

HALIFAX REGIONAL MUNICIPALITY

HALIFAX/HALIFAX COUNTY WATERSHED ADVISORY COMMITTEE

July 18, 2001

MINUTES

PRESENT: Dr. Wayne Stobo, Chair
Ms. Colleen McNeil
Mr. Donald Mason
Mr. Mark Leaman
Mr. Walter Regan
Mr. Ross Evans
Mr. Keith Manchester
Ms. Ellinor Williams
Mr. Frank Hope
Mr. David Dwyer
Mr. Bill Ernst
Mr. Lawrence White
Mr. Jim Holmes

ALSO PRESENT: Ms. Lynne Le Boutillier, Assistant Municipal Clerk

REGRETS: Dr. Barry Thomas, Mr. Glen Williams, Mr. Kyle McKenzie and Mr. Shalom Mandaville

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

0.1 **INTRODUCTION OF NEW MEMBER**

Mr. Bill Ernst, who was recently appointed as the representative of District 19 was introduced to the Board.

0.2 **RESIGNATION**

The Chair advised that he has received a resignation letter from Mack McMenemy.

1.0 **APPROVAL OF AGENDA**

Item 4.1, Case 00173 - Rezoning Application on Rosewood Avenue in Timberlea was moved up on the agenda, as the Planner, Paul Morgan, was in attendance.

2.0 **APPROVAL OF MINUTES**

The following change was made to the June 20, 2001 minutes:

- C Page 7, item 4.4, first sentence should be revised to read "Mr. Hope suggested the Board's recommendations could include a **suggestion that** when the economic situation **permits** care must be used in **the** selection of **an appropriate** indicator species".

The minutes, as amended, were adopted on motion Mr. Regan and Ms. McNeil.

4.0 **NEW BUSINESS**

4.1 **CASE 00173 - REZONING APPLICATION ON ROSEWOOD AVENUE IN
TIMBERLEA - NINE MILE RIVER AMENDMENT/WATERSHED AREA**

Circulated in the agenda package was a memorandum from Paul Morgan dated July 10, 2001 regarding the above noted case. Before commencing his presentation, Mr. Morgan noted that the proponent had hoped to have his engineer Don Williams in attendance when this item came before the Board, but Mr. Williams was on vacation. Mr. Morgan indicated that Mr. Williams would likely be available for the next meeting. The Chair explained that the practice the Board follows is to speak with the Planner associated with a case first and if the Board feels there is a need for more information, have the proponent in at a subsequent meeting.

Mr. Morgan noted that Mitre Construction Ltd. owns two undeveloped properties on Rosewood Avenue. The properties extend from Rosewood Avenue to the Nine Mile River. The properties are separated by a lot which contains a municipal sewage pumping station. It is being proposed that one of the lots be subdivided into two. For the development to proceed, a portion of each lot would have to be rezoned from R-2 and P-4 (Conservation) Zone to R-1 (Single Unit Dwelling). Everything below the sewer easement to Nine Mile River is zoned Conservation (P-4), above R-2.

Mr. Morgan referred to a 1978 CBCL study conducted to ensure that proposed sewage pumping stations were not located in a flood plain.

It was noted by Mr. Morgan that the lots provide access to the River. Staff has discussed with Parks and Recreation obtaining these lands for open space.

Mr. Morgan reviewed with the Board policies related to the Conservation Designation, i.e. lands should remain structurally undeveloped wherever possible. The only exception being if houses were there before the by-law came into effect. Grandfathering would allow an addition to an existing structure. Normally Council could not consider any development in a flood plain.

In order to build homes, in filling back from the road is proposed. The engineers feel the amount of in filling will not adversely affect the flood plain area.

Reference was made to the Public Information Meeting held November 2000 on this proposal. Concerns were raised regarding the cutting down of trees, odor and overflow from the sewage pumping plant when power was lost, constrictions in a downstream culvert at Highway 103 and the potential of a large scale development upstream affecting the flood plain. There was concern that CBCL did not take into account future large scale developments when determining the flood plain.

Members remarked that there are other reasons associated with protecting a flood plain related to fish habitat, etc. Ms. McNeil remarked that putting the potential for flooding aside, the land was designated Conservation for a reason. She did not understand the point of zoning Conservation if the zoning can be changed.

