



P.O. Box 1749
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Item No. 10.2.1
Halifax Regional Council
April 17, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

Original signed

SUBMITTED BY: Councillor Reg Rankin, Chair, Western Region Community Council

DATE: February 28, 2012

SUBJECT: Otter Lake Community Monitoring Committee Jurisdiction/Response to Questions

ORIGIN

The Western Region Community Council meeting of February 27, 2012 and various correspondence submitted dated December 12, 2011, December 19, 2011, January 24, 2012, February 21, 2012 and February 23, 2012.

RECOMMENDATION

It is recommended that Halifax Regional Council acknowledge the responsibility and the authority of the Community Monitoring Committee for the Otter Lake landfill as being "to monitor the operation of the facilities and any element of HRM's integrated solid waste resource management system where the operation of such element has a direct impact on the operation of the Facilities", and accordingly; request that staff respond to the questions outlined in the December 19, 2011 letter from the Otter Lake Community Monitoring Committee and follow-up letter dated February 23, 2012 as attached to this report.

BACKGROUND

This matter was raised at the February 27, 2012 Western Region Community Council meeting. The issue of odour complaints relating to the Otter Lake landfill site was brought forward by Councillor Rankin in a letter dated December 12, 2011 to the Mayor and Councillors of the Halifax Regional Municipality. Subsequently, a letter dated December 19, 2011 from the Otter Lake Community Monitoring Committee was sent to HRM's Chief Administrative Officer (CAO) requesting response to a variety of questions related to the odour and possible cause, however; that letter did not reach the office of the CAO and was responded to by the Deputy Chief Administrative Officer in a letter dated January 24, 2012.

A correspondence dated February 21, 2012 from Mr. John Merrick, Barrister, to Mr. Ken Meech, Executive Director of the Halifax Waste/Resource Society, outlines Mr. Merrick's interpretation of the mandate of the Otter Lake Community Monitoring Committee. A correspondence dated February 23, 2012 was sent from Mr. Jack Mitchell, Chair, Community Monitoring Committee, to Mr. Mike Labrecque, HRM's Deputy Chief Administrative Officer, requesting an explanation to the serious odour problems experienced over a three month period.

DISCUSSION

The Western Region Community Council requests that Halifax Regional Council direct staff to provide confirmation on the mandate/jurisdiction of the Otter Lake Community Monitoring Committee, and; provide response to the questions posed in the December 19, 2011 letter and follow-up letter of February 23, 2012 from Mr. Mitchell, Chair, Community Monitoring Committee.

BUDGET IMPLICATIONS

None associated with this report.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The Otter Lake Community Monitoring Committee's mandate, as per Appendix D of the Agreement, is to represent residents from communities adjacent to the facilities. The matter was raised at an open meeting of the Western Region Community Council with members of the public in attendance.

ALTERNATIVES

1. Halifax Regional Council may choose not to request confirmation on the jurisdiction of

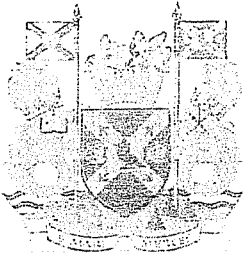
the Otter Lake Community Monitoring Committee pursuant to the contract with HRM in regard to the Otter Lake Solid Waste Facility, nor request that staff respond to the questions outlined in the December 19, 2011 and February 23, 2012 letters from the Otter Lake Community Monitoring Committee. This is not the recommended option.

ATTACHMENTS

1. Correspondence dated December 12, 2011 from Councillor Reg Rankin to Mayor and Councillors of the Halifax Regional Municipality re: Odour Complaints relating to the Otter Lake Landfill.
2. Correspondence dated December 19, 2011 from Mr. Jack Mitchell, Chair, Otter Lake Community Monitoring Committee, to Mr. Richard Butts, HRM Chief Administrative Officer, re: HRM Otter Lake Landfill – Cell #5 Closure and New Cell #6.
3. Correspondence dated January 24, 2012 from Mr. Mike Labrecque, HRM Deputy Chief Administrative Officer, to the Community Monitoring Committee re: Otter Lake Landfill – Site A.
4. Correspondence dated February 21, 2012 from Mr. John Merrick, Barrister, to Mr. Ken Meech, Executive Director, Halifax Waste/Resource Society re: Mandate of the Community Monitoring Committee.
5. Correspondence dated February 23, 2012 from Mr. Jack Mitchell, Chair, Community Monitoring Committee to Mr. Mike Labrecque, HRM Deputy Chief Administrative Officer, re: Request for Explanation of Serious Odour Problems Over Three Month Period.

