

HALIFAX

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Item No. 14.1.4
Halifax Regional Council
September 5, 2017

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by



SUBMITTED BY:

Jacques Dubé, Chief Administrative Officer

DATE: July 17, 2017

SUBJECT: Community Integration Fund – Otter Lake Landfill

ORIGIN

Council motion on June 13, 2017 “That Regional Council request a staff report on the merits of the development of a Community Integration Fund to compensate the affected communities around the Otter Lake Landfill.”

LEGISLATIVE AUTHORITY

Clause 79(1)(an) of the *Halifax Regional Municipality Charter* provides that “Council may expend money required by the Municipality for ... solid-waste management facilities”.

Subsection 335(1) of the *Halifax Regional Municipality Charter* provides that “The Municipality may provide compensation to an area, to the property owners in an area or to the residents of an area in which a solid-waste management facility is located in amounts, and under the conditions, determined by the Council.”

RECOMMENDATION

It is recommended that Halifax Regional Council not provide a community integration fund for the Otter Lake Landfill.

BACKGROUND

In 1997, HRM and MIRROR NS executed the “Agreement for the Design, Construction and Operation of Components of Halifax Regional Municipality’s Solid Waste Facilities” (“1997 Agreement”). The 1997 Agreement was a 25 year contract and it provided the framework for operations of the Otter Lake Facilities. Under this contract MIRROR NS is responsible for

compliance with all applicable laws, insurance and bonding, inclusive of environmental impairment for thirty years post closure of the site. The operations contract was set to expire in 2024. The expiry date was based on the estimated useful life of the 9 landfill cells approved at the site.

In the 1996 Integrated Waste Resource Management Strategy it was identified within the Strategy Objectives to foster stewardship and conservator values through the “adoption of a no direct public financial compensation philosophy to local communities”

On October 6, 2015 Council directed staff to commence contract negotiations with MIRROR NS on an extension to the 1997 Agreement. On December 23, 2015 an agreement was successfully negotiated and executed between Halifax and MIRROR NS (the “2016 Agreement”). The 2016 Agreement expires the earlier of 20 years from January 1, 2016 or when Cell 9 reaches capacity. The 2016 Agreement provides the right of early termination for MIRROR NS as well as mutually agreeable extensions.

On May 20, 2016 the “Otter Lake Act” received Royal Assent. This Act restricts the height of the Otter Lake Landfill and limits the site to nine solid waste residual disposal cells. Site capacity and useful life cannot be expanded through constructing additional cells and/or through the vertical expansion of existing or future cells.

DISCUSSION

Current Hosting / Monitoring Agreement

A hosting / monitoring Agreement was established in 1999. The Agreement between the Halifax Regional Municipality and the Halifax Waste Resource Society (HWRS) is for the community monitoring of solid waste facilities at Otter Lake. This Agreement provides the community, through the HWRS and the Community Monitoring Committee (CMC), rights, responsibilities and obligations for operational oversight of the Otter Lake Facility. Historically the Halifax Region provided \$65,000 annually (2000 onward) to fund the work of the CMC. On February 23, 2016 Council approved a \$25,000 increase to the CMC’s annual allocation. The current annual allocation is \$90,000. This level of funding equates to approximately \$2 for every tonne of waste that is currently placed into the landfill annually.

The CMC budget for 2017/18 has been included as an attachment to this report and is summarized below.

Executive Director	\$38,000
Communications / Public Relations	\$30,000
Legal Services	\$ 7,000
<u>Engineering / Solid Waste Expert</u>	<u>\$15,000</u>
Total	\$90,000

HRM Community Integration Funding / Host Agreements

Below are examples where the Halifax Region has used community integration funds. Integration funds have primarily been related to the expansion of existing projects or the development of new projects.

Harbour Solutions Community Integration Fund - The Halifax Harbour Solutions Project (HHSP) required new sewage treatment plants to be established within three communities. The municipality provided community integration funds in the amounts of \$1,000,000 for Halifax, \$1,000,000 for Dartmouth, and \$5,000,000 for Herring Cove.

