr. Stobo that exchanging minutes between the Chairs would suffice and members could avail themselves of these sets, thus saving on copying.

- 7 **Case 00282, Mitchell Bay** - Final Recommendations provided to the members.

- 8 **Petpeswick Golf Course Stormwater and Erosion Assessment** - A letter dated May 1, 2001 to Ms. Spencer from Ekistics Planning & Design was provided. An investigation letter from Mr. Pinhey was attached. This review of the efficiency of the Sediment and Erosion Control Plan prepared in June 1999 had been undertaken and it was concluded there had been very little off site sediment and likely the same held true for the on-site sediment. The Vice-Chair noted the report to be very positive.

The report refers to visits from Mr. Dwyer on several occasions. As previously pointed out to the Board, Mr. Dwyer once again expressed concern regarding the condition of a culvert under the access road. He circulated pictures of the blocked culvert and the effect it is having in backing up water. He noted that no one appears to want to take responsibility for cleaning up the culvert. Although Mr. Baker has indicated he would handle, apparently it falls within the Department of Transportation's jurisdiction.

Referring to comments in the report re visits from a member of the Watershed Advisory Panel, Mr. Mason questioned whether Mr. Dwyer's visits were as an official agent of

the Board or citizen. He felt it important that the role of members in such circumstances be discussed at a later date. Mr. Dwyer agreed there was a need.

A discussion followed on whether or not there had been a Stormwater and Erosion Control Plan. It had been suggested that while there had been a development agreement, there had not been a stormwater and siltation plan, but the letter from Mr. LeBlanc indicates one was endorsed by the Board in 1999. Mr. Dwyer recalled it was at the time of the Municipal strike and the local councillors gave the go ahead even without the plan.

To the best of Mr. Regan's recollection, he believed the development agreement was never passed or the development agreement was approved but the necessary permits were not. The process appeared to fall apart and the developer just commenced work. Letters were subsequently written by the Board expressing its concern.

The Vice-Chair will write a letter to Ms. Spencer commenting on Mr. Dwyer's concerns re the culvert and the comments in Mr. Pinhey report that construe Mr. Dwyer's site visits as a Board official, with the ability to endorse work. Item will be put on next month's agenda.

- 9 Mr. Mandaville reviewed progress made on the **HRM Web site**. He noted that agendas are not being routinely uploaded, however. He indicated that the balance of the Board's minutes can be uploaded from the R-Drive, when saved there. He has been in contact with Kelly Marney, Web master and Brent Robson, Corporate Library. The Clerk indicated that authorization for resources to be used to transfer these minutes has not been received. It would have to be done on a voluntary basis and if the precedent was set, it is anticipated that other boards and committees will desire their approved minutes since amalgamation uploaded, which could be very time consuming. Some concern was also expressed regarding whether electronic files for all meetings are still available, given at the time of amalgamation, only the hard copies of approved minutes would have been required for record keeping purposes.

9.0 **ADJOURNMENT**

The meeting adjourned at 9:30 p.m.

Lynne Le Boutillier
Assistant Municipal Clerk