Mr. Morgan referring to the Policy noted that the Community Council is under no obligation to rezone the lands, but allows for this to be considered.

A discussion followed on the feasibility of moving the proposed structures closer to the road. This would require less in filling. Mr. Morgan indicated if the lands were correctly zoned, a

minor variance would be required.

Mr. Regan indicated he was not prepared to support the rezoning. However, he reflected that the proponent might be prepared to do a mini study to confirm they would be outside the flood plain. Secondly, he expressed concern regarding water access. He felt HRM should buy the lots for this purpose. Thirdly, if there is a dispute over the extent of the flood plain, the Board recommend to HRM that the Flood plain Study be redone. Mr. Regan was also shocked to hear that the sewage pumping plant does not have a standby generator. He felt the Board should recommend to HRM that a standby generator be put in at this location. Mr. White noted that there is also no reserve storage, but that is a common scenario. Referring to the culvert at Highway 103 backing up water, Mr. Regan felt this should be identified to HRM and they in turn should advise the Provincial Department of Transportation that the culvert is in need of dredging. Referring to the comments made at the Public Information Meeting that the proponent would agree to putting a no cutting of trees restriction in the covenants, Mr. Regan noted that it has been observed that once a property is sold, covenants are ineffective. He reflected on Councillor Rankin's comment at the Public Information Meeting that the original study, which established the flood plain, likely did not take into account the amount of potential development upstream. The impact of, for example, the proposed Governors Lake development needs to be studied.

The Chair asked the members if they felt there was a need to discuss the proposal with the proponent's engineer before drafting its recommendations. The consensus was that it was not necessary to meet with the engineer.

The Board commented that they did not want to encourage in filling or building in the 1:20 or 1:100 flood plain. If the proponent wished to do a mini study to prove the area is indeed outside the flood plain, the Board would be willing to meet again to discuss the case, as it would warrant reconsideration.

Other reasons cited for not recommending in favour of the application were identified as follows:

- C Conservation designation. The designation may be for reasons other than a flood plain.
- C If in filling of the lots is permitted, while it might not affect the flood plain significantly, it sets a precedent, potentially resulting in a significant impact.

Ms. McNeil expressed reservations about not submitting recommendations on how to proceed in a fashion to protect the river if the rezoning is permitted. Mr. Manchester noted that if the area is zoned R-1, the only restriction which might apply would relate to the Lot Grading

Bylaw. A discussion followed on the pros and cons of providing an Option B. During this debate, it was indicated that if construction should take place on these lots, residences should be constructed on posts, so there is no need or very little need for in filling. It was the consensus of the Board, not to put any qualifications on their recommendation against the proposal, as it has the potential of weakening the case.

In addition to the above recommendation, it was felt that the following needs to be identified to HRM:

- C As the pumping station does not have a backup generator in the event of power outage, HRM should address. As previously noted, there is no storage capacity associated with the facility.
- C The need for HRM to contact the Provincial Department of Transportation to investigate the need to clean out or enlarge the culvert associated with Highway 107 to improve the flow through.
- C The need to investigate the yellow discharge associated with the sewage pumping station reported at the Public Information Meeting.

The subject of the need to do a further flood plain study was discussed. It was recognized that the cost is substantial, ie. \$200,000. Rather than address this issue in relation to the this case, it was felt a separate letter should be written to Council alerting them of the Board's concern that there is a need to develop a long-term plan to identify flood plains of the major rivers which run through its jurisdiction, before development encroaches on them.

Ms. Williams will draft the recommendations for review at the next meeting. Mr. Regan will e-mail her his notes.

It was explained to Mr. Morgan that once the recommendations are approved at the next meeting, a copy will be provided to him, the proponent and the community councillors. An extract of the approved minutes could be provided to him after approval. It was noted that the Board may not be meeting in August.

3.0 BUSINESS ARISING FROM MINUTES

3.1 OUTCOME OF PUBLIC HEARING - REGIONAL COUNCIL JULY 17 - BY-LAW W-101 (WASTE WATER DISCHARGE INTO PUBLIC SEWERS)

The Board was advised that Council approved By-Law W-101 at last night's meeting. It was

requested that the presentations be forwarded to staff for a supplementary report to address the issues raised by the presenters. Mr. Regan was in attendance and noted that once the comments of the presenters have been reviewed, amendments to the by-law may be considered.

