

HALIFAX

P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 15.1.7
Halifax Regional Council
April 5, 2022

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: March 8, 2022

SUBJECT: Review of Otter Lake Community Monitoring Committee

ORIGIN

On August 17, 2021 Halifax Regional Council passed the following resolutions:

12.2 That Halifax Regional Council direct the Chief Administrative Officer conduct a review of the financial, administrative and governance policies and practices of the Community Monitoring Committee of Otter Lake to ensure best practices are being followed with regards to fiscal accountability, governance, transparency, and public engagement.

12.1 That Halifax Regional Council propose that the Chief Administrative Officer write a report on modernizing the Community Monitoring Committee.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, R.S.N.S. 2008, c. 39:

Purposes of Municipality

7A The purposes of the Municipality are to

- (a) provide good government;
- (b) provide services, facilities, and other things that, in the opinion of the Council, are necessary or desirable for all or part of the Municipality; and
- (c) develop and maintain safe and viable communities.

Responsibilities of Auditor General

50 (1) The Auditor General is responsible for assisting the Council in holding itself and the Municipality's administrators accountable for the quality of stewardship over the public funds and for achievement of value for money in the Municipality's operations.

(2) The Auditor General shall examine, in the manner and to the extent the Auditor General considers necessary, the accounts, procedures and programs of the Municipality and any municipal body of the Municipality, as that term is defined in Section 461 of the Municipal Government Act, or person or body corporate receiving a grant from the Municipality, to evaluate

RECOMMENDATION ON PAGE 2

- (a) whether the rules and procedures applied are sufficient to ensure an effective control of sums received and expended, adequate safeguarding and control of public property and appropriate records management;
- (b) if money authorized to be spent has been expended with due regard to economy and efficiency;
- (c) if money has been spent with proper authorization and according to an appropriation;
- (d) if applicable procedures and policies encourage efficient use of resources and discourage waste and inefficiency; and
- (e) whether programs, operations and activities have been effective.

(3) In addition to the duties under subsection (2), the Auditor General shall examine those programs, policies and procedures as are requested by the Council to the extent that such examination can be reasonable accommodated.

Solid-waste management

336 (1) 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 direct the Chief Administrative Officer to request the Halifax Waste/Resource Society to work with HRM staff to develop mutually agreeable policies and protocols, and/or amendments to the 1999 Community Monitoring Agreement, to address the financial, administrative and governance concerns identified in this report.

EXECUTIVE SUMMARY

The Community Monitoring Committee (**CMC**) was established by agreement with the Halifax Waste/Resource Society (**HWRS**) in 1999 to monitor the operations of the Otter Lake Waste Processing & Disposal Facility. It is a requirement of HRM's operating approval issued by Nova Scotia Environment. The CMC consists of 15 members, 9 of which are appointed by the HWRS and 6 of which are appointed by HRM.

A review of the Agreement and the CMC's current practices indicates that it is, for the most part, structured and operating in accordance with the Province's best practices *Guide for the Formation and Operation of a Community Liaison Committee*. There are, however, several areas of concern, including:

- Non-compliance with agreed upon quorum for meetings (resulting in the exclusion of HRM representation in decision-making)
- Lack of clarity with respect to the role and authority of the Executive Committee and Executive Director
- Inconsistent communications protocols
- Deviation from agreed upon expenditure processes
- Composition of CMC not as inclusive as it could be

Each of these issues can be rectified, either through the development of clearer policies and protocols, or through amendments to the Agreement. Neither HRM nor the HWRS can make unilateral changes to the CMC or the Agreement. It is therefore recommended that HRM and the HWRS work together to address the concerns highlighted in this report.

BACKGROUND

The CMC has a unique status in comparison to other advisory committees. It is not a committee of Council, nor is it solely under the oversight and control of HRM. It is a committee established through a 1999 agreement between HRM and the HWRS (the “**Agreement**”) (**Attachment A**). The Agreement sets out the composition, mandate and basic terms of reference for the committee. The CMC is not a corporation or other form of legal entity and is not a party to the Agreement. It is a committee of 15 individuals appointed by HRM and the HWRS pursuant to the terms of the Agreement but has no separate legal existence.

In accordance with the terms of the Agreement, the CMC is comprised of:

- 9 residents of HRM appointed by the HWRS, 4 to 6 of whom must live within 5km of the Facilities [these are the 9 Directors of the HWRS, as elected at the Annual General Meeting].
- 2 residents of HRM appointed by Council, who are not Area Residents;
- 2 local Councillors;
- 1 other Councillor appointed by Council; and
- the Mayor of HRM;

The mandate of the CMC is set out in Article 7.01 of the Agreement. It stipulates that the CMC shall:

- monitor the operations of the Facilities;
- ensure that members of the Committee are regularly and fully informed concerning the operation of the Facilities;
- receive information and representations from Area Residents concerning any matter relating to the operation of the Facilities;
- report to the Area Residents information concerning the operation of the Facilities;
- report to the Council of HRM and other authorities having jurisdiction relevant views of Area Residents;
- report to the Council of HRM and other authorities having jurisdiction the views and comments of the Committee, and of Area Residents, concerning the operation of any element of HRM’s integrated solid waste resource management system other than the Facilities, where the operation of such element or elements has a direct impact on the operation of the Facilities;
- comment or make representations to such body or authority, as the Committee thinks fit, concerning any matter falling within the mandate of the Committee as set out in this Agreement;
- report to the Council or the Society concerning the activities and affairs of the Committee at such times and in such manner as the Council or the Society, respectively, may require;
- fulfil such other responsibilities as may be conferred on the Committee by agreement of HRM and the Society.

DISCUSSION

As stated in the Background section of this report, the Community Monitoring Committee was established through an agreement made between HRM and the Halifax Waste/Resource Society on February 16, 1999. The agreement sets out the general mandate, composition, and other terms of reference for the CMC.

The requirement for community monitoring of the Otter Lake Solid Waste Management Facilities is also a condition of the operating approval issued by the Minister of Environment. Section 18 of the operating approval states:

18. Community Liaison Committee

- a. A Community Liaison Committee/Community Monitoring Committee shall be maintained for the duration of the Approval.

b. The Approval Holders shall maintain a communication link to the local community primarily through the Community Liaison Committee/Community Monitoring Committee. A list of current members as well as any revisions or changes to the membership of the committee shall be forwarded to the Department within thirty (30) days of the revision or change.

NSE Best Practice Guidelines

In 2010, the Nova Scotia Department of Environment released a *Guide for the Formation and Operation of a Community Liaison Committee (Attachment B)*. The Guide is non-binding and is not intended to be all-encompassing; however, it provides some suggested best practices for the creation and governance of such committees. According to the Guide, the purpose of a CLC is:

- to act as an advisory body to a project proponent by providing input on existing or potential concerns of the community with respect to the project plan and activities; and
- to represent community interest by providing an avenue for the mutual exchange of information between the proponent and the community with respect to any existing or potential environmental effects of the project plan and activities.

Although the Guide was developed and published a decade after the creation of the CMC, a review of the 1999 agreement and the CMC’s current practices indicates that it is, for the most part, structured and operating in accordance with these best practices. Several of the CMC’s policies and practices, however, are not strictly in accordance with the Guide nor compliant with the processes contemplated in the 1999 agreement. These deviations are identified in the table below and/or discussed in more detail in subsequent sections of this report.

Table 1: Comparison of NSE best practices to CMC structure, policies and practices

NSE Best Practices	CMC structure, policies & practices
<p>Membership</p> <p>A well-structured CLC is one with a balanced membership and broad representation.</p>	<p>Per article 5.03 of the Agreement the CMC is comprised of:</p> <ul style="list-style-type: none"> • The Mayor; • 2 local Councillors; • 1 other Councillor appointed by Council; • 2 residents of HRM appointed by Council who do not live within 5km of the Facilities; • 9 residents of HRM appointed by the HWRS (4 to 6 of whom must live within 5km of the Facilities)

<p>The CLC should be kept to a reasonable size, in most cases no greater than ten members.</p>	<p>There are 15 members of the CMC, which is slightly more than the recommended amount.</p> <p>Per article 5.08 of the Agreement a quorum of the CMC consists of 10 members. A review of the CMC's historical meeting minutes indicates that this is not being strictly adhered to. Sometimes the CMC conducts business with fewer than 10 members present for meetings. Additionally, some decisions are made by an Executive Committee or the Executive Director (neither of which were contemplated in the Agreement).</p>
<p>Terms of Reference should specify the frequency by which memberships are renewed.</p>	<p>The Mayor and local Councillors are <i>ex officio</i> members of the CMC by virtue of their office.</p> <p>Per article 5.04 of the Agreement, each of the appointed members of the CMC "shall hold office for a term of such duration as is determined by the respective appointing authority, and may be appointed by their appointing authority for not more than one additional term of the same duration".</p> <p>HRM typically appoints members for a two-year term.</p> <p>According to the HWRS By-laws, its Directors (and CMC appointees) are supposed to serve for a term of 3 years.</p> <p>It appears, however, from the CMC meeting minutes that some of the HWRS appointees have been members of the CMC for more than 6 years.</p>
<p>The CLC should include members representing the following groups:</p> <ul style="list-style-type: none"> • Proponent • Property owners/residents located in close proximity to the project <p>It is recommended that a CLC also include representation from other interested parties such as:</p> <ul style="list-style-type: none"> • First Nations • Local business • Municipally elected officials or their representatives • Community or environmental groups <p>In some cases, NSE may require membership from specific stakeholder groups or associations as a condition of an approval under the Environment Act.</p>	<p>The CMC includes elected officials and residents. It does not expressly include representatives of any special interest groups.</p> <p>HRM staff are not considered members of the CMC, however they frequently do attend CMC meetings as "guests".</p> <p>The current operating agreement between HRM and Mirror signed in 2015 contemplated that Mirror would, subject to approval of the HWRS, become a member of the CMC. This has not formally happened as it would require a renegotiation of the CMC agreement. However, in practice representatives of Mirror also frequently attend CMC meetings as "guests".</p>