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: [Chris Newson, Legislative Assistant, 490-6732]



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December 12, 2011

Delivered by Hand

Mayor and Councillors
Halifax Regional Municipality

Reference: Odour complaints relating to the Otter Lake Landfill

I am compelled to inform Council of the above issue as parts of my community in Beechville, Lakeside and Timberlea have experienced odour problems during the past few weeks resulting from the closure of cell # 5. The number of complaints is significant when compared to the record over the past 10 years.

I understand the cause should be rectified over the next month. However, I am obliged to ensure that the HRM Council who are responsible for the landfill are aware of the problem and must take steps to rectify the current circumstance and ensure this situation does not happen in the future.

Accordingly, I have requested the Community Monitoring Committee, as the watchdog for the residents, to review the issue and determine the cause along with recommendations to ensure it is prevented in the future.

I also want to remind Council that the CMC had pushed HRM to expedite the access road to the clay deposit site needed for the timely closure of the cell plus to move forward with the construction of cell 6. I mention this event because much of this odour problem may well be related due to cell closure work taking place this time of year.

I trust Council will join me in rectifying the situation quickly as the issue has the potential to explode and raise questions on the future of the landfill location.

Sincerely,

Copies forwarded to:
Community Monitoring Committee, all members
Mr. Richard Butts, Chief Administrative Officer, HRM
Ms. Darlene Fenton, Director of Environmental Compliance, D.O.E.

Otter Lake Community Monitoring

P.O.BOX 213, LAKESIDE
NS.B3T1M6

December 19, 2011

Mr Richard Butts, Chief Administrative Officer
HALIFAX Regional Municipality
Halifax NS.

Reference: HRM Otter Lake Landfill- Cell#5 Closure and New Cell # 6

Dear Sir:

On behalf of the Community Monitoring Committee we seek your cooperation to obtain information from HRM related to the arrangements for the timeliness in the closure of cell # 5 together with the construction of cell # 6. Our key focus is to examine the efficiency of the process for the permitting and contract award.

P.O.BOX 213, LAKESIDE
NS.B3T1M6

This request is in accordance with article 7 and 8 , Appendix "D" between HRM and Mirror, the operator of the Landfill, which provides for " full and complete " reports from HRM as requested from CMC. The authority to request and receive such information is to fulfill our contracted role in reporting to the Community, to HRM Council and other agencies.

The information that we seek in your report to the Community Monitoring Committee is :

A. Reference to article 15 of the same contract which relates to the issues before us ; namely, Cell Construction and Interim Closure :

With specific reference to:

15.2 (Cell) Closure Notice

We request a copy of the required " Notice of Closure " under item 15.2 (3) from Mirror which provides HRM " a projected work schedule including an anticipated commencement date and an anticipated completion date " for closure of cell # 5.

With specific reference to:

15.3 Negotiation of Closure Terms and Conditions

Negotiations are required to take place within 20 days of the delivery of the stipulated above notice; and that, " Mirror and HRM shall meet and attempt, in good faith, to negotiate the terms and conditions " to effect the timely closure of the cell.

To assist we request a copy of all written correspondence including e-mails between the parties ; and any minutes of meetings between HRM staff and Mirror relating to this negotiation and a copy of the agreement of terms and conditions.

With specific reference to :

15.5 Cell Construction Notice

We request a copy of the required " Cell Construction Notice " under item 15.5 (3) which provides HRM for " a projected work schedule including an anticipated commencement date and an anticipated completion date " for new cell # 6..

With specific reference to :

15.6 Negotiation of terms and conditions of cell construction:

Negotiations are required to take place within 20 days of the delivery of the stipulated above notice ; and that, " Mirror and HRM shall meet and attempt, in good faith, to negotiate the terms and conditions " to effect the timely construction of the requested new cell.

For our information, we request a copy of all written correspondence including e-mails between the parties ; and any minutes of meetings between HRM staff and Mirror relating to this negotiation and a copy of the agreement of terms and conditions.