The Chair expressed confusion regarding one of the penalties listed in the version of the By-law previously circulated. The Secretary explained that there had been a typographical error and in fact the penalty was \$50,000, not \$10,000 per day.

Mr. Regan was pleased with the By-law, noting it is a 100% improvement over the previous by-law and is one of the best in the Province.

The Chair reported problems being encountered by those wishing to have their septic systems pumped out and he wondered if this was in some way a reflection of the new by-law coming into effect. Mr. Manchester and Mr. Regan explained that it wasn't associated with the new by-law but due to the need for maintenance at the facility in the Aerotech Park. This system should be back to capacity in September. Some of the sewage plants will be used for disposal in the interim.

3.2 SEWAGE MANAGEMENT DISCUSSION PAPER

For the previous meeting, copies of a report from the Nova Scotia Environment and Labour Department entitled "We all have a Part to Play - A Sewage Management Discussion Paper for the Province of Nova Scotia" had been provided. There had not been sufficient time to address the questions posed in the Discussion Paper and Mr. Regan and Ms. McNeil had volunteered to draft a response for the July 31st deadline. Members were to provide input to them. Ms. McNeil noted that they had not received any input and she and Mr. Regan apologized for not completing the draft. Given the deadline for submissions, the Board decided to review the questions at the meeting. Ms. McNeil took notes and will develop a response from the Board.

The Chair noted that he had submitted a comment regarding the proposed Enhanced Primary Treatment for the treatment related to the Halifax Harbour Solutions, while most smaller communities are required to provide secondary, if not tertiary treatment. As a principle, he felt Enhanced Primary Treatment was not appropriate.

During review of the questions, the following comments were made:

- C There is a need to educate home owners regarding the maintenance of home sewage disposal systems. It is recognized that it is difficult to set standards regarding

- frequency of maintenance as you have to factor in tank size, the amount of time spent at a dwelling, i.e. cottage verses permanent resident, etc.
- C There needs to be some level of assistance for upgrading or replacement of systems. However, it was cautioned that if you take responsibility away from the homeowner, some will take even less care of their systems.
- During the discussion of financing options, Mr. Manchester indicated he did not feel everyone should be subsidized to put in an on site system, but there should be some route to help people reach a standard. Mr. Regan reflected that there are grants available to seniors for various purposes, why not for upgrading their septic systems. It was concluded there should be programs in place for retrofitting systems. Maybe a means test will have to be considered.
- C There is a need to point out the inequity of taxpayers with on-site sewage disposal systems having to pay for their installation and maintenance, while at the same time contributing to the infra-structure and maintenance of central collection and treatment facilities.
- C Government has to develop some system to monitor frequency of pumping out on site sewage disposal systems, otherwise people will ignore the need to do this maintenance. It was noted that pumping companies already document the locations of septic systems they pump. A data base could be developed to register each property pumped, it was suggested.
- C Inspection of properties for leakage of their systems, as a result of clogged systems, particularly if they abut a watercourse or lake.
- C All sewage pumping and treatment facilities should have emergency power supplies in the event of power outage.
- C Referring to the question posed on page 9 "Should the province encourage source control of pollutants by incentives or by regulation?", it was felt incentives **and** regulations would be more appropriate.
- C Referring to the question posed on page 9 "How should the requirements for compliance with effluent standards, monitoring and reporting be dealt with?", it was felt that a program should be set up whereby independent, certified officers would monitor for compliance annually.