<p>CLC members are not typically provided with any remuneration for participating on the CLC. The proponent may choose to reimburse expenses in some cases (travel etc.).</p>	<p>There is no remuneration for CMC members, however they can be reimbursed for their out-of-pocket expenses pursuant to article 9.04(g) of the Agreement.</p>
<p>Meetings</p>	
<p>It is recommended that there be a minimum of two meetings per year, the dates of which should be set at the beginning of each calendar year. Notice of such meetings are recommended to be provided to all CLC members. The total number and frequency of meetings should be decided by the CLC members, in consultation with the proponent.</p>	<p>Most CMC meeting minutes are posted on the public CMC website.</p> <p>The CMC sets its own meeting schedule, generally at the beginning of each calendar year.</p> <p>Members are notified of upcoming meetings via email.</p> <p>On average the CMC meets 4 to 5 times per calendar year.</p>
<p>Any written materials to be discussed at CLC meetings should be provided to all members prior to the meeting.</p>	<p>Agendas and written materials are typically distributed to CMC members before each meeting.</p>
<p>The CLC may wish to invite an external advisor or third party to attend a CLC meeting for the purposes of obtaining information or receiving advice to help the CLC meet its mandate.</p>	<p>External consultants, legal advisors, representatives of Mirror, and HRM Solid Waste, are frequently invited to attend CMC meetings.</p>
<p>Mandate</p>	
<p>The mandate of the CLC should be described in the terms of reference. Typically, a CLC mandate will be to provide:</p> <ul style="list-style-type: none"> • an on-going mechanism for communication between the proponent and the community on the design, construction and operations of a project, and on any impacts or perceived impacts on the environment; • a means for the facility operator to provide information to, consult with, and obtain advice from a body representative of the community; and • a forum whereby the residents can bring any issues of public concern related to proponent's activities to the attention of the facility operators. <p>The CLC may also wish to include additional responsibilities within their mandate which should be detailed in the terms of reference.</p>	<p>The mandate of the CMC is set out in article 7.01 of the Agreement and is broader than the mandate of a typical CLC. In essence, the CMC has the responsibility to:</p> <ul style="list-style-type: none"> • Monitor all operations at the Otter Lake landfill; • Report important information about the landfill operation to the local community; • Hear concerns from the local community and report those views to the Council of HRM; • Report its own views to Council on any other aspect of HRM's waste management facilities that could have an impact on the landfill facilities; • Report concerns to any other relevant body (ex. Nova Scotia Department of Environment) regarding any concerns it may have concerning issues inside of its mandate.
<p>CLC objectives, mandate and membership composition should be reviewed annually by its members with the proponent consenting to any change in the composition of the CLC.</p>	<p>The objectives, mandate and composition of the CMC are set by agreement and therefore are not reviewed or updated annually.</p>
<p>Records of CLC meetings and outcomes should be kept by the committee for the life of the CLC.</p>	<p>Meeting minutes dating back to 1998 are posted on the CMC's public-facing website with the exception of 2004, 2005, 2007, 2008 and 2009.</p>

Proponent's Roles and Responsibilities	
The proponent is responsible for soliciting membership for the CLC. This may be done through notice in newspapers or in other public venues, or by direct contact with potential members. Notice of the CLC formation and members must be made known to the residents of the affected area by the proponent.	HRM invites applications for the two non-Councillor appointments through HRM's website and approves appointments via the Executive Standing Committee. A review of the CMC meeting minutes indicates that the HWRS frequently solicits its Directors (and CMC appointees) by invitation and approves appointments via the HWRS Annual General Meeting.
For a successful CLC, the proponent should attend all CLC meetings.	A review of the meeting minutes indicates at least one HRM Councillor attends most CMC meetings. The Mayor does not typically attend. In recent years HRM staff usually attend as guests.
The proponent may decide to select a chairperson, or another process may be used to appoint a chair such as an election by CLC members. The appointment of co-chairs, or the selection of an impartial third party is also an option.	Article 5.06 of the Agreement provides that the CMC shall select a chairperson from among the 9 members appointed by the HWRS.
The proponent is responsible for the provision of meeting space, copying of minutes (copies to be sent to regulatory agencies when requested) and annual reporting.	CMC meetings typically take place at the Brunello Estates Clubhouse Boardroom. During the Covid-19 pandemic most meetings have been held virtually. Minutes of all meetings are maintained and posted to the CMC's public website.
The proponent is encouraged to provide timely, accurate information about the project, future plans, operations and activities.	Mirror and HRM staff provide annual reports and pertinent information about the operation of the landfill to the CMC upon request.
The proponent should consider CLC input in the development of mitigation, contingency, compensation and monitoring plans for the undertaking.	Article 6.04 of the Agreement provides that HRM will work with the CMC to develop various procedures for inspection, measurement and testing.
The proponent should provide all relevant project related information requested by the CLC, except for information which is considered to be confidential for legal or business reasons.	Article 8.01, 8.02 and 8.03 of the Agreement stipulates that HRM shall ensure that the CMC is provided with access to the facilities and with relevant information concerning the operation of the facilities upon request, except for "information relating to financial matters, personnel matters, matters which are the subject of legal advice or matters proprietary to an Operator".
The proponent should ensure that the views of the CLC are made available to the public in an appropriate manner.	The CMC's budget includes an amount for the CMC to publish newsletters and maintain a public website. The CMC also expresses its views through a public Facebook page.
CLC Member's Roles and Responsibilities	
CLC member's roles and responsibilities includes providing input, guidance, discussing community views, issues and concerns with respect to the project plan and activities.	The roles and responsibilities of CMC members are set out in article 7.01 of the Agreement and include receiving and reporting on the relevant views of area residents and reporting to Council and other authorities concerning the operation of the landfill facilities.

<p>The CLC members should work collaboratively with the proponent by providing practical advice and feedback to help avoid or minimize impacts from the project on the community and environment.</p> <p>CLC members should be prepared to consider a range of views, and work in a respectful way while positively addressing issues and concerns.</p>	<p>Anecdotally, some HRM members on the CMC indicate that they do not feel that the CMC works as collaboratively as it should. In particular, there is a concern that the HRM representatives are not being included as required by the Agreement and that many decisions and communications are being made or approved by the Executive Director, the Chair, or the Executive Committee (which consists entirely of HWRS representatives) without HRM involvement.</p> <p>The Executive Director and Chair of the CMC did not wish to provide input on this report so their perspective on this issue is unknown.</p>
<p>The CLC will act only in an advisory manner to the proponent.</p>	<p>The CMC's mandate is broader than a typical CLC. In addition to advising HRM, the CMC also has the mandate to independently monitor the operations of the facilities and to report concerns to the public and to other public bodies (i.e. NSE).</p>
<p>The specific project elements to be reviewed and commented upon by the CLC may include, but are not limited to:</p> <ul style="list-style-type: none"> • environmental protection plans, including monitoring, survey, mitigation, contingency and compensation plans; • dispute resolution policies and/or complaint response procedures; • reclamation plans; • operational hours/schedules; • noise, dust and visual impacts; and • transportation. 	<p>Pursuant to article 7.01 of the Agreement the CMC has broad authority to review and comment on the operations of the landfill facilities and the operation of any element of HRM's integrated solid waste resource management system that has a direct impact on the landfill facilities.</p>
<p>CLC members may be requested by NSE to review and provide comment on an application by the Proponent for an approval, or renewal of an approval related to the project.</p>	<p>NSE has required community consultation as a component of HRM and Mirror's recent application to deactivate the FEP/WSF.</p> <p>Article 7.01(g) of the Agreement authorizes the CMC to "comment or make representations to such body or authority, as the Committee thinks fit, concerning any matter falling within the mandate of the Committee..."</p>
<p>Dissolution of CLC</p>	
<p>A CLC may be dissolved or declared inactive under the following circumstances:</p> <ul style="list-style-type: none"> • Members of the committee and the proponent agree that the requirement for a committee no longer exists; • The project becomes inactive (put on hold); and • Where the committee has been formed as a requirement of an Approval, and written consent from Nova Scotia Environment has been received. 	<p>Article 10 of the Agreement contemplates that the CMC will remain active until such time as the landfill facilities are no longer operated at the site (including any closure, post-closure care and remediation activities).</p> <p>The requirement to operate the CMC is also embedded within the NSE operating approval for the landfill facilities.</p>

Governance

The agreement provides a fairly comprehensive and robust framework for the governance of the CMC. To the extent that the Agreement is silent on any matter, Article 5.09 stipulates that “*Subject to this Agreement, the Committee shall determine its own procedure.*” The CMC therefore has latitude to establish reasonable processes on its own initiative, provided that they do not conflict with the terms of reference set out in the Agreement between HRM and the HWRS.

As stated previously, the CMC is not a legal entity. It is not a committee of Halifax Regional Council, nor is it a sub-committee of the Halifax Waste Resource Society. It is intended to be arms-length from both organizations. That said, the Agreement contemplates that the HWRS will appoint more members to the CMC than HRM, and that the Chair of the CMC will always be a HWRS representative. It was therefore always intended that the HWRS would effectively hold the balance of power on the CMC.

Article 5.08 of the Agreement provides that a quorum of the CMC is 10 members. The HWRS appoints 9 members to the CMC while HRM appoints 6. Therefore, in order for the CMC to function, at least one member appointed by HRM is required to participate. Nevertheless, it appears from the meeting minutes that the CMC has occasionally conducted business without an HRM representative present and/or with fewer than 10 members present from time to time. In 2018 the CMC adopted a protocol titled *Basic Rules of Procedure (Attachment C)* loosely based on HRM’s Administrative Order One, *Procedure of the Council Administrative Order*. The *Basic Rules of Procedure* adopted by the CMC purport that a quorum shall only constitute 8 members. This amendment to the quorum is offside the Agreement and is therefore ineffective. A quorum of at least 10 members is required unless HRM and the HWRS agree otherwise.

Additionally, the CMC has established an Executive Committee comprised of the Chair of the CMC and three other HWRS representatives. According to the Executive Committee Terms of Reference dated May 26, 2021 (**Attachment D**), the purpose of the Executive Committee is to act in the place of the full CMC between meetings on routine or urgent matters that cannot and should not be delayed until the next full meeting. This is problematic, as the Executive Committee excludes HRM representation and input on decision-making entirely, which frustrates the intent of the Agreement. It is also not clear that an Executive Committee is actually necessary. If an urgent matter arises between regularly scheduled meetings, the CMC can conduct business via email and/or videoconference on short notice. The CMC recently did so in September 2021 when all 15 members were asked to vote via email on the wording of a draft letter addressed to the Municipality. It is therefore recommended that HRM and HWRS jointly develop a revised Terms of Reference for the Executive Committee to clarify its scope of authority, and to ensure that at least one HRM representative of the CMC is included in its composition. Alternatively, it may be agreed upon that an Executive Committee is not needed.

The CMC also has an Executive Director. Although the position of ‘Executive Director’ is not expressly contemplated in the Agreement, the CMC has had at least 3 Executive Directors since its inception to perform administrative tasks for the committee. The Executive Director is a service provider to the CMC – not a voting member of the CMC. According to a Job Description dated May 26, 2021 (**Attachment E**), the Executive Director is the “lead manager” of the CMC whose responsibilities include:

- overseeing administration, budgets, programs and strategic plans;
- facilitating regular meetings of the CMC;
- recruiting members to serve on the CMC;
- communicating information to the CMC, the Executive Committee, HRM, Mirror and the public; and
- acting as the primary spokesperson of the CMC.

There are instances where it is not clear whether a particular decision or action falls under the authority and discretion of the Executive Director, the Executive Committee, the Chair of the CMC or the CMC as a whole. There is also ambiguity about which matters require voting and which do not. This has led to several disagreements, particularly where HRM representatives on the CMC feel that they have been cut out of key

decisions or important communications. It is therefore recommended that HRM and the HWRS jointly develop clearer parameters, consistent with the Agreement, to define the scope of authority for the Executive Director and Executive Committee.

Communications

In accordance with section 7.01 of the Agreement, the CMC has broad authority and discretion to report its views to area residents, HRM Council, the HWRS, and other authorities having jurisdiction. To this end, the CMC produces regular newsletters and publishes them on the CMC website and in the Masthead News. From time-to-time, the CMC also writes letters to provincial and municipal politicians and to NSE advocating certain actions. Occasionally, the Executive Director or Chair of the CMC will provide interviews or submit opinions to various newspapers and publications.

The agreement recognizes that in order to effectively monitor and communicate to stakeholders, the CMC must have access to pertinent data and information about the landfill. Article 8.01 of the Agreement therefore requires HRM to ensure that the CMC has access to the facilities, and to relevant information concerning the operation of the facilities, including the results of tests conducted by Mirror, and information in the possession of HRM concerning the operation of any aspect of HRM's integrated solid waste resource management system which has a direct impact on the operation of the Facilities.