Halifax Compost Facility Land Expansion Community Integration Fund - Additional land is required for the development of a new organics management facility. On April 25, 2017 Halifax Regional Council approved in principle a community integration fund be established in the amount of \$1,000,000 for the property expansion of 61 Evergreen Place. The property expansion requires HRM owned parkland that is within the Western Commons.

Sackville Landfill Compensation Fund

On November 25, 1993, the Community of Sackville Landfill Compensation Act became law (attached). The Act was created by the Province of Nova Scotia and its purpose was to establish a Fund to provide compensation to the Community of Sackville for acting as host community to the Landfill Site.

During the early 1990's the Halifax Region was in the process of developing a solid waste management strategy and siting a new landfill. A new landfill site could not be developed in time to accept waste once the existing cells at the Sackville Landfill were projected to be full. As a result an expansion at the Sackville Landfill was required. Additional cells were constructed and the landfill closed in December 1996.

The Sackville Landfill was a first generation landfill without the extensive environmental protections that exist today. Source separation programs for organics and hazardous materials did not exist and waste was deposited directly in the landfill generally without preprocessing. As a result, there were odor and vector (bird/animal) issues at the site which negatively impacted local residents. Some homes were in close proximity to the site (less than 500 meters). A leachate treatment facility operated by Halifax Water was constructed at the site to treat the landfill's leachate. The treated water was and continues to be discharged into the Sackville River. A hosting / monitoring agreement was not established for the site and there was no monitoring committee during the sites operation. There was a close out committee comprised of unpaid volunteers.

Otter Lake Landfill

The Otter Lake Landfill has an enhanced level of community protections established including a hosting / monitoring agreement (attached). The Otter Lake Landfill has a Front End Processor and Waste Stabilization Facility (FEP/WSF), a 3km separation from the nearest residence and well, a second generation landfill design with multiple geotextile membrane liners, and enhanced landfill gas management systems. In addition there are source separation programs which remove organic and other hazardous materials from the waste stream. The leachate generated at the site is transported and processed offsite at a Halifax Water waste water treatment plant and discharged into the Halifax Harbour. These investments have improved environmental protections, reduced nuisances and resulted in less of an impact to the surrounding community. There were no odor complaints in 2016. The site is monitored by a volunteer Community Monitoring Committee which receives annual funding from HRM.

With the restrictions from the Otter Lake Act the Otter Lake Landfill cannot be expanded. Essentially "The legislation will constrain the footprint of the landfill to the original approved dimensions."¹ The site operator confirmed (November 27, 2015) the remaining 3 cells (7, 8, &9) have a capacity of 2.5 million tonnes of waste. Cell 7 started to receive waste in June, 2017. The useful life of the facility is dependent on the volume of material that arrives annually. With the tip fee for processing waste at Otter Lake currently \$152/tonne, commercial haulers are diverting their waste to lower cost landfills. As a result of this diversion the useful life of the landfill has increased. If the

¹ <http://otterlakecmc.ca/?p=290> "MLA Rankin Introduces Act to Keep Otter Lake Landfill Size As Originally Approved".

commercial material returns to the Otter Lake Landfill the useful life will be reduced. Below is an estimated useful life range of Otter Lake with the existing 2.5 million tonnes of available space.

Waste Stream	Estimated Useful Life (Years)
Residential - No Growth	54
Residential - 2% Growth	37
Residential & Commercial - No Growth	20
Residential & Commercial - 2% Growth	17

Waste Stream	Estimated Annual Tonnes
Residential Base Tonnes	46,000
Commercial Base Tonnes	80,000

Review of Community Hosting Agreements

There is no standard approach to how funding is calculated or distributed for landfill hosting agreements or community integration funds. After a literature review on hosting agreements, it was found that research on this topic is minimal. There is however a report from the United States Environmental Protection Agency (USEPA) titled “Host Community Compensation and Municipal Solid Waste Landfills” by Robin R. Jenkins, Kelly M. Maguire, and Cynthia Morgan. This report studied 104 American landfill operators to try to identify the nature of host compensation and determine why they vary dramatically across communities.

Within the study it was found that the majority of landfill operations do not provide compensation for host communities. Those that do, have various ways of calculating and providing compensation.

