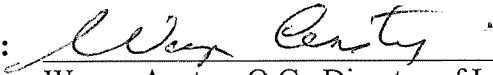


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Halifax Regional Council  
January 13, 2004

TO: Mayor Kelly and Members of Regional Council

SUBMITTED BY:   
Wayne Anstey, Q.C., Director of Legal Services

DATE: December 18, 2003

SUBJECT: Williams Lake Conservation Company v. HRM

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### INFORMATION REPORT

**Origin:**

On March 3, 2003 the Chebucto Community Council approved a development agreement for 156 acres of land in Mainland South owned by Kimberly-Lloyd.

**Background:**

The decision of the Community Council was appealed on procedural grounds to the Nova Scotia Supreme Court. The appeal alleged that Council had not conducted a fair hearing. Council in fact strictly applied the rules followed by all community councils respecting public hearings and the court held that in the circumstances of that case the rules were fair.

**Discussion:**

There were four issues raised on appeal as follows:

(1) **Location of Meeting** - After the notice of the public hearing appeared in the paper it was decided to change the location of the meeting from the Keshen Library to the nearby Halifax West High School due to the number of people expected. Signs were placed on the Keshen Library with directions to the new location and a shuttle service was provided. The court held that under these conditions the right of the public to a fair hearing was not compromised.

(2) **The 5 Minute Rule** - The court in general determined the 5 minutes to be reasonable given the practical requirement of hearing from so many people and given that written submissions could be made. The court did suggest that there could be circumstances where the 5 minute rule was not appropriate but did not elaborate.

Of particular significance to Council is that the court held that once the 5 minute rule was invoked it had to be applied to all equally.

On a related note the court held that the rule against speaking twice was fair, but again, if one person was allowed to speak more than once, then all must be allowed.

(3) **Storm** - The weather for the hearing was not ideal but the court found no fault with Council proceeding despite the weather.

(4) **Sign-up Sheets** - The hearing took place over two days. At the end of the first day anyone who had not spoke was asked to put their name on a sign-up sheet and only these people would be permitted to address Council on the second night. The court found no fault with this.

(5) **Supplemental Report** - At the conclusion of the hearing a report was requested from staff to provide information and clarification respecting issues raised at the hearing. A report was prepared and presented to Community Council on the day when the Council was set to make its decision. No further public input was permitted.

The court held that as the report contained only the information requested with no new recommendations then no further public input was required.

However, the court did allow that:

“The timing of the supplementary report might possibly have been a concern if it had been substantially altered to include things not mentioned in the initial report or if it had resulted in a different recommendation based on completely different factors.”

The court suggested that in such a case a further public hearing would be required to address the staff report and that the report would have to be made available to the public enough in advance of the meeting to allow the public to prepare a response.

A copy of the decision can be obtained from Legal Services.

**Budget Implications:**

None.

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: Barry S. Allen, Manager, Legal Services