It is important that the CMC be able to provide candid, unfettered advice. It is therefore not appropriate for HRM or others to vet the CMC's communications. There should, however, be regular collaboration between the CMC and HRM to ensure that the CMC has the necessary information to communicate its views effectively and accurately.

On April 25, 2019 the CMC adopted a *Communications Policy (Attachment F)*. The policy provides an overview of the CMC's mandate to communicate with various stakeholders; and includes a self-assessment on the effectiveness of its current communications strategies. The policy does not, however, address the processes through which CMC communications are prepared and approved, nor does it specify who is authorized to speak or write on behalf of the CMC.

In practice, CMC communications are generally drafted by the Executive Director or Chair (sometimes with the assistance of an external communications consultant). Some communications are reviewed and approved by the 15 member CMC, while others are apparently approved by the Chair, Executive Committee or Executive Director only. Many recent communications have been signed by the Chair "on behalf of the CMC Executive Committee". On one occasion in November 2021, a news release was produced on CMC letterhead, and signed by the Chair, Executive Director and a *former* Chair (who is not currently a member of the CMC). These inconsistencies underscore the need to develop clearer protocols on the role and authority of the Executive Director and Executive Committee. While the majority of CMC members may share similar views on any given issue, the entire 15 member CMC should have an opportunity to review and comment on key communications.

Fiscal Accountability

In accordance with article 9.04 of the Agreement HRM is required to include, as part of its annual budget for solid waste management, an allocation of funds in such amount as HRM, acting reasonably, considers appropriate for the purpose of meeting the following categories of expenses of the CMC:

- (a) Occupancy costs, including space, office equipment and supplies, telephone, etc.;
- (b) Part-time administrative and clerical support;
- (c) Postage;
- (d) Advertising (including printing of public notices and materials for community distribution);
- (e) Expenses relating to the holding of public meetings;
- (f) Professional fees for services and advice on matters within the mandate of the Committee under this agreement, including engineering and other technical matters related to the operation of the

Facilities;

- (g) Miscellaneous expenses, including reimbursement of out of pocket expenses incurred by members of the Committee and other expenses required to be incurred to enable the Committee to fulfil its responsibilities under this Agreement.”

In fiscal year 2000-2001, HRM allocated the CMC with funds in the following categories and amounts:

Category	Amount	Percentage
Legal, Administrative, Consulting Support, Engineering	\$15,000	23%
Communications, Paper, Advertising, Facilities	\$35,000	54%
Research, Testing, Reviews, Publication, Meetings, etc.	\$10,000	15%
Miscellaneous	\$5,000	8%
Total	\$65,000	100%

From 2000 to 2016 HRM provided the CMC with an annual allocation of \$65,000. Commencing in the 2016-2017 fiscal year, HRM increased the CMC’s annual allocation to \$90,000, primarily to increase the annual salary of the Executive Director (from \$24,000 to \$36,000) and to account for expected increases in legal, environmental and communications-related expenditures.

In the past 5 years, the CMC has expended between 70% and 85% of its annual allocation. The categories of expenditure are now organized differently than in 2000, but substantively cover the same activities. Administration and legal costs have generally increased while communications and environmental consulting costs have decreased (both in dollar value and in percentage of total costs). The CMC’s actual expenditures for fiscal year 2020-2021 were as follows:

Category	Amount	Percentage
Executive Director	\$37,542	49%
Other Administration	\$1,086	1%
Communications/Public Relations	\$19,159	25%
Legal	\$10,398	14%
Environmental Support/Engineering	\$7,960	10%
Total	\$76,146	100%

Article 9.05 of the Agreement provides that:

The Committee shall, not later than January 31 of each HRM fiscal year after the fiscal year ending March 31, 2000, prepare and submit to HRM an estimate of expenditures required to be incurred in support of the Committee’s activities in the next following fiscal year. HRM shall take into account the estimate in deciding pursuant to Article 9.04, on the allocation of funds to be made for the activities of the Committee during that fiscal year.

The CMC’s requested budget allocation for its 2022-2023 estimated expenditures is:

Category	Amount	Percentage
Administration (including Executive Director’s salary)	\$45,000	50%
Social Media Technician	\$9,000	10%
Communications Consultant	\$12,000	13%
Legal Services	\$10,000	11%
Environmental Consultant Services	\$14,000	16%
Total	\$90,000	100%

HRM is not obligated to approve the allocation requested by the CMC, however, in accordance with article 9.06 of the Agreement, HRM would need to provide the CMC with notice of its intent to do otherwise and provide the Chair of the CMC with the opportunity to appear before Council for the purpose of commenting on the proposed allocation.

Expenditure Processes

There is no indication of any impropriety with respect to CMC expenditures. All expenditures appear to be supported by invoices, made for approved purposes, and within the total annual amounts allocated by HRM. Occasionally, if needed, the CMC requests permission from HRM Solid Waste Resources to reallocate funding mid-year from one category of expenditure to another. For instance, in 2021-2022 the Executive Director of the CMC requested and was granted approval to move \$5,000 from the CMC's environmental monitoring budget to its social media budget to accommodate higher than anticipated communications expenditures.

The CMC's current expenditure processes are not strictly in compliance with the terms of the Agreement. Article 9.07 of the Agreement stipulates that:

“The Committee is not authorized to make expenditures or incur liabilities but may requisition through HRM staff the expenditure of funds consistent with the allocation as approved by HRM under this Part 9 for the fiscal year in question.”

The current practice of the CMC is that the CMC obtains quotes and contracts with vendors directly. The vendors perform their services and submit an invoice to the Executive Director. The Executive Director then forwards the invoices to HRM's Director of Solid Waste Resources for payment. HRM pays the invoices provided that the invoices are for amounts within the allocations approved by Regional Council for that fiscal year. The invoices are then finally sent to the members of the CMC for “ratification” at the next committee meeting.

It's not clear when this practice originated (or if expenditures were ever made exactly as contemplated in Article 9.07 of the Agreement). CMC meeting minutes from 1999 indicate that an early practice of the CMC was for the Chair and Treasurer of the CMC to authorize expenditures up to \$1,000; and for the CMC as a whole to authorize expenditures exceeding \$1,000.

HRM procurement staff raised this issue with the CMC in 2016. The Chair of the CMC replied that, as an arm's length committee, it was important that the CMC be able to independently select its service providers. HRM staff ultimately agreed and advised the CMC that it could continue selecting vendors of its choosing subject to the following conditions:

- (a) *Obtain multiple quotes or bids for contracts exceeding \$1,000 (to ensure competitive prices);*
- (b) *Contracts must have duration not exceeding one year;*
- (c) *Document and retain records for all purchasing activities in the event of audit;*
- (d) *All expenditures require the approval of the Manager of Solid Waste prior to payment;*

There are, nevertheless, some issues with this approach. The CMC is not a legal entity and does not have its own bank account – so when vendors enter into contracts with the CMC, it's unclear who exactly the vendors are contracting with. Arguably it is the Executive Director or the CMC members in their personal capacity.

There are also implications for certain types of contracts. For instance, when the CMC procures legal services from outside legal counsel it can be unclear who the law firm's client actually is. If legal services are required for the CMC, such services should in theory be provided for the benefit of the entire CMC. However, some legal advice procured by the CMC has ostensibly been for the benefit of the HWRS or the HWRS members only. For instance, according to CMC meeting minutes dated September 13, 2012, the HRM representatives on the CMC were asked to leave a meeting so that the HWRS representatives could discuss a legal issue in camera relative to the status and authority of the CMC. A motion was then passed to obtain the advice from outside counsel. It appears from subsequent meeting minutes that the opinion may have been shared with all members – but it's not clear if this was the case. More recently, it became apparent that legal invoices were being addressed to the HWRS rather than the CMC. This has since been corrected so that legal invoices are addressed to the CMC instead. While it is ultimately the responsibility of the lawyer to determine who their client is, (and whether they are capable of advising the CMC as a whole) there are some concerns when the legal advice relates to the relative rights and obligations of HRM and HWRS. In such instances, it may be more appropriate for HRM and the HWRS obtain independent legal advice if such advice is required.

Additionally, the CMC's expenditure ratification process does not appear to serve a meaningful purpose. By the time CMC members are asked to ratify expenditures, the contracts have already been entered into (by the Executive Director), the services have already been provided (by the vendor), and the invoices have typically already been paid (by HRM). There is nothing inherently wrong with having the Executive Director authorize routine expenditures provided that such expenditures are within the approved budget envelope and made with the consent of the CMC members. To that end, the CMC members should provide clear direction to the Executive Director on how they expect the annual budget to be spent, along with any parameters or restrictions on the Executive Director's spending authority. Regular reporting on expenditures should be provided by the Executive Director to the CMC members, but ratification after the fact is not needed.

To address these concerns, it is recommended that the parties revert to the expenditure process contemplated in Article 9.07 whereby the CMC requisitions expenditures through HRM staff. The wording is flexible enough that the CMC could still select vendors of its choosing and request that HRM enter into the applicable contract(s). For recurring or routine services, a standing offer contract could be established by HRM with the vendor. Given the amounts involved, these expenditures would generally be exempt from public tendering obligations. All contracts, including for consulting and legal services, should be clear that while HRM is the party contracting with the vendor, the services provided thereunder are for the benefit of the CMC.

Modernizing the CMC

The second part of the August 17, 2021 Council motion requested that the Chief Administrative Officer write a report on modernizing the Community Monitoring Committee. Given that the CMC exists by virtue of the Agreement between HRM and the Halifax Waste/Resource Society, HRM does not have the unilateral ability to dissolve or make changes to the CMC. Any changes to the mandate, composition or other terms of reference would require a termination or renegotiation of the Agreement with the Halifax Waste/Resource Society. The agreement only explicitly contemplates the ability to terminate if either party is in default. It is not known if the Society is interested or willing to renegotiate any aspects of the Agreement related to the CMC.

If HRM and HWRS were to renegotiate the Agreement, there are a few ways that the CMC could be reformed to bring it more fully in line with the NSE *Guide for the Formation and Operation of a Community Liaison Committee*. For instance, representatives of First Nations, the operator (Mirror) and environmental groups could be added to the membership. It's probably not necessary that the Mayor be an official member of the committee as long as there continues to be one or more local Councillors on the committee. The terms of reference could also be made clearer regarding term limits to ensure a more regular turnover of individuals if desired. The size of the committee could be reduced from 15 to 10-12 members. And consideration could be given as to whether all members of the committee need to be voting members (i.e.

perhaps the elected officials only need to attend meetings and engage in debate, but not vote).

FINANCIAL IMPLICATIONS

There are no financial implications directly associated with the recommendations in this report. As referenced in the Discussion section of this report, HRM currently allocates \$90,000 per year to expenditures for the Community Monitoring Committee.

RISK CONSIDERATION

No Risk considerations were identified.

COMMUNITY ENGAGEMENT

HRM solid waste staff, along with HRM District Councillors Stoddard and Lovelace (who are members of the CMC), were consulted in the preparation of this report.