- C Referring to question 3, page 9 “Should restrictions be placed on collection system extensions or any new development when the required approvals are not being met by the owner?”, it was felt that the Board should reiterate its principle that there should be no new development, whether HRM or Sydney, until there is a system(s) in place to treat sewage generated from the proposed developments.
- C Referring to question 4, page 9 “Should there be penalties when facilities do not meet monitoring reporting, or discharge requirements?”, it was felt that the recently adopted By-law W-101, respecting Wastewater Discharge addresses. There was a question whether the effluent standards dealt with odor control. It was felt there should be penalties associated with odor.
- C Referring to the first question on page 11 “Should development be allowed to continue through in filling and approved extensions to existing collection systems, where there is no treatment?”; as previously stated and reflecting the Board’s principle, the answer was ‘no’. There should be no development unless you are going to treat the discharge. This was also felt to be the response to the second question on the page.
- C Concern was expressed that the second question on the page, makes no reference to the Federal Government’s role. The Chair noted that the document is a provincial discussion paper and can’t address Federal Government obligations.
- C Referring to the second question posed in this paragraph, i.e. “What should the respective roles of municipal and provincial levels of government be in achieving treatment?”, it was suggested that the role of the Provincial Government would be to provide funds to the municipalities to assist in achieving treatment, with the municipalities running the facilities. Secondly, the Provincial Government would establish minimal standards.
- C Reflecting on the debate regarding to whom the financial support should be directed, it was pointed out that all benefit from effluent not entering the water environment.
- C While one member could not support the private, public partnering option, because of Union considerations, the majority felt that it was incidental how the goals were achieved, as long as the standards are reached as quickly as possible.

3.3 SOBEYS MUSQUODOBOIT DEVELOPMENT AGREEMENT

Copies of the Sobeys Musquodoboit Development agreement were provided at the June meeting and the members asked to compare the agreement to the recommendations the

Board had made to determine what had or had not been included.

Mr. Dwyer referred to a meeting he had with the Secretary of the Musquodoboit Association to review the development agreement dated May 17th. He provided an illustration of the area in question. He had the following four points he wished to discuss with the Board. He recognized that the points raised did not necessary reflect lack of adherence to the Board's recommendations, but he wished noted in the Board's minutes.

- C Referring to 2.11.7 which relates to water quality testing, they felt the location selected was not appropriate and rather than the monthly testing proposed prior to any site work, the first test be done this September if construction is planned for the spring. It was felt that the testing should be conducted not above the culvert under East Petpeswick Road, but below the culvert. It was also felt that a second test site should be in the vicinity of Clam Shell Road, where the main body of the watercourse leaves the site. The Board agreed that testing of two sites would be advantageous, but it was noted by the Chair, that the Board's recommendations lacked in particulars. The recommendations only specified testing before construction and makes no reference to how long before construction the testing should commence or location. Referring to the second test site proposed by Mr. Dwyer, it was felt that it would be better if the second site was located further upstream, closer to the development, i.e. upstream of the two houses.
- C Concern was expressed that there is nothing in the agreement that the treatment plant (septic system) will be monitored in Schedule F.
- C Referring to Part 4 - Enforcement and Rights and Remedies on Default, item 4.1 regarding inspections, Mr. Dwyer noted at the Public Meeting the residents were promised one of their representatives would be included. This is not reflected in the agreement. He felt the Development Officer should have followed up on this aspect.
- C Concerns were raised regarding item 3.3 which deals with the project not commencing within three years of registration of the agreement. Mr. Dwyer felt the role of the approval of the Development Officer should have been included.

It was felt that when recommendations are made in future, they need to be more specific. It was concurred that most of the recommendations of the Board were indeed incorporated in the Development Agreement, but the Board had not been specific enough in this instance.

Mr. Ernst proposed including in the sampling protocol reference to sampling under specific water conditions, ie. low flow versus high flow. It was felt this might be problematic. Mr.

Holmes proposed that rather than using calendar time to designate testing times, after the leaves are off the trees, or trees are in leaf would be more appropriate.

Concern was also expressed by Mr. Dwyer if the list of items to be tested was sufficient. (Refer 2.11.7) For example, there is no mention of testing for coliforms. The Chair noted that only water quality testing is recommended. Mr. Dwyer questioned what this would include. The Chair noted that once the water quality parameters, contained in the sub-committee's October 1999 report are adopted this will be clarified. The Chair felt that water quality testing should include testing for coliforms and nitrogen.

The Chair questioned whether Mr. Dwyer wanted to the Board to identify to HRM where they felt their recommendations had not been followed. Mr. Dwyer did not feel this was necessary or to provide further recommendations, he only wanted the concerns/observations noted in the minutes. He desired it recorded that the Board supported testing starting in September and the location of the sampling site be moved, together with the addition of another sampling site, downstream of the development. He will take back to Councillor Streach.