B. Another important and related file was a staff initiated public report dated September 22, 2010 titled " Borrow Pit A2 Access Road, Otter Lake " ; and upon which HRM Council on September 28, 2010 gave their approval of project funding in the amount of \$ 820,940.

The purpose of this report to Council was staff stating the urgency in the construction of a road to gain access to a required clay deposit ; with a strong recommendation to permit staff to begin for the upcoming winter months and to complete no later than early Summer 2011 in readiness for the timely cell construction - called for by Mirror in 2010. This action was endorsed in related correspondence to HRM from CMC on July 25, 2011. As noted in the same report, this type of road construction would be better done during the winter "due to the wetness of the route and terrain" Furthermore , time being of the essence, staff recommended to wave the expected tendering of the construction of the accepted design of a two lane access road.

Given this background the members of The Community Monitoring Committee has learned that the enabling permit from the provincial department of environment for such work was not issued to HRM until the end of June , 2011 - a full 9 months later from the time of urgency in September, 2010. More troubling to CMC was with the permit in hand the go ahead was not acted upon by HRM staff until early August - a further w month lost to achieve a timely cell closure and subsequent construction of new cell # 6.

With confirmed odours to the nearby community , we also request the following information in your report to CMC on this issue.

To provide all copies of all communication between HRM staff and the provincial department of environment from September 28, 2010 and June 30, 2011 relating to the application for the permit to construct the access road. To provide a copy of communication between HRM staff and Mirror from the date of issuance of the permit from the department of Environment and the date authorizing Mirror to

proceed with the construction of the access road . Finally we request a copy of the permit issued from the province and a copy of the agreement to Mirror to proceed with the road construction.

We request the full report by January 23 , 2012 as the Community Monitoring Committee will meet to review before the end of January.

Given the recent concerns expressed by the community it is important that we respond to those issues quickly .

Jack Mitchell, Chair-cmc

Cc. Mayor and Council

CMC members--Bob Angus, Tom Robertson, Murray Power, Mike Becigneul, Lindsay Gates, Mary Lynn Saturley, Mayor Kelly, Coun. Rankin, Walker, Lund, Adams



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

January 24, 2012

Community Monitoring Committee
PO Box 213
Lakeside, NS
B3T 1M6

RE: Otter Lake Landfill - Site A

Dear Mr. Jack Mitchell, Chair CMC and Committee Members:

The following is provided in response to your letter dated December 19, 2011, Otter Lake Landfill - Cell # 5 Closure & New Cell # 6.

Recent communications between the Committee and HRM indicate a requirement to confirm the Committee's mandate as outlined in the Agreement. I am writing in order to further clarify and solidify our mutual understanding of what CMC's roll is with particular reference to your letter dated July 25, 2011 (the "Letter") and the legal opinion of Merrick Jamieson Sterns Washington and Mahody dated March 8, 2011 (the "Opinion").

In the Opinion, Mr. Merrick accurately described the duties of the CMC as being "...ongoing involvement on behalf of the citizens in the operation of the waste management facilities." This is more clearly spelled out in the Agreement for the Design, Construction and Operation of Components of Halifax Regional Municipality's Solid Waste Facilities dated July 25, 1997 (the "Agreement") and in particular Appendix D of the Agreement but even before examining Appendix D, it is instructive to note that the Agreement's title signals two things: that; First, it is concerned with facilities, and their design, construction and operation; and Second, that the Agreement, is only dealing with certain components of the Halifax Regional Municipality's ("HRM") Solid Waste Facilities that is, not with all of them.

Appendix D in the Agreement contains a further agreement between HRM and the CMC (the CMC Agreement"). The purpose of the CMC Agreement is clearly referenced in the recitals: HRM is placing solid waste facilities in the Otter Lake area and HRM is committed that those facilities should be monitored by residents adjacent to those facilities. To that end, the CMC was formed by residents from communities adjacent to the facilities. Facilities are defined and are limited to and include only those facilities detailed in the drawings appended to the Agreement, that is, specifically, Otter Lake (the "Site"). This is consistent with the notion that the Agreement is only concerned with some of HRM's solid waste facilities, and that the CMC is designed to monitor only those certain facilities at the Site.

Clause 2.05 of the CMC Agreement states:

The Committee shall, as of the Commencement of Operations, monitor the operation of the Facilities at the Site...