The Executive Director (Reg Rankin) and Chair (Scott Guthrie) of the Community Monitoring Committee declined an invitation to provide input. As per the attached correspondence, the CMC Executive Committee is of the view that any review or audit of the CMC ought to only be conducted by the Auditor General or an independent party, and not by HRM staff (**Attachment G**).

HRM staff do not believe that a formal audit is required at this time. Instead, it is recommended that HRM work with the HWRS and the CMC to address the concerns identified in this report.

ENVIRONMENTAL IMPLICATIONS

Ongoing community monitoring of the Otter Lake Solid Waste Management Facilities is a condition of the operating approval issued by the Minister of Environment.

ALTERNATIVES

1. Regional council could notify the Community Monitoring Committee of its intent not to approve the entirety of its requested funding allocation for fiscal year 2022-2023.
2. Regional Council could request that the Municipal Auditor General conduct a formal examination of the programs, policies and procedures of the Community Monitoring Committee pursuant to section 50(3) of the *Halifax Regional Municipality Charter*.

ATTACHMENTS

- A. *HRM-Halifax Waste/Resource Society Agreement for Community Monitoring of Solid Waste Facilities* (February 16, 1999)
- B. *NSE Guide for the Formation and Operation of a Community Liaison Committee* (August 11, 2010)
- C. CMC Basic Rules of Procedure (August 2, 2018)
- D. CMC Executive Committee Terms of Reference (May 26, 2021)
- E. CMC Executive Director Job Description (May 26, 2021)
- F. CMC Communications Policy (April 25, 2019)

- G. Correspondence from Scott Guthrie, Chair of Community Monitoring Committee (February 8, 2022 and September 21, 2021)

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: Colin Taylor, Senior Solicitor 902.490.4655

16 This Agreement for Community Monitoring of Solid Waste Facilities made this day of February, 1999.

BETWEEN:

HALIFAX REGIONAL MUNICIPALITY, a body corporate pursuant to the *Halifax Regional Municipality Act*

(hereinafter called "HRM")

- and -

HALIFAX WASTE/RESOURCE SOCIETY, a body corporate incorporated pursuant to the *Societies Act*

(hereinafter called "the Society")

WHEREAS

HRM has, pursuant to HRM's integrated solid waste resource management strategy, designated a site near Goodwood, Halifax County, as the site for a residuals disposal facility and waste processing facility.

HRM is committed to ensuring that operations at these facilities will be monitored by residents of the communities which are adjacent to the facilities, and by residents of the Regional Municipality at large.

The Society has been formed by residents of the adjacent communities and of the Regional Municipality for the purpose of working together with HRM in the establishment and implementation of a monitoring process and of facilitating the participation of residents in that process.

HRM and the Society wish to enter into an agreement, on the terms set out below, establishing a structure and procedures for the monitoring of operations at the facilities.

A
A
ED
RM
Municipal Solicitor

NOW THEREFORE this Agreement witnesses that for and in consideration of the mutual covenants hereinafter set out, and other good and valuable consideration, the parties agree as follows:

1. **Definitions**

1.01 “Acceptable Waste” means

- (i) Inert Materials;
- (ii) Stable Materials; and
- (iii) Residual Materials.

1.02 “Applicable Law” means any law, by-law, rule, regulation, judgment or order of any federal, provincial or municipal court or other governmental body having jurisdiction, applicable to the design, approval, construction, equipping, financing, ownership, possession, testing, acceptance, operation or maintenance of the Facilities or Site, the closing of Residuals Disposal Cells or the care or maintenance thereof after closure. “Applicable Law” also includes the Landfill Guidelines. Notwithstanding the foregoing, “Applicable Law” does not include Restrictions on the Disposal of Residual Materials.

1.03 “Area Residents” means persons who are resident in the area within the radius of five (5) kilometres from the centre of the location of the FEP/WSF Facilities.

- 1.04 “Bio-Stabilization” means a process of accelerated controlled biological decomposition of Solid Waste (by the consumption of readily available nutrients by micro-organisms) to break down the putrescible protein and sugars and a considerable proportion of the starches present in Solid Waste, leaving the materials thus processed substantially free of readily putrescible elements.
- 1.05 “Commencement of Operations” means the date specified by HRM in writing to the Society, for the purposes of this Agreement, as the date that the operation of the Facilities has commenced at the Site.
- 1.06 “Committee” means
- a) the Community Monitoring Committee established under Article 5 of this Agreement except as provided for in b);
 - b) for the period commencing as of the date of execution of this Agreement and ending as of the Commencement of Operations and for the purposes of fulfilling those responsibilities referred to in Article 6 hereof, the Interim Committee.
- 1.07 “Contractor” means any person, individual, corporation, partnership, firm, joint venture, syndicate, association or form of entity or organization retained under contract by HRM to construct the Facilities and the “Contractor” may also be the “Operator”.
- 1.08 “FEP/WSF Facilities” means the front-end waste processing facility and waste stabilization facility to be situated and operated at the Site.
- 1.09 “Facilities” means the FEP/WSF Facilities and the RDF Facilities.;

- 1.10 "HRM" means Halifax Regional Municipality.
- 1.11 "Inert Material" means Solid Waste which (i) is not Unacceptable Waste; and (ii) does not contain elements which are recognizable as readily putrescible.
- 1.12 "Interim Committee" means the Committee comprised of those persons listed in Schedule "A".
- 1.13 "Landfill Guidelines" means the standards and guidelines contained in the draft Nova Scotia Standards and Guidelines for Landfills dated July, 1994 prepared by the Nova Scotia Department of Environment.
- 1.14 "Memorandum and By-Laws" means, respectively, the Memorandum of Association and By-Laws of the Society in the form attached to this Agreement as Schedules "B" and "C" respectively.
- 1.15 "Operations" or "Operation", and variations thereof, when used in relation to the Facilities, refers to the operations of the Facilities at the Site, excluding the design, construction and commissioning of the Facilities, but including any closure, post-closure care and remediation activities related to the Facilities.
- 1.16 "Operator" means any person, individual, corporation, partnership, firm, joint venture, syndicate, association or form of entity or organization retained under contract with HRM for the management and operation of the Facilities, or any part of the Facilities, and the subcontractors thereof.
- 1.17 "RDF Facilities" means the Residuals Disposal Cells and related facilities to be situated and operated at the Site.

- 1.18 “Residual Materials” means minor quantities of any material or substance the disposal of which at a solid waste landfill site is banned or prohibited by law and which, notwithstanding the reasonable and diligent efforts of the Operator to identify and remove such materials, remain in the waste that is disposed of in a Residuals Disposal Cell.
- 1.19 “Residuals Disposal Cells” means the cells to be constructed on the Site for the purpose of disposing of Acceptable Waste.
- 1.20 “Restrictions on the Disposal of Residual Materials” means any law, including subsections 30(1) and (2) under Division II of the Solid Waste Resource Management Regulations under the Environment Act, which prohibits the disposal of Residual Materials in a Residuals Disposal Cell.
- 1.21 “Site” means the lands on which the Facilities are to be constructed as shown on the Site Plan.
- 1.22 “Site Drawings” means the drawings and specifications entitled “Halifax Regional Municipality Residuals Disposal Facility - Site A January, 1997” prepared for Mirror NS by Porter Dillon Limited comprising thirty (30) drawings.
- 1.23 “Site Plan” means the site plan which is attached as sheet no. 2 of the Site Drawings.
- 1.24 “Society” means Halifax Waste/Resource Society.
- 1.25 “Solid Waste” includes refuse, garbage, rubbish and all other solid spent materials from any source.

1.26 “Stable Materials” means items of Solid Waste that are substantially free of readily putrescible elements after having undergone Biostabilization excluding Unacceptable Waste.

1.27 “Unacceptable Waste” means any material or substance the disposal of which at a solid waste landfill is banned by Applicable Law (other than Residual Materials) and which is not capable of being rendered into Stable Material through Biostabilization in the FEP/WSF Facilities.

2. Operations at the Site

2.01 It is recognized and understood that HRM will cause the Facilities to be developed and operated at the Site.

2.02 It is the intention of HRM that the Facilities will be operated by a private sector Operator under contract between the Operator and HRM. HRM will ensure that any contract or contracts between HRM and an Operator will contain provisions which are complementary to the community monitoring process envisaged by this Agreement and which will enable and permit the implementation of this Agreement.

2.03 It is understood and agreed that only Acceptable Waste will be authorized for disposal in the Residual Disposal Cells. It is further understood and agreed that any contract between HRM and an Operator of the RDF Facilities will impose on the Operator the obligation not to dispose of in the Residual Disposal Cells material other than Acceptable Waste.

2.04 HRM will require of an Operator that the Facilities be operated in accordance with Applicable Law.

2.05 The Committee shall, as of the Commencement of Operations, monitor the operation of the Facilities at the Site and otherwise fulfil the responsibilities conferred on it under this Agreement in a manner consistent with this Agreement.

3. **The Society**

3.01 The Society agrees that neither the Memorandum or By-Laws will be altered or amended such as to conflict with the provisions of this Agreement or to render the Society incapable of meeting its obligations under this Agreement.

3.02 The Society agrees to provide to HRM a report or reports of its business and affairs, at such times and in such form as HRM may from time to time reasonably require.

4. **Interim Community Monitoring Committee**

4.01 The Interim Committee is hereby established for purposes of this Agreement, and recognized and confirmed as the entity authorized to carry out the interim monitoring responsibilities referred to in Article 6 of this Agreement.

4.02 The Interim Committee shall fulfil the responsibilities conferred upon it by or under this Agreement for the period of time commencing on the date of execution of this Agreement and ending as of the Commencement of Operations, and the members of the Interim Committee are deemed to be jointly appointed by HRM and the Society for terms equal to such period. The Interim Committee shall, for purposes of this Agreement, be deemed to be dissolved effective as of the Commencement of Operations.

4.03 The Chair of the Interim Committee shall be as set out in Schedule "A".

4.04 In the event that a member of the Interim Committee resigns or is otherwise unable to complete that member's term as a member of the Interim Committee, HRM and the Society shall jointly appoint a person to serve for the unexpired balance of the vacating member's term, except in the case of a vacancy in a position filled by a member of the Council of HRM in which case the vacancy shall be filled by a person appointed by the Council.

4.05 In the event that a vacancy occurs in the office of the Chair of the Interim Committee, the Interim Committee shall fill the vacancy by selecting a member of the Interim Committee to be Chair for the unexpired balance of the term of the vacating Chair.

4.06 A quorum of the Interim Committee consists of a majority of the members of the Interim Committee.

4.07 Subject to this Agreement, the Interim Committee shall determine its own procedure.

5. *Community Monitoring Committee*

5.01 Effective as of the Commencement of Operations there is established a Community Monitoring Committee, constituted and comprised as set out in this Agreement.

5.02 The Society agrees to appoint and elect, in accordance with its By-Laws, those persons to be appointed by it as members of the Committee in accordance with this Article by such time as will enable those members of the Committee to begin their service in that capacity as of the Commencement of Operations. HRM agrees to appoint those persons to be appointed by it as members of the Committee by such time as will enable them to begin their service in that capacity as of the Commencement of Operations.

