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Chebucto Community Council
April 3, 2006
Peninsula Community Council
April 10, 2006

TO: Chebucto Community Council
Peninsula Community Council

SUBMITTED BY: Betty MacDonald
Betty MacDonald, Director, Governance and Strategic Initiatives

DATE: March 21, 2006

SUBJECT: Northwest Arm - Inter-Agency Working Group

INFORMATION REPORT

ORIGIN

- Letters from Chairs, Chebucto Community Council and Peninsula Community Council (October 3 and November 8, 2005) to The Honourable Geoff Regan, Minister, Fisheries and Oceans Canada
- Letter of Response from Mr. Richard Wex, Director General, Habitat Management Branch, Fisheries and Oceans Canada, February 3, 2006
- Case 00596: Amendments to Halifax MPS - Water Lot Infilling on Northwest Arm
- Halifax Harbour Planning Initiative

BACKGROUND AND DISCUSSION

In the early fall of 2005, Halifax Regional Council requested staff to prepare amendments to the Halifax MPS and Land Use By-law respecting development control measures on infilled water lots within Northwest Arm. Public Information meetings were held in November, and staff is now finalizing the proposed amendment package. A report will presented to the Community Councils in the near future, and if accepted, will proceed to Regional Council for Public Hearing.

As part of this process, Chebucto and Peninsula Community Councils forwarded letters, in November 2005, to the then Minister of Fisheries and Oceans Canada, requesting that the department temporarily withhold the processing of water lot infill applications while the MPS amendment process was in progress. A letter of response to Councils' requests was received from the Director General, Habitat Management Branch, on February 3, 2006 (Attachment 1).

The Director General indicated that the department was not able to fulfill Council's specific request, but indicated that DFO would continue to cooperate with HRM and carefully consider any development proposals pursuant to its regulatory responsibilities. In terms of cooperation, reference was made to an HRM-led multi-agency committee dealing with infilling and coastal development in the Northwest Arm.

This report will provide information to Council on the status and activities of the multi-agency committee.

Halifax Harbour Submerged Lands Inter-Agency Working Group (Working Group)

This Working Group was established by HRM as part of the Halifax Harbour Planning Initiative in the summer of 2005. One of the draft policy directions in the April 26 draft Regional Plan (EC-28) stated that "HRM, in cooperation with all regulatory agencies having jurisdiction for infill activities on Halifax Harbour, shall establish a working committee to develop a coordinated process for assessing water lot infill applications, and that Northwest Arm should be used as a pilot project". Spurred in part by public concerns regarding specific developments within Northwest Arm and the Bedford waterfront, it was apparent that with multiple and overlapping jurisdictions involving all three levels of government, the existing approval procedures were fragmented and not well coordinated.

With the initiation of the MPS amendment process for Northwest Arm in the fall of 2005, in addition to the above, the group is also now exploring legislative means through which water lot infill activities within this inlet might be better regulated to ensure consistency with a community vision of the future of the Northwest Arm. Community concerns include loss of navigability, potential environmental impacts, development form and cultural values such as historic significance and views. This process is rather complex and technical in nature, and will take some time to determine if and how this objective can be accomplished.

The Working Group is comprised of the following agencies:

- Fisheries and Oceans Canada, Habitat Management Branch
- Transport Canada, Navigable Waters Protection Program
- Halifax Port Authority
- NS Department of Natural Resources
- NS Department of Environment and Labour
- Halifax Regional Municipality (Planning and Development Services, Real Property and Asset Management, Legal Services)

Other agencies, such as Environment Canada and NS Department of Fisheries and Agriculture, will be consulted on an as-needed basis.

Activities/Mandate of the Working Group

1. Study Area
 - (a) Halifax Harbour, with first priority being Northwest Arm
 - (b) Other marine waters of HRM
 - (c) Fresh water areas of HRM

2. Mandate/Work Plan
 - (a) Identify opportunities and constraints regarding the use of, and infill of, submerged lands within Halifax Harbour
 - Environment (fish habitat, pollutants)
 - Transportation (navigation, including moorings and wharves)
 - Water lot ownership/leasing matters
 - Floating residential development

 - (b) Review and clarify of Agency jurisdictions, roles and responsibilities

 - (c) Explore of administrative, procedural and legislative options to improve communication and coordination of application processes and implement new processes as determined

 - (d) Conduct water lot inventory of Northwest Arm and Harbour
 - Number, location, size, post vs. pre confederation ownership

 - (e) Conduct best practises research
 - How other jurisdictions administer submerged lands

 - (f) Determine feasibility of and collective criteria by which infill proposals may be permitted, restricted or prohibited

3. Deliverables -
A report and implementation plan that incorporates the findings and recommendations of the Working Group, for endorsement by HRM Council and Ministers of the relevant Provincial/Federal departments.