Clause 7.01 elaborates further specifying that the CMC shall:

- (a) monitor the operation of the Facilities;
- (c) receive information and representations from Area Residents concerning any matter relating to the operation of the Facilities;

Whatever HRM's solid waste strategy is, howsoever it is implemented by Regional Council by whatever process so determined by Regional Council. The wording in the CMC Agreement is clear and consistently applied throughout: the role of the CMC is without exception referenced in conjunction with defined terms limiting its oversight to the solid waste facilities located at Otter Lake.

The CMC's mandate is further extended to include, under 7.01 (f), reporting the views and comments of the Committee and Area Residents, that is anyone living within a 5 km radius of Otter Lake, in respect of how HRM's solid waste system other than the Facilities operates but only insofar as those operations directly affect the Otter Lake Site.

The CMC has no mandate for issuing comment on HRM's solid waste resource plan: the CMC's scope of oversight is limited to commenting on how the solid waste system as a whole impacts the Site. The CMC's mandate to speak on behalf of HRM residents is further limited to those residents within a 5 km radius of the Site. Finally, CMC's oversight also limited by clause 9.07 which explicitly states that the CMC is not authorized to make expenditures or incur liabilities other than through HRM staff for the amounts and categories approved by HRM pursuant to Part 9 of the CMC Agreement.

The following information is provided in response to your recent letter of December 19, 2011. Of note, the original of this letter was never received by the CAO. In addition, please find enclosed appendixes detailing the operational management of odour issues at Otter Lake resulting from the cell 5 A partial cap work; a time line breakdown of the Wetland application process and the Borrow Pit Road approval process; and a copy of the "notice of closure" document and email approval to commence cell 5 A preliminary cap work.

It is also important to clarify several issues in terms of your requests. In your letter you refer to Articles 7 and 8 of Appendix D to the contract Agreement between HRM and the Society. You specifically request information related to the commissioning and construction of cells 5 & 6 at Otter Lake and the Borrow Pit Road Project. In terms of the requested information, I offer the following clarification and understanding from the Municipality's perspective.

Article 7 of Appendix D to the Agreement is a closed list detailing CMC's areas of responsibility or in other words, its mandate. CMC's role as defined by Article 7 of the Agreement is effectively to monitor the operation of the "facilities," to receive reports on the operation of the facilities and to present views and comments on the operation of the facilities. Facility "operations" are defined in the Agreement and specifically exclude the "design, construction and commissioning of the facilities." "Facilities" are defined to include RDF facilities which include RDF cells. Therefore, your request for historical data related to the construction and commissioning of the cells is specifically excluded from the Agreement and outside the Committee's mandate. The exception being cell closure and post cell closure activities and any planned changes to the cell design

specification. A copy of the "notice of closure" request for partial closure of cell 5 A, as per the agreement, is attached. Of note, the understood intent of this section is to ensure that cells are closed and the lands reinstated to appropriate conditions post operations. Any changes to the cell or site closure plans or post operations plans that deviate from the original agreement will include consultation with CMC, as per the Agreement.

Article 8 of Appendix D to the Agreement specifies HRM's obligations. HRM must ensure that CMC receives full and complete reports with respect to the operations of the facilities and reasonable access to information pursuant to CMC's mandate. HRM provides CMC with comprehensive monthly "Waste Resource Management System" reports of 75-100 pages, on average, the most recent having been sent December 13, 2011 and 18 January 18, 2012. These reports cover all aspects of operations and monitoring of site A. CMC is also copied on all complaint reports generated from the site and sent to the Province as per the operating approval. HRM believes it is complying with the Agreement obligations given this CMC approved reporting protocol.

In terms of the Borrow Pit Road project, the project time line was negatively impacted by the unavoidable requirement to complete a comprehensive Environmental Assessment and Wetland Impact application. HRM determined that the most appropriate course of action was to declare the area in question a wetland and take the appropriate regulatory actions. Every effort was made, in conjunction with NSE, to expedite this process. The affected area is a designated Wilderness Reserve area adjacent to the Western Commons Wilderness Common. Due diligence demanded assurance that the Borrow Pit Road project be completed to the full satisfaction of the Environment Act.