5.03 The Committee shall consist of fifteen (15) members, as follows:

- (a) nine (9) persons elected by the Society who are residents of Halifax Regional Municipality, not more than six (6) or less than four (4) of whom shall be Area Residents;
- (b) two (2) persons appointed by the Council of HRM who are residents of Halifax Regional Municipality but not Area Residents;
- (c) the members from time to time of the Council of HRM representing polling districts 22 and 23, and, in the event of a change in the boundaries of those districts, the two (2) members of the Council, as determined by the Council, representing substantially the area which, as of the date of this Agreement, falls within polling districts 22 and 23;
- (d) One (1) member of the Council of HRM, other than the members referred to in clause (c), appointed by the Council; and
- (e) The Mayor of HRM.

5.04 Each of the persons appointed under Article 5.02(a), (b) and (d) shall hold office for a term of such duration as is determined by the respective appointing authority, and may be appointed by their appointing authority for not more than one additional term of the same duration.

5.05 In the event an appointed member of the Committee resigns, ceases to meet the qualifications for appointment, or is otherwise unable to complete the term for which that member was appointed, the appointing body shall appoint a person to serve for the unexpired balance of the vacating member's term, provided that the person appointed to fill the vacancy shall be from the class of persons prescribed by Article 5.03 from which the vacating member of the Committee was appointed.

5.06 The Committee shall select from among the members of the Committee appointed pursuant to Article 5.03(a) a person to act as Chair of the Committee, who shall hold that office for a term of one year from the date of selection, and may be selected to serve for an additional term or terms of the same duration.

5.07 In the event that a vacancy occurs in the office of the Chair of the Committee, the Committee shall fill the vacancy by selecting a member of the Committee appointed pursuant to Article 5.03(a) to be Chair for the unexpired balance of the term of the vacating Chair.

5.08 A quorum of the Committee consists of ten (10) members of the Committee, and, for greater certainty:

- (a) a vacancy or vacancies on the Committee does not affect the ability of the Committee to discharge its powers and duties, provided that the number of members of the Committee remaining in office is not fewer than a quorum; and
- (b) the absence of a member or members of the Committee from any meeting does not affect the ability of a quorum of the Committee to discharge any of the powers and duties of the Committee.

5.09 Subject to this Agreement, the Committee shall determine its own procedure.

6. **Pre-Operational Review and Contract Amendments**

6.01 HRM shall ensure that the Interim Committee is regularly informed concerning construction of the Facilities throughout the period of their construction and that the Interim Committee, through its Chair or other representative designated by the Interim Committee, is provided with reasonable access to the Site during construction provided (i) that reasonable notice is provided to the Contractor of the intention to visit the Site; (ii) that such access to the Site shall be made available and such visitation to the Site shall be conducted during normal business hours and in a manner which does not interfere with the construction of the Facilities or the performance of the Contractor's obligations under its contract with HRM; and (iii) that all visitors to the Site shall be required to comply with all safety and other reasonable rules and regulations applicable to persons present on the Site including those adopted by the Contractor.

6.02 The Chair of the Committee shall be notified in writing of the text of any proposed amendment of an agreement to which HRM is a party relating to the construction or operation of the Facilities, not less than fifteen (15) days before HRM enters into an agreement to effect the proposed amendment. If, within such fifteen (15) day period, HRM's clerk receives notice from the Committee that its Chair wishes to make representations to Council of HRM concerning the proposed amendment, then HRM shall not enter into an agreement to effect the proposed amendment until thirty (30) days after the date HRM's clerk received such notice from the Committee and within such thirty (30) day period the Chair of the Committee shall be provided the opportunity to appear before HRM Council for the purpose of commenting on the proposed amendment.

6.03 The Committee may, as it sees fit, report to Area Residents or either or both of the HRM Council and the Society, concerning the matters referred to in Articles 6.01 and 6.02.

6.04 HRM agrees that it will appoint and instruct a representative or representatives to meet with representatives designated by the Committee for the purpose of attempting to develop in good faith:

- (a) prior to commencement of the operation of the Facilities, specific tests (and testing protocols relating thereto) which may be conducted for the purpose of determining compliance by the Contractor, Operator or both with their respective obligations under any contract with HRM relating to the design, construction, acceptance testing and operation of the Facilities in addition to any such tests or testing protocols contained in any such contract;
- (b) the terms and conditions under which the Committee shall be entitled to conduct or monitor the results of tests developed pursuant to paragraph (a) of this Article 6.04;
- (c) procedures for conducting random inspections of the content of waste loads delivered by haulers to the Facilities for processing and disposal;
- (d) procedures for determining and measuring the composition of waste delivered from time to time to the Facilities for processing and disposal and variations in such composition and the effectiveness of HRM's waste reduction and diversion programs;
- (e) standards, programs, procedures and processes relating to the cleanliness of vehicles hauling waste to the Facilities for processing and disposal; and
- (f) conceptual plans, programs and procedures for the reclamation and restoration of the Site after permanent closure.

6.05 If HRM proposes to have any Residuals Disposal Cell constructed according to specifications (“proposed specifications”) which are different than those contained in the document entitled “Halifax Regional Municipality Residuals Disposal Facility - Technical Specifications Site A January, 1997” prepared for Mirror NS by Porter Dillon Limited as updated and supplemented from time to time then, notwithstanding that such proposed specifications may be acceptable to the Nova Scotia Department of the Environment, HRM shall notify the Chair of the Committee of HRM’s intention to construct a Residual Disposal Cell according to such proposed specifications and if, within fifteen (15) days thereafter, the clerk of HRM receives notice from the Committee that its Chair wishes to address Council concerning the proposed specifications, the Chair, or another representative of the Committee, shall be provided with an opportunity to appear before Council to comment on the proposed specifications.

7. **Responsibilities During Operation**

7.01 The Committee shall, effective as of the Commencement of Operations,

- (a) monitor the operation of the Facilities;
- (b) ensure that members of the Committee are regularly and fully informed concerning the operation of the Facilities;
- (c) receive information and representations from Area Residents concerning any matter relating to the operation of the Facilities;
- (d) report to the Area Residents information concerning the operation of the Facilities;

- (e) report to the Council of HRM and other authorities having jurisdiction relevant views of Area Residents;
- (f) report to the Council of HRM and other authorities having jurisdiction the views and comments of the Committee, and of Area Residents, concerning the operation of any element of HRM's integrated solid waste resource management system other than the Facilities, where the operation of such element or elements has a direct impact on the operation of the Facilities;
- (g) comment or make representations to such body or authority, as the Committee thinks fit, concerning any matter falling within the mandate of the Committee as set out in this Agreement;
- (h) report to the Council or the Society concerning the activities and affairs of the Committee at such times and in such manner as the Council or the Society, respectively, may require;
- (i) fulfil such other responsibilities as may be conferred on the Committee by agreement of HRM and the Society.

8. **Access to Facilities and Relevant Information**

8.01 HRM shall ensure, for and during the period that the Facilities are in operation, that:

- (a) the Committee receives full and complete reports concerning the operation of the Facilities, in such form and at such times, as may be required by the Committee;
- (b) the Committee has, through its Chair or other representative designated by the Committee, access to the Facilities, provided that:

- (i) reasonable notice is provided to the Operator and HRM of the intention to visit the Facilities;
 - (ii) such access shall be made available and any such visitation shall be conducted during normal business hours and in a manner which does not interfere with the operation of the Facilities or the performance of the Operator's obligations under its contract with HRM; and
 - (iii) all visitors to the Facilities shall be required to comply with all safety and other reasonable rules and regulations applicable to persons present on the Site including those adopted by the Operator;
- (c) the Committee has, through its Chair or other representative designated by the Committee, reasonable access to such information as is from time to time in the possession of either an Operator or HRM, or both, concerning the operation of the Facilities, including, without limitation, the results of tests conducted by an Operator relating thereto;
- (d) the Committee has access to information in the possession of HRM concerning the operation of any aspect of HRM's integrated solid waste resource management system which has a direct impact on the operation of the Facilities.

8.02 Where the Committee is not reasonably satisfied, based on information available to it under Article 8.01, that the Committee is accurately informed concerning a matter relating to the operation of the Facilities, the Committee shall have access to the Facilities, on reasonable notice to HRM and an Operator, to enable to be conducted in

accordance with this Article such test or tests as are necessary to provide the Committee with the information which it requires. All such tests shall be conducted subject to the following conditions:

- (a) the cost of such tests must not exceed the amount allocated to the Committee under Article 9.02 or 9.03 for that purpose, as the case may be, for the fiscal year in which the test is conducted;
- (b) all such tests shall be performed under the supervision of a qualified professional engineer, and at such times and in such manner so as not to interfere with the normal operational routine for the facility to which the test relates.

8.03 Nothing in Articles 8.01 or 8.02 shall entitle the Committee to receive reports or information relating to financial matters, personnel matters, matters which are the subject of legal advice or matters proprietary to an Operator, and all such reports or information are excluded from the scope of Article 8.01 except to the extent that they are otherwise accessible to the Committee under law.

8.04 HRM shall ensure that the provisions of Article 8.01 are, to the extent required, supported by appropriate provisions in relevant agreements between HRM and an Operator.

9. **Financing**

9.01 It is recognized by HRM that the effectiveness of the Committee in fulfilling its functions under this Agreement depends in part on the allocation of financial and other resources to defray the expenses of the Committee.

- 9.02 Effective for the HRM fiscal years ending March 31, 1998 and March 31, 1999, HRM shall include, as part of its budget for solid waste management for each of those fiscal years, the sum of Twenty-five Thousand Dollars (\$25,000.00) which sum shall be appropriated and expended for the purposes of meeting those expenses of the Committee incurred for those fiscal years within the categories and amounts identified in the estimates contained in Schedules "B" and "C" of this Agreement.
- 9.03 Effective for the HRM fiscal year ending March 31, 2000, HRM shall include, as part of its budget for solid waste management for that fiscal year, the sum of Sixty-Five Thousand Dollars (\$65,000.00) which shall be appropriated and expended for the purposes of meeting those expenses of the Committee incurred for that fiscal year within the categories and amounts identified in the estimates contained in Schedule "D" of this Agreement.
- 9.04 Effective for each HRM fiscal year after March 31, 2000 during which the Facilities are operated HRM shall include, as part of its annual budget for solid waste management, an allocation of funds in such amount as HRM, acting reasonably, considers appropriate for the purpose of meeting the following categories of expenses of the Committee:
- (a) occupancy costs, including space, office equipment and supplies, telephone, etc.;
 - (b) part-time administrative and clerical support;
 - (c) postage;
 - (d) advertising (including printing of public notices and materials for community distribution);

- (e) expenses relating to the holding of public meetings;
- (f) professional fees for services and advice on matters within the mandate of the Committee under this agreement, including engineering and other technical matters related to the operation of the Facilities;
- (g) miscellaneous expenses, including reimbursement of out of pocket expenses incurred by members of the Committee and other expenses required to be incurred to enable the Committee to fulfil its responsibilities under this Agreement.

9.05 The Committee shall, not later than January 31 of each HRM fiscal year after the fiscal year ending March 31, 2000, prepare and submit to HRM an estimate of expenditures required to be incurred in support of the Committee's activities in the next following fiscal year. HRM shall take into account the estimate in deciding, pursuant to Article 9.04, on the allocation of funds to be made for the activities of the Committee during that fiscal year.

9.06 Where, following review of the estimate of expenditures submitted by the Committee under Article 9.05, HRM proposes to allocate an amount for any fiscal year which is less than the total amount estimated by the Committee under Article 9.05, HRM shall, before finally deciding on the amount to be allocated:

- (a) notify the Committee in writing of the amount proposed to be allocated and of the reasons for the proposed allocation; and
- (b) provide to the Chair of the Committee the opportunity to appear before the HRM Council, not sooner than ten days (10) days following the notice referred to in (a), for the purpose of commenting on the proposed allocation.