Type of Compensation ²	
Type	Percent
Zero	52%
Per tonne of Waste	31%
Percent of Revenue	4%
In-kind Gifts	16%
Free Collections, Disposal, Recycling	11%
Preferential Hiring	3%

Community hosting agreements can take various approaches with regards to how compensation is calculated and provided. For example:

- per tonne disposal fee
- percent of revenue
- in-kind gifts
- preferential hiring practices

² “Host Community Compensation and Municipal Solid Waste Landfills” Robin R. Jenkins, Kelly M. Maguire, and Cynthia Morgan 2002.

The total compensation levels can also vary substantially based on thresholds established by the landfill operator or various levels of government. For example:

- minimum yearly / total contribution
- pay as you go contribution
- lump sum total contribution
- maximum yearly / total contribution

Hosting Agreements in Nova Scotia

A jurisdictional scan in Nova Scotia was completed to identify landfills that provide compensation to the host community.

- Colchester contributed \$150,000 in 1995-96 for a community center, with \$50,000 deposited into a trust account. The interest from the trust account is available for maintenance and operation of the community centre.
- Guysborough allocates \$0.20 for every tonne of garbage delivered to its facility into “The Green Fund”. This fund assists in environmental projects taking place in the community.
- Chester provides weight exemptions for residences when delivering their waste to their landfill.

Basis for Recommendation

There currently exists a hosting / monitoring agreement with the community. Funding was increased in 2016 to \$90,000 per year. This funding represents approximately \$2/tonne of waste landfilled annually. The \$90,000 has been included in the 2017/18 Council approved budget.

The investments in landfill infrastructure (WSF/FEP, cell design and construction, landfill gas management etc.) and the siting of the Otter Lake Landfill have greatly reduced the negative externalities to the host community compared to Sackville.

The Halifax Region has, in general, provided community integration funds for projects which were new to a community or expanded the existing use of an asset. Provincial legislation prohibits the expansion of the Otter Lake Landfill. As a result, no expansion of the landfill can occur. If additional cells were permitted thereby expanding the footprint into Regional Park Reserve or Regional Parkland it would be prudent to revisit the recommendation.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

RISK CONSIDERATION

The operational risks with the recommendation are minimal to none.

COMMUNITY ENGAGEMENT

The Community Monitoring Committee wrote a letter to Mayor Savage seeking \$2.00 for every tonne disposed at the Otter Lake Facility (attached). This is the approximate level of funding the CMC receives on an annual basis through the existing host agreement.

An annual community integration fund of \$2.00 for every tonne disposed for Cells 7, 8 and 9 has an estimated cost of \$5,000,000.

ALTERNATIVES

1. Direct the CAO to establish an annual community integration fund for every tonne disposed for Cells 7, 8 and 9, with an amount to be determined by Council. If selected, a subsequent staff report would be required to provide recommendations on how funding could be administered and allocated.
2. Direct the CAO to establish a community integration fund with a lump sum amount to be determined by Council. If selected, a subsequent staff report would be required to provide recommendations on how funding could be administered and allocated.

ATTACHMENTS

CMC Budget Submission April 1, 2017-March 31, 2018
The Community of Sackville Landfill Compensation Act
The 1999 Agreement for Community Monitoring of Solid Waste Facilities
May 9, 2016 Letter to Mayor Savage from CMC Re: Community Integration Fund

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Matt Keliher, Manager, Solid Waste, 902.490.6606



MEMORANDUM

Date : November 29, 2016

To : Matt Keliher, Mgr, Solid Waste, HRM

From :  John Cascadden, Chair, CMC

Reference : CMC budget submission for the period from April 1, 2017 to March 31, 2018

Attachment : Proposed to The CMC Board on November 24, the CMC Operating Budget for 2017-18

Action taken by CMC : Subject to the Municipality 's review , the Board of CMC approved the Budget per the attached details for a total cost submission of \$ 90,000.