The Borrow Pit Road project commenced on August 9th following completion of the wetland impact application approval process. The project was completed on September 27th. The time lapse between receipt of the approved application from the Province at the end of June and commencement of the road project at the beginning of August was a result of scheduling and completing required pre-commencement meetings with Provincial and project staff. HRM also obtained confirmation of any implications to the project from MIRROR related to the delays as noted in the time line reference. Given the implications of this project, the time lapse between receipt of the approval from the Province, completion of all required meetings and a review of the project plan prior to the commencement of work is not considered excessive.

Completion of the Borrow Pit Road project was required prior to commencing the preliminary cap work on cell 5A. An email directing MIRROR to carry out the work is also attached with the notice of closure document. HRM granted approval to proceed with the partial closure of cell 5A the day MIRROR completed the road project and requested approval to proceed with the partial closure work.

The delay in commencing the preliminary cap work was related to weather and access to clay deposits. In the attached appendix there is an outline of the time line of activities related to the preliminary capping of cell 5A and the associated gas management system installation. However, for clarity, cell 5A {cells are sub-divided into two parts in order to close and capture gases produced prior to the full cell reaching capacity} is not currently being capped. MIRROR NS Ltd. is applying a thin clay soil layer on top of a geotextile (filter fabric) to the top of the cell in advance of the final capping project to be conducted when the cell reaches capacity. There is no NSE approval for this soil application.

The installation of this preliminary clay and filter fabric layer is to help manage landfill gas prior to the final cell cap, including membrane and final sod and seeding, being installed once the cell reaches capacity. This process has been used since the capping of cell 3. The September 27th approval from HRM to MIRROR was to undertake this preliminary cell cap work. There was no delay in granting approval for the preliminary cap work for cell 5A. Unfortunately, the month of October saw almost three times the annual precipitation fall which adversely affected work commencement. This rainfall also significantly contributed to the regrettable but unavoidable odour issues subsequently experienced during November and December while the gas management system was being installed. HRM and MIRROR will be completing a comprehensive review of the issues related to this work going forward to try to identify project changes that can be made to reduce the occurrence of odours. However, as a result of the nature of the work; exposing raw materials to install gas wells, and having to shut down the gas management system while the well and piping system installation takes place; totally eliminating odours is impractical.

Finally, in terms of cell 6 and the approval to proceed with construction, this project was linked to the operating agreement being negotiated between HRM and MIRROR NS Ltd. Contract terms and conditions, and negotiation issues are outside the mandate of the committee. HRM understands the concern expressed by the committee regarding potential changes to the operational model at Otter Lake, and as required by the Agreement, the committee will be consulted on any plans to change the operations. The committee will also be included in the community engagement process as that review relates to site A.

HRM has provided responses to the issues identified in your letter of December 19, 2011. Hopefully this information addresses the committee member's concerns. HRM remains fully committed to supporting the committee as intended by the Agreement. Staff is fully committed to working with and ensuring that the committee is enabled to carry out its mandate. If the enclosed information does not fully answer the committee's questions regarding ongoing operations at the Otter Lake Facility, I would recommend we set up a meeting to discuss the issues. Please do not hesitate to let me know if you have any further questions related to the ongoing operations at site A.

Sincerely,

Mike Labrecque
Deputy Chief Administration Officer

Attachments

Appendix A - CMC Letter Response, January 23, 2012 - Summary - Cell 5A Capping, Gas and Odour Control Measures November 1, 2011 to January 23, 2012

Appendix B - CMC Letter Response, January 23, 2012 - Summary – Borrow Pit Road Project EA Approval Process Timeline

Appendix A – CMC Letter Response, 23 January 2012

Summary - Cell 5A Capping, Gas and Odour Control Measures November 1, 2011 to January 23, 2012

The Cover and Gas System for the Residuals Disposal Facility (Landfill) Cells consists of an engineered multi-layer system with the initial clay soil cap layer and filter fabric installed once the portion of a cell reaches its final grades. Vertical gas collection wells are drilled during landfill operations and extended up to final waste grades prior to the installation of the initial clay cap layer (25 vertical gas collection wells were installed in November and December 2010 in Cell 5A).

NS Environment and HRM were advised via e-mail of clay being placed in Cell 5A the first week of November 2011 and that with a number of pieces of heavy construction equipment working on the landfill and tracking over parts of the landfill which have had waste placed there for a long time, odour can be released.