In the event that, following completion of the procedure referred to in this Article 9.06, the final decision of HRM is to allocate for the fiscal year in question an amount less than the total amount estimated by the Committee under Article 9.05, HRM shall forthwith notify the Committee in writing of the reasons for that decision.

9.07 The Committee is not authorized to make expenditures or incur liabilities, but may requisition through HRM staff the expenditure of funds consistent with the allocation as approved by HRM under this Part 9 for the fiscal year in question.

9.08 It is understood and agreed that, where appropriate, a portion of the expenditures contemplated by the estimates referred to in Articles 9.02, 9.03, 9.04 and 9.05 for facilities, space, services, equipment or supplies required by the Committee, may take the form of facilities, space, services, equipment or supplies provided to the use of the Committee directly by HRM from its internal resources.

10. **Term and Termination**

10.01 This Agreement shall be effective as of the date of its execution and, subject to this Agreement, shall remain in effect for such time as the Facilities are operated at the Site.

10.02 This Agreement may be terminated as follows:

- (a) effective upon notice in writing given by HRM to the Society in the event that the Commencement of Operations has not occurred by July 1, 1999, and, in the opinion of HRM, is for any reason unlikely occur within one year of that date;

(b) effective upon notice in writing given by either party to the other in the event of any default on the part of the other in the performance of its obligations under this Agreement if, after ten business days notice in writing of the default, the defaulting party has failed to cure the default.

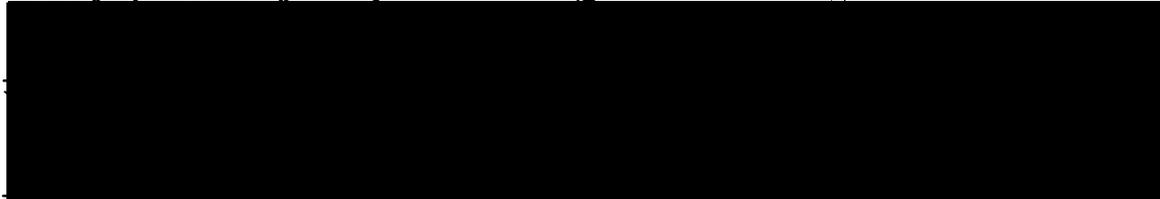
11. **Miscellaneous**

11.01 This Agreement shall bind and enure to the benefit of the parties hereto, their successors and permitted assigns.

11.02 Neither this Agreement nor any of the rights or obligations hereunder may be assigned by either party without the prior written consent of the other party, which may be withheld in the discretion of the other party.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their duly authorized officers or representatives as of the date first above written.

SIGNED, SEALED AND DELIVERED) **HALIFAX REGIONAL MUNICIPALITY**
in the presence of:)



Witness)

SIGNED, SEALED AND DELIVERED) **HALIFAX WASTE/RESOURCE**
in the presence of:) **SOCIETY**



Witness)

SCHEDULE "A"**MEMBERS OF INTERIM COMMITTEE**

1. Mr. Bert Caines of Goodwood
2. Mr. Michael Walsh of Hatchett Lake
3. Mr. David McCusker of Brookside
4. Mr. Don Wright of Dartmouth
5. Mr. Reg MacAusland of Tantallon - Chair
6. Mr. Kevin Murphy of Timberlea
7. Mr. Jack Mitchell - Councillor District 23
8. Mr. Reg Rankin - Councillor District 22
9. Ms. Carol Ann Wright of Beechville

SCHEDULE "B"

Cost Estimates - Fiscal Year Ending March 31, 1998

1.	Legal, Administration Consulting, Support, Engineering	\$ 2,000.00
2.	Communications, Paper Advertising, Facilities	15,000.00
3.	Research, Testing Reviews, Publications, Meetings, Etc.	4,000.00
4.	Miscellaneous Expenses	4,000.00
		<hr/>
	TOTAL	\$25,000.00

SCHEDULE "C"

Cost Estimates - Fiscal Year Ending March 31, 1999

1.	Legal, Administration Consulting, Support, Engineering	\$ 2,000.00
2.	Communications, Paper Advertising, Facilities	15,000.00
3.	Research, Testing Reviews, Publications, Meetings, Etc.	4,000.00
4.	Miscellaneous Expenses	4,000.00
	TOTAL	\$25,000.00

SCHEDULE "D"

Cost Estimates - Fiscal Year Ending March 31, 2000

1.	Legal, Administration Consulting Support, Engineering	\$15,000.00
2.	Communications, Paper, Advertising Facilities	35,000.00
3.	Research, Testing, Reviews, Publication Meetings, Etc.	10,000.00
4.	Miscellaneous Expenses	5,000.00
	TOTAL	<u>\$65,000.00</u>

This Agreement for Community Monitoring of Solid Waste
Facilities made this _____ day of February, 1999.

BETWEEN:

HALIFAX REGIONAL MUNICIPALITY, a body
corporate pursuant to the *Halifax Regional Municipality Act*

(hereinafter called "HRM")

- and -

HALIFAX WASTE/RESOURCE SOCIETY, a body
corporate incorporated pursuant to the *Societies Act*

(hereinafter called "the Society")

MONITORING AGREEMENT

Robert W. Carmichael
Cox Hanson O'Reilly Matheson
Barristers and Solicitors
1100 - 1959 Upper Water Street
Halifax NS B3J 3E5

Guide for the Formation and Operation of a Community Liaison Committee



Approval Date: August 11, 2010 Effective Date: August 11, 2010

Approved By: Kim MacNeil, Acting Deputy Minister of Environment

Version Control: Replaces *Process for the Formation of a Community Liaison Committee*
Latest revision *July 2010*

PREAMBLE

The purpose of this guide is to provide guidance to proponents and community representatives when establishing a Community Liaison Committee (CLC).

The *Environment Act* defines a proponent as a person who

(I) carries out or proposes to carry out an undertaking or activity, or

(ii) is the owner or person having care, management or control of an undertaking or activity

Effective CLCs maintain good public relations, foster environmental stewardship, and act as a vehicle for transparent and ongoing communications between community, stakeholders, and the proponent on matters pertaining to current and planned development in the community. Nova Scotia Environment (NSE) may require a CLC to be formed, as a condition of an approval issued under the *Environment Act*, either prior to project construction or at future stages of the project development.

Proponents are encouraged to establish a CLC as early as possible in the planning stages of the proposed project. The earlier the formation of the CLC, the more likely that the proponent will be able to address the issues raised by the public and stakeholders pertaining to a project.

Although Nova Scotia Environment provides this guide for the formation of a CLC, NSE will not be an active sitting member of the committee.

PURPOSE

The Purpose of a CLC is:

- to act as an advisory body to a project proponent by providing input on existing or potential concerns of the community with respect to the project plan and activities; and
- to represent community interest by providing an avenue for the mutual exchange of information between the proponent and the community with respect to any existing or potential environmental effects of the project plan and activities.

TERMS OF REFERENCE

A terms of reference for formation and operation of the committee is recommended. The terms of reference (TOR) should address the following:

Membership:

A well structured CLC is one with a balanced membership and broad representation. The CLC should be kept to a reasonable size, in most cases no greater than ten members. TOR should specify the frequency by which memberships are renewed.

The CLC should include members representing the following groups:

- Proponent
- Property owners/residents located in close proximity to the project

It is recommended that a CLC also include representation from other interested parties such as:

- First Nations
- Local business
- Municipally elected officials or their representatives
- Community or environmental groups

In some cases NSE may require membership from specific stakeholder groups or associations as a condition of an approval under the *Environment Act*.

CLC members are not typically provided with any remuneration for participating on the CLC. The proponent may choose to reimburse expenses in some cases (travel etc.).

Meetings:

It is recommended that there be a minimum of two meetings per year, the dates of which should be set at the beginning of each calendar year. Notice of such meetings are recommended to be provided to all CLC members. The total number and frequency of meetings should be decided by the CLC members, in consultation with the proponent.

Any written materials to be discussed at CLC meetings should be provided to all members prior to the meeting.

The CLC may wish to invite an external advisor or third party to attend a CLC meeting for the purposes of obtaining information, or receiving advice to help the CLC meet its' mandate.

Mandate:

The mandate of the CLC should be described in the terms of reference. Typically, a CLC mandate will be to provide:

- an on-going mechanism for communication between the proponent and the community on the design, construction and operations of a project, and on any impacts or perceived impacts on the environment;
- a means for the facility operator to provide information to, consult with, and obtain advice from a body representative of the community; and
- a forum whereby the residents can bring any issues of public concern related to proponent's activities to the attention of the facility operators.

The CLC may also wish to include additional responsibilities within their mandate which should be detailed in the terms of reference.

CLC objectives, mandate and membership composition should be reviewed annually by its members with the proponent consenting to any change in the composition of the CLC. Records of CLC meetings and outcomes should be kept by the committee for the life of the CLC.

PROPONENT'S ROLES AND RESPONSIBILITIES:

- The proponent is responsible for soliciting membership for the CLC. This may be done through notice in newspapers or in other public venues, or by direct contact with potential members. Notice of the CLC formation and members must be made known to the residents of the affected area by the proponent.
- For a successful CLC, the proponent should attend all CLC meetings.
- The proponent may decide to select a chairperson, or another process may be used to appoint a chair such as an election by CLC members. The appointment of co-chairs, or the selection of an impartial third party is also an option.
- The proponent is responsible for the provision of meeting space, copying of minutes (copies to be sent to regulatory agencies when requested) and annual reporting.
- The proponent is encouraged to provide timely, accurate information about the project, future plans, operations and activities.
- The proponent should consider CLC input in the development of mitigation, contingency, compensation and monitoring plans for the undertaking.
- The proponent should provide all relevant project related information requested by the CLC, except for information which is considered to be confidential for legal or business reasons.
- The proponent should ensure that the views of the CLC are made available to the public in an appropriate manner.

CLC MEMBER'S ROLES AND RESPONSIBILITIES

- CLC member's roles and responsibilities includes providing input, guidance, discussing community views, issues and concerns with respect to the project plan and activities.
- The CLC members should work collaboratively with the proponent by providing practical advice and feedback to help avoid or minimize impacts from the project on the community and environment. The CLC will act only in an advisory manner to the proponent.
- CLC members should be prepared to consider a range of views, and work in a respectful way while positively addressing issues and concerns.
- The specific project elements to be reviewed and commented upon by the CLC may include, but are not limited to :
 - environmental protection plans, including monitoring, survey, mitigation, contingency and compensation plans;
 - dispute resolution policies and/or complaint response procedures;

- reclamation plans;
 - operational hours/schedules;
 - noise, dust and visual impacts; and,
 - transportation.
- CLC members may be requested by NSE to review and provide comment on an application by the Proponent for an approval, or renewal of an approval related to the project.

DISSOLUTION OF CLC

A CLC may be dissolved or declared inactive under the following circumstances:

- Members of the committee and the proponent agree that the requirement for a committee no longer exists;
- The project becomes inactive (put on hold); and
- Where the committee has been formed as a requirement of an Approval, and written consent from Nova Scotia Environment has been received.