To date, the Working Group is actively engaged in items 2(a), 2(c), 2(d) and 2(f).

Council is also reminded that the draft policy direction of the Harbour Plan proposes the undertaking of a Neighbourhood Planning process for the Northwest Arm area. Section 5.5.2 of Draft 2 (Nov.30, 2005) indicates that the study “address issues and opportunities regarding water lot infill, environmental management, parkland and trail development, water-based recreation and navigation, historical/cultural assets, public views protection and central servicing including potential extensions on Purcells Cove Road.” It is anticipated that this process can commence later this year, pending availability of financial and human resources.

Summary

Northwest Arm is a unique and important area of Halifax Harbour, having significant assets in terms of existing and future parkland and trails, water-based recreation and historical/cultural value. Council and the general community are concerned that continued water lot infill and subsequent development will seriously impact the character and usability of this inlet.

Staff is engaged in or proposing a three-step process to address these matters.

1. Short Term:
MPS/LUB amendments to introduce expanded development controls on shoreline areas of Northwest Arm that may become infilled.
2. Medium Term:
Halifax Harbour Submerged Lands Inter-agency Working Group; on-going coordination/collaboration with agencies of senior levels of government addressing topics described in this report.
3. Medium Term:
North West Arm Neighbourhood Plan; a community based planning process to prepare a detailed plan for the waters of and lands adjacent to Northwest Arm.

BUDGET IMPLICATIONS

There are no budget implications associated with this report at this time.

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

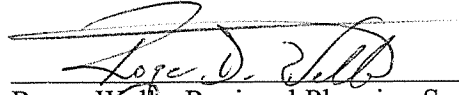
There are no recommended alternatives, although Council may wish to provide further direction to staff based on the information presented herein.

ATTACHMENTS

1. Letter to Councillor Fougere, Chair of Peninsula Community Council, from Mr. Richard Wex, Director General, Habitat Management Branch, Fisheries and Oceans Canada, February 3, 2006

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:



Roger Wells, Regional Planning Senior Advisor, Harbour Plan

Report Approved by:

Betty MacDonald, Director, Governance & Strategic Initiatives

Attachment 1



Fisheries and Oceans
Canada

Pêches et Océans
Canada

9.1.1

FFR 03 2006

Your file Votre référence

Our file Notre référence

Councillor Sheila Fougere
Chair
Peninsula Community Council
P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5

Dear Ms. Fougere:

Thank you for your correspondence of November 8, 2005, addressed to the Honourable Geoff Regan, in which you express your concerns regarding the Northwest Arm of Halifax Regional Municipality (HRM). I have been asked to reply on behalf of the Minister. I regret the delay in responding.

As you are aware, there are a number of regulatory agencies involved in the management of coastal development in the Northwest Arm. Under the leadership of Halifax Regional Municipality (HRM), these agencies participate in a multi-agency committee on infilling and coastal development in the Northwest Arm. The committee has met a number of times, and has recognized that none of the agencies can actually prohibit infills under existing legislation; however, through a coordinated approach all agencies can play a role in promoting decisions consistent with HRM objectives.

With respect to Fisheries and Oceans Canada (DFO) authorization of a harmful alteration, disruption or destruction (HADD) of fish habitat pursuant to the *Fisheries Act* as it relates to infilling, the scope of departmental consideration is restricted to the protection of fish and fish habitat. While this does not facilitate decision-making in relation to some of the concerns expressed by members of the community, such as protecting view planes and cultural values, it does provide DFO with a mandate to ensure that aquatic ecosystems are healthy and productive.

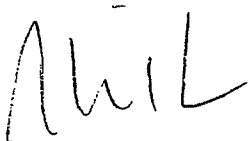
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C: C. Newson, L.A., Peninsula Community Council

Please note that in the past five years, DFO has issued only one authorization for a HADD related to infilling in the Northwest Arm, and there are currently no applications under consideration. Any development proposals in and around water will be carefully considered pursuant to DFO's regulatory responsibilities and the department will continue to coordinate with HRM.

Thank you for the opportunity to outline DFO's support for the efforts of HRM through the multi-agency committee and sustainable management of fish habitat.

Yours truly,

A handwritten signature in black ink, appearing to read "RWEX". The signature is written in a cursive, slightly slanted style.

Richard Wex
Director General
Habitat Management