Odour Control Measures Cell 5A- Chronology

- **Cell 5A - Partial Cap Construction**
 - HRM approval of clay soil cap layer in Cell 5A - September 27, 2011
 - Construction Start - November 1, 2011
 - Month of October lost due to number and severity of rain events
 - Actual rainfall in October; 330 mm vs. historical average in October of 127 mm
 - Construction Completion on Clay Soil Layer - November 29, 2011
 - Actual Rainfall in November; 192 mm vs. historical average for November of 146 mm.
- **Landfill Gas Control – Standard Procedures re. Odour Monitoring and Complaint Handling**
 - Investigate the cause of the complaint and take remedial measures
 - Record all complaints with the following information
 - Date and time
 - Name, address, and telephone number of complainant
 - Cause of the odour and corrective action taken or being taken
 - Wind direction, wind speed, temperature, humidity
 - Send complaint log to the Department and HRM as the incidents occur
 - Daily operational monitoring of wind direction on-site and for potential of off-site odour in local communities
 - WSF Weekly Monitor and Documentation of Performance Parameters
 - Pressure on all ventilation/aeration lines discharging to the biofilter
 - Temperature of each section of the biofilter medium servicing each ventilation/aeration line
 - Moisture content of each section of the biofilter medium servicing each ventilation/aeration line
 - pH of each section of the biofilter medium servicing each ventilation/aeration line

- Landfill Gas Control – Additional Operating Measures Undertaken
 - Commissioning and operation of temporary gas flares (3) - November 1, 2011
 - Added gas transmission pipe capacity (and control valves) from Cell 5A to the permanent flares - November 15, 2011
 - Redeployed FEP staff to RDF for gas collection pipe maintenance activities - November 2 – present
 - Hourly monitoring of odour conditions at adjacent local communities
- Landfill Gas Control - Construction Measures Undertaken to Date
 - Excavated and installed additional temporary shallow horizontal gas collection pipes along the back of Cell 5A (next to Cell 5B)
 - Design & Procurement - November 30 -December 4
 - Construction - December 5-6, 2011
 - Excavated and installed additional temporary shallow vertical wells along the back of Cell 5A.
 - Design & Procurement - November 30 - December 4
 - Construction - December 5-7
 - Connected the horizontal pipes to the temporary wells and to the gas flares.
 - Construction - December 6-7
 - Extension of Partial Cap - Cell 5A interface with Cell 5B
 - Construction - December 8-12
- Landfill Gas Control - Remaining Construction Measures
 - Excavate and install permanent shallow vertical wells along the back of Cell 5A and connect the horizontal collection pipes to the permanent shallow wells and to the flares. The constrained availability of suitable drilling equipment pushed the start of this work to the last week of December, 2011.
 - The driller arrived on site on December 27th and nineteen wells were installed with work completed on January 17, 2012.
- Final Measures
 - Complete interim closure of Cell 5A during Q3 2012 with the installation of remaining Cover and Gas System layers including membrane cap.

Odour Complaints Log

- October 31 - November 6 → 2 complaints
- November 7 - November 13 → 2
- November 14 - November 20 → 2
- November 21 - November 27 → 2
- November 28 - December 4 → 1
- December 5 - December 11 → 13 (landfill gas system construction work Dec 5-7)

- December 12 - December 18 → 5
- December 19 - December 25 → 1
- December 26 - January 1 → 0
- January 2 - January 8 → 1
- January 9 - January 15 → 0
- January 16 - January 22 → 0

It is important to note that ~45% of the complaints occurred during the construction of the enhancements to the landfill gas management system. This occurred as the decomposing material was necessarily exposed to the elements.

We will continue to closely monitor odour generation and make adjustments to our plan as required.