To: CMC Board of Directors
 Date: August 2, 2018
 From: Reg Rankin, CMC Executive Director

Subject: Rules of Procedure to better manage CMC Board discussions and its decisions.

Recommendation: Motion to accept the proposed 'Rules of Procedure' as listed below.

Origin of this recommendation - there are two good reasons for Rules of procedure:

- i) The governing Agreement between HRM and HWRS in creating the CMC states under clause 5.09: “ ..the Committee shall determine its own procedure”. The CMC have not, some twenty years later, adopted any such procedures.
- ii) In recent response to HRM clerk's office, who were enquiring about what the CMC's governance might be, your Executive Director stated this aspect of Governance would be raised at next CMC Board Meeting. (Reference, your Attachment of copy of the email exchange between CMC and HRM Clerks' office; in particular, under point 5 in Executive Director's detailed response).

Discussion: The essential Purpose of Rules of Procedure is to provide good governance practices in our Committee discussions, debate and decisions. And in particular, to provide to all members an ' open, respectful and orderly forum ' .

Approach: I have selected is the adoption of the most basic rules of procedure we all may readily agree upon for approval. Moving forward, we can always add more rules. To that end, I have used HRM Council's 'Administrative Order One' which is the body of all rules for Council and its Committee proceedings. It is 82 pages long , contains some 144 clauses and 8 schedules (<https://www.halifax.ca/sites/default/files/documents/city-hall/legislation-by-laws/AO01.pdf>).

I have elected only those prominent rules which have stood the test of time and which may serve us well. The list is certainly not meant to exhaustive or comprehensive but a good beginning of getting reasonable rules of conduct on the books. For these rules, should you wish a further point of reference, I will cite the clause I have used, and in some instances, employed simpler language.

Motion: To adopt as CMC's Administrative Order One the following ' Orders of Procedure ' as under the following described headings numbered 1,2,3,4 and 5.

CMC Administrative Order One

P.O. Box 213, Lakeside, N.S. B3T 1M6

Rules of Procedure

Basic terminology:

Respecting the term 'Presiding Officer', is the 'Chair' of The CMC Board of Directors:

Respecting the 'Members', means all 15 members of the constituted CMC Board of Directors.

1. A **quorum** shall constitute 8 members.
2. Respecting **Presiding Officer entering Committee debate:**
'If the Presiding Officer desires to take part in the debate, he or she shall call on the Vice-Chair to take the chair. The Chair shall return to the chair before the vote is taken on the motion. (Reference, clause 73 HRM Administration Order One)
3. Respecting a **Point of Order:**
 - i) The Presiding Officer shall preserve order and decide on any point of order;
 - ii) If no member appeals, the decision of the Presiding Officer shall be final;
 - iii) The Board, if appealed to, shall decide the question 'shall the decision be sustained 'without debate and its decision shall be final. (Reference, clause 80)
4. **Members speaking to a question** (the motion):
 - i) No member shall speak more than twice to the question without leave from the the Presiding Officer.
 - ii) A member shall not speak the first time for more than 5 minutes.
 - iii) No member shall, without leave of the Presiding Officer, shall speak a second time to the same question or in reply longer than 3 minutes. (Reference, clause 83)
5. **Procedures at a Committee of the Whole** (COW) of the Board:
 - i) When a report of a Committee is presented to the Board, any member may move that the Board go into the Committee of the Board to discuss the Report.
 - ii) The Presiding Officer shall preside unless otherwise ordered
 - iii) The Rules of Procedure are the same Except that the number of times members speaking on any question Shall Not be limited.
 - iv) No member shall speak more than once, except to make an explanation, until every member who desires to speak has spoken .
 - v) The Committee of the Whole, after reporting back to the Board, a motion arising at the Committee of the Whole, shall be decided without amendment or debate. (Reference, clauses 135,139 and 142) .



Board Manual

Author: CMC Executive Director

Date of Board Approval :

1. CMC EXECUTIVE COMMITTEE – TERMS OF REFERENCE

1.1 PURPOSE

The CMC Executive Committee assists the Board by acting in the place of the Board between Board meetings and by performing the other responsibilities that are delegated or assigned to it by the Board. All motions and other decisions taken by the Executive Committee shall be reported back to the Board at their next following meeting.

While the Executive Committee has authority to act on behalf of the Board, its powers shall be used only as necessary on routine or urgent matters that cannot and should not be delayed until the next Board meeting or until a special meeting of the Board can be called. Any such action shall be reported back to the full Board.

1.2 COMPOSITION

The Executive Committee had been , de facto, comprised of the Chair of the Board and the three other executive members appointed from the HWRS to the CMC Board. On a go forward basis, it will continue to be the Chair of the Board and three other members elected on a bi-annual basis from among the CMC Board members. The Executive Director is ex officio and non-voting.

The Board Chair serves as the Executive Committee Chair.

1.3 DUTIS AND RESPONSIBILITIES

Subject to the powers and duties of the Board, the Executive Committee will perform the following duties.

1.3.1 GENERAL

The Executive Committee will act on behalf of, and with the full authority of the Board, on matters that arise between Board meetings or in circumstances where the Board has specifically delegated such authority to the Committee.

1.3.2 GOVERNMENT RELATIONS AND STAKEHOLDERS

The Committee will:

- a) review correspondence and directives from government levels, and discuss implications for the CMC ;
- b) review and consider emerging risks, issues or opportunities and determine whether any Board or management action is required.

1.4 MEETINGS

The Executive are held as deemed necessary by the Committee Chair or the Board.

1.5 COMMITTEE SUPPORT

The Executive Director serves as Advisor and Secretary to the Committee.



Board Manual: CMC Executive Director's Job Description
Author: CMC Executive Committee
Date of Board Approval :

CMC Executive Director Job Description

Background:

The Community Monitoring is the eyes and ears of adjacent communities with respect to the operation of the Otter Lake Landfill. The CMC was created by virtue of an Agreement between the Halifax Regional Municipality (HRM) and the Halifax Waste-Resource Society (HWRS). The existence of the CMC is also a requirement of the Industrial Permit for the landfill as issued by the NS Department of the Environment (NSDOE).

The **Executive Director** is the lead manager of the CMC . The Executive Director is responsible for supporting a volunteer Board of Directors whose **responsibilities** include:

1. Monitor all operations at the landfill;
2. Report important information about landfill operations to adjacent communities;
3. Relay concerns from local communities and report those to HRM Council;
4. Inform HRM Council of its views on any aspect of HRM's waste management facilities that could impact landfill operations; and
5. Report concerns to any other relevant body (i.e. NSDOE) regarding concerns it may have on issues related to its mandate.

Governance:

The ED leads the CMC Board of Directors (15 member Board) by overseeing the administration, budgets, programs and its strategic plan.

The ED facilitates regular meetings of the Board and Executive Committee allowing it to function properly and make informed decisions.

The ED participates actively in recruiting members from the community to serve on its Board as required.

The ED is cognizant of the distinct role of the CMC Board as separate and apart from the responsibilities of the HWRS as set out in the legal Agreement between HRM and HWRS.

Communications:

The Executive Director is responsible for **communicating** information to the Board of Members, the Executive Committee, its communities, HRM, the landfill operator and the public in a timely and accurate manner all information necessary for the fulfillment of the above responsibilities with a view to promoting dialogue on the Otter Lake Management operation.

The Executive Director is the primary **public spokesperson** of the CMC. This communication can take the form of managing social media accounts, maintaining an up to date website, preparing news releases to disclose information to the public and the submission of articles to local news media. The position interacts on a regular basis with representatives of HRM's Council, its senior staff and other government agencies at a municipal and provincial levels.

Financial Performance:

The Executive Director is responsible for controlling expenses within an **annual envelope budget** provided by HRM to CMC for its operations.

The Executive Director manages contracts with communications consultants, and consultants with technical expertise in legal, environmental and waste management matters as required.

Budget information is provided to the CMC Board at their regular meetings including ratification of all consultant service invoices submitted to HRM for payment.

Duration of Executive Director's Services :

The Executive Director's services, by Special Meeting of The Board, as called by The Chair, can be terminated by two-thirds of the fifteen member Board membership, with or without cause.



CMC Communications Policy April, 2019

Table of Contents:

- 1. Background Report on CMC'S mandate to communicate**
- 2. Background Report on CMC'S present quality of its communications**
- 3. Staff Recommendations for CMC'S COMMUNICATIONS POLICY**

SECTION 1

Background report on CMC'S mandate to communicate:

The Otter Lake Community Monitoring Committee (CMC) was formally created on February 16, 1999 through a legally binding agreement between The Halifax Regional Municipality (HRM) and The Halifax Waste/Resource Society (HRWS), both legally recognized corporate entities. And thusly, joined as consenting parents to this creation.

And like other marriages, the CMC as a joint creation of HRM and HWRS was designed to endure as a lasting social contract. But unlike other marriages, there is no provision for the joined partners to ever break this Agreement.

Unlike other Committees under HRM, CMC is expressly different as it is 'An Arms Length Committee ' to HRM. CMC's essential mandate is to be the environmental 'watch dog ' in serving , in particular, the defined surrounding affected communities surrounding the Otter Lake Landfill ; and generally, on behalf of all citizens of HRM.

The continuing role of HWRS, one of the two parents, as it relates to CMC, is to annually populate the Committee with 9 Directors of the total 15 Directors that constitute the CMC Board. HRM Council is to provide the other 6 Directors consisting of 3 Councillors, the Mayor and two citizens at large appointed by Council. HRM Council is also required to provide to CMC, to enable their delivery of the prescribed mandate,

Reference: CMC Communication Policy, April, 2019

SECTION 1 continued below ...

a reasonable amount of financial resources on an annual basis. Importantly, the CMC mandate includes maintaining Communications with all their 6 different public stakeholders; namely, **HRM, HWRS, NSDOE, MIRROR, HRM Citizens**, and in particular, the citizens of the (surrounding) **Affected Communities**. The latter public is defined as residing within a 5 kilometre radius of the Otter Lake Landfill's Front End Processor (FEP) and Waste Stabilization Facility(WSF).

To centre the background of the referenced HRM/HWRS legal Agreement in context with CMC's mandate to Communicate; CMC has a number of defined provisions in the Agreement that define and thusly enable its unfettered right to communicate to any and all its publics on both the operations of the Otter Lake Landfill and on any other matters that may affect the operations of the landfill facilities. Moreover, the Agreement explicitly supports this right with a number of provisions that obligate HRM to provide any and all information to CMC that is pertinent to the operations of the Otter Lake Landfill facilities.

SECTION 2

Background report on CMC's present quality of communications.

Each of the 6 above stated Publics that CMC communicates with presents its own challenges from time to time. This Report Card by CMC staff, provided below, attempts to identify our general performance in maintaining good communication relationships with each of our Publics.

i)HRM Grade for CMC's Quality of Communications – Less than Good.

The main problem, for whatever reason, is *unresponsiveness* from the top officials of HRM to virtually all of CMC's correspondence. From both the office of The Mayor and the Chief Administrative Officer.

-Page 3-

Reference: CMC Communication Policy, April 25,2019

SECTION 2 continued below...