REFERENCE : ITEM 6 , CMC AGENDA FOR NOV. 24, 2016

2017-18 BUDGET RECOMMENDATION OUTLINED BELOW FOR CMC BOARD'S CONSIDERATION TOWARDS AN APPROVED BUDGET FOR ITS TIMELY SUBMISSION TO THE MUNICIPALITY

TO: MATT KELIHER, HRM MANAGER OF SOLID WASTE

FROM: JOHN CASCADDEN, CHAIR, CMC

SUBJECT: CMC 'S SUBMITTED OPERATING BUDGET FOR 2017-2018

CMC SUBMITS THIS YEAR'S BUDGET IN THE AMOUNT OF \$ 90,000. NET OF TAXES., THE SAME AMOUNT AS LAST YEAR. THE ESSENTIAL DETAIL OF CMC 'S PROGRAM EXPENDITURES IS PROVIDED BELOW -NOTING ANY CHANGES OVER LAST YEAR – UNDER THE FOUR CONTINUING TASK FUNCTIONS AS WERE IDENTIFIED IN OUR LAST SUBMISSION.

TASK	COMMENT	BUDGET
MANAGEMENT /ADMIN	EXECUTIVE DIRECTOR, MEETINGS	38,000
FINANCIAL REPORTI	RESEARCH, DEVELOPMENT FOR BOARD	
ACCOUNTING	LIASON WITH MIRROR, HRM, NSE	
COMMUNICATIONS/ PUBLIC RELATIONS	MAINTENANCE OF WEBSITE, NEWSLETTERS, PREPARATION AND DELIVERY OF PUBLIC INFORMATION SESSIONS ON CHANGES CONTEMPLATED PREPARE ANNUAL REPORT CARD FOR ALL OUR PUBLICS INCLUDING HRM	30,000

LEGAL	COMPLETE PREPARATION AND DELIVERY	7,000
	OF A REVISED CMC AGREEMENT WITH THE	
	THE MUNICIPALITY REFLECTING CHANGES	
	IN THE WORKING RELATIONSHIPS WITH HRM	
	AND THEIR OPERATOR.	
ENGINEERING / SOLID WASTE EXPERTISE	PROVISION OF INDEPENDENT EXPERTISE	15,000
	FOR ANY SUBSTANTIAL CHANGES PROPOSED	
	AS IT MAY AFFECT THE LANDFILL OPERATIONS	
		TOTAL \$ 90,000

ADDITIONAL DISCUSSION:

AS IS STATED IN THE MUNICIPAL STAFF REPORT TO COUNCIL OF FEBRUARY 23, 2016 UNDER THE DISCUSSION SECTION 'OVER THE NEXT FEW FISCAL YEARS, CMC IS SEEKING TO USE EXTERNAL RESOURCES TO ASSESS AND PEER REVIEW POTENTIAL CHANGES TO THE FRONT END PROCESSOR AND WASTE STABILIZATION FACILITY (FEP/WSF) . FURTHER TO THIS THE CMC PLANS TO LEAD THE COMMUNITY ENGAGEMENT ON POTENTIAL CHANGES AS THEY RELATE TO THE FEP/WSF.'CMC CONCURS WITH THIS APPROACH TO ANY POSSIBLE CHANGES TO THE FACILITIES AND ITS RELATED OPERATIONS. IT SHOULD BE NOTED, THAT THE AMOUNT OF THIS YEAR'S EXPENDITURES FOR WEB SITE DEVELOPMENT RESOURCED FROM WITHIN THE COMMUNICATIONS EXPENDITURE ENVELOPE; WILL NEXT YEAR, BE APPROPRIATELY SHIFTED TO ENHANCED COMMUNICATIONS AND EXPECTED ENGAGEMENT WITH CMC'S VARIOUS PUBLICS.

S T A T U T E S
OF
N O V A S C O T I A

Passed in the

Forty-Second Year of the Reign of Her Majesty

QUEEN ELIZABETH II

Being the First Session of the Fifty-Sixth

General Assembly



Halifax, Nova Scotia
Queen's Printer
1993

**An Act Respecting Compensation to
the Community of Sackville for Hosting
the Landfill Site of the Metropolitan Authority**

(Assented to the 25th day of November, A.D. 1993)

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Community of Sackville Landfill Compensation Act*.