3.4 GLEN ARBOUR WATER POLLUTION

Circulated in the agenda package was a letter from Dr. Kleinknecht regarding concerns he has with Glen Arbour Water Pollution. It was recalled that Dr. Kleinknecht had been at the June meeting and the Board had provided him with advice on how he should proceed, emphasizing that the role of the Board is only advisory. Surprise was expressed that the letter had been sent to the Board. It was felt that it might have been better for him to have written the Mayor, with a copy to the Board. The Secretary was asked to write Dr. Kleinknecht a letter confirming receipt of his correspondence and enclosing a copy of an extract from the approved June minutes on this subject. Hopefully this will be adequate for his needs.

5.0 CONCEPT PLANS

None.

For the benefit of new members, it was pointed out by the Chair that this information was requested by the Board more for the information of individual Board members, who might want to relay advance notice of a development to the group they represent or district.

7.0 DATE OF NEXT MEETING

While the next meeting is tentatively scheduled for Wednesday, August 15, 2001, if there are no items which require addressing the meeting will be cancelled. In this event, the members

will received a cancellation notice and the next meeting will be held September 19th.

Mr. Evan gave his regrets for the August meeting if one is held.

INFORMATION ITEMS:

- 1 **DLAB Minutes** - Approved minutes for April 25, 2001 meeting circulated in agenda package. The Chair noted the reference in Staff's Update to item 5.0 - Terms of Reference and the need for confirmation letters from BWAC and the Board that there is agreement on changes in jurisdiction based on watersheds. It was recalled by Mr. White and the Secretary that at last week's BWAC a motion was adopted to ask NWCC to ask for a report from staff on reviewing the jurisdictions of BWAC, DLAB and H/HCWAB based on watershed boundaries versus political boundaries.
- 2 **BWAC Minutes** -Approved minutes for May 9, 2001 meeting were to be circulated, but were not provided. Will be provided in next mailout.
- 3 **Meeting Schedule** - A schedule of hearings and planning advisory committees dated July 18, 2001 was provided.
- 4 **Little Sackville River Flood Plain Report** - Copies of an Information Report which went to North West Community Council's July 12, 2001 meeting re Project 00109: Hydro technical Study of the Little Sackville River Flood plain were provided in the agenda package. A copy of the report prepared by Porter Dillon Limited was also provided. A copy of the latter will be provided to the HRM Library.

Mr. Regan noted staff had recommended, as an alternative, that the Study be put on hold until after the HRM wide Water Resource Management Study was complete, but NWCC recommended to Regional Council that staff commence the process. He felt this to be simply tremendous.

The Chair displayed the Flood Risk Map of the Little Sackville River which accompanied the report. He was impressed with the limited amount of development in the 1:00 and 1:20 flood risk zones.

- 5 **Status Sheet:**

Subcommittee on Parameters for Water Quality Testing - Circulated at the meeting was a response from BWAC. The Secretary noted that Ms. Manzer and Dr. Gordon of DLAB made a commitment to draft a response by September. Item to be put on next month's

agenda for a decision on what to do after responses received, ie. invite Dr. Burney to discuss.

Jurisdiction - The Chair advised he has attempted to contact Ms. Manzer and Dr. Gordon, indicating the Board needs something to designate the actual line proposed. He had felt the Board's concurrence with the proposal in February would have sufficed, rather than a letter indicating the Board's agreement.

Bonding - Mr. Evans will be meeting with the Mayor this Saturday and will raise the matter.

Petpeswick Golf Course - Mr. Dwyer reported that the Provincial Department of Transportation has done nothing with the culvert. It is still filled in. Everything associated with the golf course seems under control except the culvert. Ms. McNeil intends to write a letter.

Nothing new to report on the balance of the items.

6 Storm Drainage Works Approved Policy, NSDOE&L

Mr. Mandaville provided this information item, essentially complimenting those who worked on the Policy.

7.0 ADJOURNMENT

The meeting adjourned at 9:40 p.m. on motion of Mr. Dwyer and Mr. Evans.

Lynne Le Boutillier
Assistant Municipal Clerk