Appendix B – CMC Letter Response January 24, 2012

Summary – Borrow Pit Road Project EA Approval Process Timeline

Notes Dated June 7, 2011 Based on Review of Records/Files, Update of Notes Dated July 26, 2011 Based on Review of Records/Files, Update of Notes Dated January 6, 2012 Based on Review of Records/Files

2010

- | | |
|---------|--|
| March | MIRROR NS reports current clay reserves were insufficient for construction of future cells. HRM directs Mirror to explore for alternative sources of clay. |
| April | MIRROR NS explored potential of clay reserves at site A2. |
| June 30 | MIRROR NS sends HRM SWR pricing options for access road to Borrow Pit A2 and estimates available clay. |
| August | HRM staff draft report requesting approval of Borrow Pit Road and has initial meeting with Province to review the project issues. |
| Oct. 7 | HRM SWR and MIRROR NS met with Christine Penney and Norma Bennett of NS Environment regarding wetland in the path of the intended Borrow Pit Road and confirm it is to be a "wetland." |
| Oct. 8 | HRM made contact with NSTIR and Peter Hackett of NS IR states project would fall under Mark Peachy for any review, who was away until October 20. |
| Oct. 12 | HRM Council approves Borrow Pit A2 Access Road based on Staff Report dated October 4, 2010. |
| Oct. 27 | HRM SWR receives Draft Wetland Report from Dillon |
| Oct. 28 | HRM met with MIRROR NS and Dillon to discuss finalization of draft Wetland Report. |
| Oct. 29 | Application for Alteration to Wetland submitted to NS Environment. |
| Nov. 30 | Gord questioned Christine Penney on update of wetland alteration application. |
| Dec. 6 | Norma Bennett called Gord with issues, stuck excavators/work in area December 1, Dillon prepares draft Construction Plan for the access road. |
| Dec. 21 | Dillon submits final Construction Plan for the access road. |

2011

Mar. 4 SWR received initial NSE Wetland Approval.

Mar. 8 SWR received amended NSE Approval with some corrections to construction dates.

Apr. 5 Norma Bennett from NSE indicates that HRM needs NSTIR and DNR approval of the wetland alteration if they are land owners.

Apr. 8 Barry spoke to Mark Peachy of NSTIR, requires Breaking of Soils and Access permits, sent the forms to MIRROR NS for Dillon to complete.

Apr. 14 Added HRM SWR as contact for project and sent in completed applications to NSTIR.

Apr. 18 Cheque request submitted for deposit for NSTIR.

May 3 Confirmation of deposit received.

May 6 Received permits from NSTIR. Requested meeting with NSE after Mark Peachy's response concerning deposit and approvals. Gord sent Norma Bennett copy of NSTIR permits and Mark's response.

May 10 Norma asking for permission from DNR as property owner of parcel surrounding the wetland, noted approval was suspended and has to be amended for proper PID. Rob requested that Dillon confirm PIDs of the wetland area, and to confirm that construction would be within the 66' wide Right of Way of Carmichael Rd.

May 11 Norma states once ownership is clarified the Approval could be amended and re-issued.

May 12 Rob sent Norma memo and site plan, from Dillon, showing work limited to ROW of Carmichael Rd.

May 17 & 18 Gord again requests the Approval from NSE as work is confined to ROW of Carmichael Rd.

May 31 Gord sent memo and documents to Brenda of DNR requesting permission to develop road within RoW of Carmichael Rd.

June 1 Gord checked with DNR concerning the permission, they hope to respond early the following week.

June 15 Brenda from DNR approves the upgrade of Carmichael Rd. in TIR RoW that traverses DNR property.

June 21 Craig Curley of NSE sends Rob the updated Wetland Alteration Approval with updated PIDs. Rob provides copies to Gord & Barry.

- June 23 Rob forwarded copy of Wetland Alteration Approval to Steve Copp of MIRROR NS and asked for dates for a meeting with NSE.
- July 5 Rob and Barry met with Steve Copp of MIRROR NS, NS Environment staff, Dillon (Chris Shortall) and Dexter staff (Rick Northrup) on the morning of July 5th as per the requirements of the Wetland Alteration Approval.
- July 5 Rob advised Steve Copp that for the Borrow Pit Road and Wetland Alteration project, HRM requests from MIRROR NS:
- an updated project plan and schedule (given the delays) for the borrow pit road
 - any change in scope or price (due to delays)
 - to forward copies of the draft agreement for this project.
- July 8 Rob followed up with Steve Copp via e-mail to request update on the above items.
- July 14 Response received from Kurt Jacobs of MIRROR NS with an updated project schedule, which assumes a construction start date during the week of July 18th and confirmation that the scope and budget price are unchanged along with copies of the draft agreement for this project.
- July 15 Rob sent Gord, Stephan and others the attachments proposed to go with the draft road upgrade project agreement.
- July 15 Confirmation from Ken Reashor to Gord to proceed with Borrow Pit Road.
- August 2 HRM SWR letter to MIRROR NS indicating approval to commence construction of Borrow Pit Road.
- August 9 MIRROR begins construction of the Borrow Pit Road.
- September 27 MIRROR completes construction of the Borrow Pit Road, requests approval to commence partial closure work on cell 5 which is approved by HRM.