2 In this Act,

(a) "Authority" means the Metropolitan Authority continued as a body corporate by the *Metropolitan Authority Act*;

(b) "Community Council" means the community council established by the *Halifax County Charter* for the Community of Sackville;

(c) "Community of Sackville" means that area of the Municipality that, on the first day of January, 1991, was included in polling districts 16, 19, 20, 21 and 22;

(d) "Fund" means the Community of Sackville Landfill Compensation Fund established by this Act;

(e) "Landfill Site" means the landfill site located in the Community of Sackville and operated by the Authority;

(f) "Municipality" means Halifax County Municipality;

(g) "participating bodies" means the City of Halifax, the City of Dartmouth, the Town of Bedford and the Municipality;

(h) "solid waste" means garbage, refuse or other solid waste.

3 (1) There is hereby established a Fund to be known as the Community of Sackville Landfill Compensation Fund.

(2) The purpose of the Fund is to provide compensation to the Community of Sackville for acting as host community to the Landfill Site.

(3) The Fund shall be held in trust and administered by the Municipality for the Community of Sackville.

(4) The Municipality shall expend the Fund for the benefit of the Community of Sackville in accordance with directions given to the Municipality by the Community Council and in accordance with the *Halifax County Charter*.

4 (1) Upon the coming into force of this Act, the Authority shall, subject to the *Municipal Affairs Act* and the *Metropolitan Authority Act*, borrow the sum of five million dollars and pay that sum to the Municipality which shall deposit the payment to the credit of the Fund.

(2) The sum borrowed pursuant to subsection (1) is and is deemed to be a sum required for the purposes of the Authority within the meaning of the *Metropolitan Authority Act*.

(3) Each of the participating bodies shall pay to the Authority that proportion of the amount required to retire the indebtedness arising from the borrowing required by subsection (1) that is the same as that proportion of the expenditure of the Authority that the participating body is required to pay to the Authority pursuant to the *Metropolitan Authority Act* in respect of the management of solid waste.

5 (1) Immediately after the thirtieth day of June, 1994, the Authority and the Community Council shall determine the product of ten dollars and the number of tonnes of

solid waste deposited at the Landfill Site from the first day of July, 1992, until the thirtieth day of June, 1994, inclusive.

(2) If the product determined pursuant to subsection (1) is less than five million dollars, the Municipality shall pay the difference from the Fund to the Authority.

(3) If the product determined pursuant to subsection (1) is more than five million dollars, the Authority shall pay the difference to the Municipality which shall deposit the payment to the credit of the Fund, and subsection (3) of Section 4 applies *mutatis mutandis*.

6 (1) Any dispute arising concerning the amount of the payment by any of the participating bodies pursuant to subsection (3) of Section 4 or concerning the determination of the product pursuant to subsection (1) of Section 5 shall be referred to binding arbitration pursuant to the *Arbitration Act*.

(2) For greater certainty, an arbitration award made pursuant to subsection (1) is binding on the parties thereto.

7 The payment by the Authority of the amounts required by this Act to the Municipality for deposit to the Fund operates as a complete discharge of any liability of the Authority to the Municipality, the Community Council or the Community of Sackville on account of damages arising out of the operation of the Landfill Site but, for greater certainty, nothing in this Section prejudices any rights that an individual resident may have at law.

8 (1) Upon receipt of a claim documented to its satisfaction, the Authority may pay an amount to a person who is a resident of the Community of Sackville or an owner or occupier of real or personal property located in the Community of Sackville on account of damages suffered by that person arising out of the operation of the Landfill Site.

(2) If the Authority pays any amount to a person pursuant to subsection (1), the Authority shall obtain

from that person a complete release of the Authority from all liability for such damages.

(3) Any claim pursuant to this Section shall be made to the Authority within one year of this Act coming into force.

STATUTES
OF
NOVA SCOTIA

Passed in the

Forty-Third Year of the Reign of Her Majesty

QUEEN ELIZABETH II

Being the Second Session (continued) of the Fifty-Sixth

General Assembly



Halifax, Nova Scotia
Queen's Printer
1994-95

**An Act to Amend Chapter 71
of the Acts of 1993,
the Community of Sackville
Landfill Compensation Act**

(Assented to January 13, 1995)

Be it enacted by the Governor and Assembly as follows:

1 (1) Subsection 5(2) of Chapter 71 of the Acts of 1993, the *Community of Sackville Landfill Compensation Act*, is repealed and the following subsection substituted:

(2) If the product determined pursuant to subsection (1) is less than five million dollars, the difference may be retained by the Fund to be expended in accordance with Section 3.