MERRICK JAMIESON STERNS WASHINGTON & MAHODY
BARRISTERS

February 21, 2012

VIA EMAIL - [REDACTED]
25780

Mr. Ken Meech
Executive Director
Halifax Waste/Resource Society
[REDACTED]
PO Box 213
Lakeside, NS B3T 1M6

Dear Mr. Meech:

Re: Mandate of the Community Monitoring Committee

You have requested our opinion as to the mandate, authority and role of the Community Monitoring Committee established pursuant to the Agreement between the Society and HRM dated February 16, 1999.

The Agreement has a number of provisions describing in detail the role and responsibilities of the Committee. In substance, they can be summarized as follows:

1. Monitor the operation of the Facilities and any element of HRM's integrated solid waste resource management system where the operation of such element has a direct impact on the operation of the Facilities. (Articles 2.05, 7.01(a))
2. Report to area residents, council and other applicable authorities concerning the operation of the Facilities or any other element of the solid waste resource management system where the operation of such elements has a direct impact on the operation of the Facilities. (Articles 6.03, 7.01(d) and (f))
3. In order to effectively monitor and report, the Committee is entitled to be regularly and fully informed by HRM concerning the operation and to receive full and complete reports concerning the operation of the Facilities. (Article 7.01(b), 8.01(a), (c) and (d))
4. As part of the entitlement to be fully informed the Committee may
 - (a) participate in the development of tests and testing protocols to determine compliance by any contractor or operator relating to the construction or operation of the Facilities. (Articles 6.04, 8.02)

- (b) conduct or monitor any such tests.
- (c) develop procedures for conducting random inspections of waste delivered for processing and disposal.
- (d) participate in developing procedures for measuring the composition of waste in order to determine the effectiveness of the waste reduction and diversion programs.
- (e) have access to the Facilities in order to obtain whatever information it requires. (Articles 8.01 (b), 8.02)

The Agreement is explicit that there is to be a "community monitoring process" (2.02).

This mandate is to be interpreted against the context in which the integrated solid waste resource management system and facilities were developed and established.


The Strategy and the system were largely the result of community participation. A key element of the Strategy was to maintain community involvement and participation. The Society was incorporated and the Committee established in order to give the community continuing responsibility and participation in the operation of the system. The entitlement of the Committee to be fully informed must be liberally interpreted in order for the intent and spirit of the Agreement to be achieved.

In practical terms, the Committee is entitled to ask for any information that it requires in order for it to be satisfied as to how the system and Facilities are being operated.

For example, if there were concerns as to odour coming from the Facilities it would be within the authority of the Committee to seek from HRM any information that would be relevant to whether there was an odor and, if so, what its cause might be and what steps were being taken, or should be taken, to resolve the problem.

If you require further elaboration, or if there is a specific issue on which you would like our opinion, please give me a call.

Yours truly,


John Merrick

Direct: 


JM/ds

 Otter Lake Community Monitoring

P.O.BOX 213, LAKESIDE
 NS.B3T1M6

July/25/2011

Mike Labreque
 Deputy CAO
 HRM

February, 23/2012

Dear Mr. Labreque

Thank you for your communication of January 24 providing a response to our request for information and explanation as to the reasons behind the odour problem at Otter Lake and the surrounding community.

We do note that you have taken the opportunity to point out that CMC has limitations on the type of information that we are entitled to request. For your information I refer you to SECTION 8.01(d) in the joint agreement between HRM and The Halifax Waste /resource society.

That section provides access to information on any aspect of the solid waste system which has a direct impact on the operation of the facilities .

We are simply seeking an explanation on the reasons for the serious odour problem experienced over a period of 3 months .We ask that the information be in a form that can be utilized to prepare a communication to the residents should we decide that is necessary in accord with our responsibility to the community.

We look forward to the aforementioned explanation with assurance that this type of circumstance will be mitigated for the future.

Yours truly

Jack Mitchell-Chair

CMC Members