(2) Section 5 of Chapter 71 is further amended by adding immediately after subsection (3) the following subsections:

(4) The Authority shall pay to the Municipality the product of ten dollars and the number of tonnes of solid waste deposited on or after the first day of July, 1994, in cells at the Landfill Site that were constructed and in operation before the first day of July, 1994.

(5) The payments required by subsection (4) shall be made in quarterly instalments.

(6) The Municipality shall deposit to the credit of the Fund all amounts paid to it pursuant to subsection (4).

2 (1) Subsection 8(1) of Chapter 71 is amended by adding immediately after "is" in the third line the words "or was".

(2) Section 8 of Chapter 71 is further amended by adding immediately after subsection (1) the following subsection:

(1A) For greater certainty, a payment pursuant to subsection (1) may be in consideration of the purchase of real property, or a part thereof, referred to in subsection (1).

(3) Subsection 8(3) of Chapter 71 is repealed and the following subsection substituted:

(3) Any claim pursuant to this Section shall be made to the Authority within six months after this subsection comes into force.

STATUTES
OF
NOVA SCOTIA

Passed in the
Forty-Fourth Year of the Reign of Her Majesty

QUEEN ELIZABETH II

Being the Third Session of the Fifty-Sixth

General Assembly



Halifax, Nova Scotia
Queen's Printer
1995

(16) Subsection 22(2) of Chapter 55, as amended by Chapter 71 of the Acts of 1975, is further amended by striking out "City" in the third and in the fourth lines and substituting in each case "Regional Municipality".

(17) Section 23 of Chapter 55, as amended by Chapter 71 of the Acts of 1975, is further amended by striking out "City" in the third, in the fourth and in the sixth lines and substituting in each case "Regional Municipality".

(18) Section 24 of Chapter 55, as amended by Chapter 71 of the Acts of 1975, is further amended by striking out "Notwithstanding any provisions of the *Halifax City Charter*, the City" in the first and second lines and substituting "The Regional Municipality".

(19) Subsection 25(5) of Chapter 55, as amended by Chapter 71 of the Acts of 1975, is further amended by striking out "of the City and of the Municipality of the County of Halifax" in the seventh and eighth lines.

Halifax Water Commission preserved

215 Nothing in this Act dissolves the Halifax Water Commission.

Sackville landfill compensation act amended

216 (1) Section 2 of Chapter 71 of the Acts of 1993, the *Community of Sackville Landfill Compensation Act*, is amended by

(a) striking out clauses (a) and (b) and substituting the following clauses:

(a) "Authority" means the Halifax Regional Municipality;

(b) "Community Council" means the community council of the Halifax Regional Municipality with jurisdiction in a community containing the Community of Sackville and, until a community council is established for a community containing the Community of Sackville, means the councillors elected from polling districts situate

wholly or in part in the Community of Sackville;

and

(b) striking out clauses (f) and (g) and substituting the following clauses:

(f) "Municipality" means the Halifax Regional Municipality;

(g) "participating bodies" means the Halifax Regional Municipality;

(2) Subsection 3(4) of Chapter 71 is amended by striking out "and in accordance with the *Halifax County Charter*" in the fourth line.

Repeal of certain Acts

217 (1) Any Act that applies solely to a municipal unit is repealed effective April 1, 1996.

Repeal of Acts in Schedule

(2) For greater certainty, the Acts in the Schedule to this Act are repealed effective April 1, 1996.

Amendment of Schedule

(3) The Governor in Council may amend the Schedule to this Act and an amendment pursuant to this subsection has effect on and after April 1, 1996.

Regulations Act

(4) The exercise by the Governor in Council of the authority in subsection (3) is regulations within the meaning of the *Regulations Act*.

Effective date of certain Sections

218 (1) Sections 3 to 9 have effect on and after April 4, 1995.

Effective date of certain other Sections

(2) Sections 214 and 216 have effect on and after April 1, 1996.