It should be noted that there is **Good** communications with CMC in our current relationship with staff of the HRM Solid Waste Department. And who have been accessible, and indeed, from time to time, attended the proceedings of CMC Board Meetings.

ii) **HWRS**: Grade for CMC's Quality of Communications – **Very Good**

All CMC's correspondence relating to Landfill operations HWRS is closely apprised for their consideration; as well, there is a standing provision in CMC's Board Meeting Agenda to readily convene a HWRS Board Meeting should there be deemed a timely agenda to do so.

iii) **NSDOE**: Grade for CMC's Quality of Communications- **Very Good**

Our relations with the staff of the Provincial Department of Environment has been and continues to be both positive and professional. CMC's correspondence to HRM are duly copied to NSDOE which relate to important aspects to the Otter Lake's Landfill that impact or may impact on its operations. Moreover, from time to time, the Chair of CMC, together with staff, meet with Regional staff of NSDOE.

It is also noted, as in the past, CMC and its representatives stand ready to engage the Political branch of NSDOE. And if deemed appropriate, on matters that may seriously impact the operations of the Otter Lake Landfill, with all other recognized political parties in the House of Assembly.

iv) **MIRROR**: Grade for CMC's Quality of Communications – **Excellent**

Communications between MIRROR, HRM's Operator of the Otter Lake Landfill facilities, and CMC staff deem to be excellent. Both on a staff level and MIRROR's relationship with CMC's Board. Indeed, a number of MIRROR representatives attend virtually all CMC Board Meetings.

Reference: CMC Communication Policy, April 25,2019

SECTION 2 continued below...

MIRROR , to further enhance mutual communications , continues to provide a designated staff liason to both CMC's Board and CMC staff. Moreover, Mirror has and continues to provide the CMC Board with timely information and data statistical reports regarding the production operations of all Landfill facilities.

v) **HRM Citizens** : Grade for quality of communications-**less than Good**
THERE is no question on this matter: The best way to keep our citizens informed of timely topics continues to be through our already erected social media platforms. Through the constant and routine use of our Otter Lake Community Monitoring Committee Web Site. And on our already established Otter Lake Community Monitoring Committee Facebook; And on the Halifax Waste/Resource Society Facebook. CMC staff have not done a good job. More to the point, the essential problem to address is not at all about the past quality of the content on our media pages – it is not having timely content on any of our pages. And the staff member most accountable is your Executive Director. This fundamental weakness will be addressed under the last section of this report ‘ *The proposed Way Forward* ‘ .

vi) **Citizens within the Affected Communities:** Grade for CMC 's quality of communications to our most important public is-**less than Good** .

The above identified social media situation under HRM Citizens – lack of ongoing ‘ refreshment ‘ to our facebook and website pages -equally applies to our special citizens , as defined in The Agreement , residing within 5 kilometres of the Landfill . In addition, our Newsletter has not in recent years, been produced more than once yearly.

Reference: CMC Communications Policy, April 25,2019:

SECTION 3

Staff Recommendations for a new CMC Communication Policy

To correct our path going forward for improved and measurable outcomes in our communications with all our 6 Publics ; staff has the following recommendations to take immediate effect:

The 6 different PUBLICS that CMC serves and Communicates with :

1.HRM – The Mayor’s Office & The CAO’s Office

Actions Required with HRM:

i)Chair and Executive Director to directly engage with both offices. That this engagement between the partners is a standing requirement of the Provincial Operating Permit (Section 3(q) ‘ The Approval Holder (HRM)shall maintain a communication link to the local community primarily through (the) Community Monitoring Committee’).

ii) To seek the help in opening doors at City Hall from the 3 Councillors appointed by HRM Council to the CMC Board; especially, in the absence of the Mayor at our Board , who is appointed, by Agreement, to the CMC Board.

Accountability: The Board to its Public/ Executive Director to The Board

Responsibility: The Executive Director to accomplish Actions

Reporting of Actions & Outcomes to Board: Semi-annual

2. Halifax Waste/Resource Society

Actions required with HWRS:

Executive Director continues to keep the HWRS Board well informed.

Accountability and Responsibility: The Executive Director

Reporting of Actions/Outcomes to CMC Board & HWRS Board: Annual

Reference: CMC Communications Policy, April 25,2019

Section 3 continued below...

3. NSDOE

Actions Required with NSDOE:

Increase the frequency of CMC Executive interface meetings with NSDOE staff presently every 2 years to no less than on an annual basis.

Accountability and Responsibility: Executive Director

Reporting Actions/Outcomes to Board: Semi-annual

4. MIRROR

Action Required with MIRROR:

To continue maintaining very good and open relationship with MIRROR

Accountability and Responsibility: Executive Director

Reporting Actions/Outcomes to Board: on a need basis

5. Residents of HRM

Action Required with Residents of HRM :

Provide 5 hrs monthly social media maintenance through outsourcing

Accountability: Board to its Public/Executive Director to his Board

Responsibility: Executive Director to delegate to staff the required tasks

Report Actions/Outcomes to the Board: To all Board Meetings for year1

6. Residents of the Affected Communities:

Action Required with Residents within the Affected Communities:

In addition to the above listed actions under **Residents of HRM** ; there will be, at minimum, Two CMC Newsletters published per year.

Accountability/Responsibility/Reporting to Board: Same as listed above



Via E-Mail: Mayor@Halifax.ca

February 8, 2022

Mayor Mike Savage
Halifax Regional Municipality
P.O. Box 1749
Halifax, N.S.
B3J 3A5

Dear Mayor Savage:

On Aug.17, 2021, Councillor Pamela Lovelace put forward a motion at a meeting of Halifax Regional Municipality (HRM) Council to have HRM staff conduct a review of the Otter Lake Community Monitoring Committee (CMC).

In response to this proposal, the CMC wrote to HRM proposing an independent review by the Auditor General. The rationale for the CMC proposal is grounded in the fact that the CMC is *not* a subcommittee of HRM, despite the misunderstanding of that role by some Councillors of the Municipality.

As directed by the CMC Executive, I am writing to remind you that CMC exists by virtue of a legal agreement between the parent community organization Halifax Waste Resource Society (HWRS) and HRM. The HWRS is comprised entirely of community representatives and is the voice of communities adjacent to Otter Lake Landfill.

HRM is required, by virtue of the 1999 legal agreement, to fund the CMC's annual operating expenses and has done so since the inception of the legal agreement signed in 1999. This funding requirement is in effect as long as the Otter Lake Landfill is operational.

A review of this relationship underscores the fact that CMC is a partner to HRM and *not* a subcommittee of HRM or a committee that takes direction from HRM. The view that HRM casts itself in a position of authority over the CMC and/or the HWRS is misguided, and it is not fact based.

Despite CMC's reply to HRM requesting an independent review, HRM has ignored this request and is now seeking, as per recent correspondence from the HRM Senior Solicitor to formally initiate a process in which CMC has already declined participation.

The timing of this initiative is considered suspect by our communities. HRM and Mirror Nova Scotia have just completed a public consultation survey, which many of our community respondents perceived as biased and designed to produce results favouring the HRM/Mirror application to remove environmental protections for the Otter Lake Landfill. Given that the impression is widely held, and that our survey respondents overwhelmingly expressed concerns about the plan, any unilateral, top-down initiative by HRM that oversteps its level of authority is unacceptable to the communities.

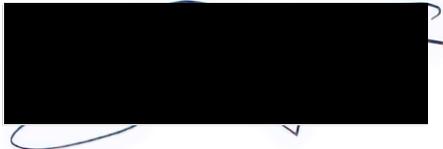
Audits are time consuming for all participants, involve some degree of inconvenience and do require the expenditure of public funds. That time, cost and inconvenience, however, are sometimes necessary and can ultimately be seen as resources well spent, provided the findings and recommendations are the end product of a fair, balanced and unbiased process – in a word, “credible”.

The CMC Executive has further asked me to state that the host communities will accept no less and are prepared to join with HRM in establishing an audit process that meets that threshold through one of the following channels: the Auditor General for HRM, the Ombudsman for Nova Scotia, or a third-party independent auditor.

For more information, we refer you to our original response to your proposal to perform an audit on CMC. Contrary to best business practices, this letter was unacknowledged and no reply was received. Also enclosed is a recent email from the HRM Senior Solicitor.

We remain available to discuss alternate forms of audit at a mutually agreed date.

Sincerely,



Chair, Community Monitoring Committee
(For the Community Monitoring Executive Committee)

Enclosure: CMC Letter to Mayor Savage and Councillors, Sept. 21, 2021
Email from HRM Senior Solicitor to Reg Rankin and Scott Guthrie, Feb.03, 2021

CC: Colin Taylor, Senior Solicitor, Legal and Legislative Services
Members of Regional Council, Municipal Clerk's Office
Directors of the Halifax Waste-Resource Society
Members of the Community Monitoring Committee



Via E-Mail

September 21, 2021

**Re: HRM proposed Performance Review of the Community Monitoring Committee
HRM Council Meeting on August 17, 2021**

Dear Mayor Savage and Councillors:

As you are aware, the Community Monitoring Committee (CMC) was created and mandated by virtue of a legal agreement between the Halifax Waste Resource Society (HWRS) and Halifax Regional Municipality (HRM) for the purpose of oversight by the adjacent communities of the Otter Lake Landfill facility. Funding for the operation of the CMC is stipulated in the agreement to be provided by Halifax Regional Municipality.

The CMC is not a committee of HRM. Its members are appointed by both HRM and the Halifax Waste Resource Society, and include local community residents, HRM residents, and members of Council. The CMC is intended to be autonomous from HRM in the sense that it is an arm's length organization whose first loyalty lies with the adjacent communities in ensuring them protection against any adverse effects arising out of the operation of the Otter Lake landfill for the lifetime of the facility. As such, the CMC is a voice for and on behalf of the adjacent communities and it is not a committee or agency of Halifax Regional Municipality. In presenting a motion at Council on August 17, 2021, Councillor Lovelace casts the CMC as being 'our watchdog' meaning the watch dog of HRM. This fundamental misperception of the role of CMC by Councillor Lovelace obscures the real role of the CMC which is to be the watch dog not of HRM, but of the adjacent communities.

There is a necessary tension between the role of the CMC and that of HRM. HRM wants and needs a waste disposal facility for the entire Municipality, which CMC accepts, but not at unreasonable risk to the adjacent communities. Given that the CMC is the counterbalance to the HRM's objectives in operating a landfill facility, it is not appropriate that HRM would take unto itself the role of audit and review of the CMC.

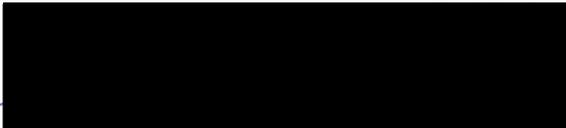
Funding for the CMC is provided by taxpayers, and the CMC understands that is not above audit and review by an appropriate and independent body. However, having a review go forward

under the auspices of the Chief Administrative Officer of HRM does not ensure the necessary level of objectivity and absence of bias for the purposes of a credible review. Imperative in any audit process put forward is that it is seen by the community as independent and credible. An audit by the CAO of HRM runs the very real risk of being perceived as one where the findings and recommendations are tilted in favour of HRM having a free hand in the operation of the landfill facility and at the same time eliminating an irritant, that being the voice of the adjacent communities. An appropriate audit could be performed by a body such as the Auditor General of HRM or an independent third party appointed by the Auditor General.

Council passed its motions without appropriate community consultation or an opportunity on the part of the CMC to present its views. Notably, in addition to the concerns outlined above, the CMC does not believe that HRM has the authority to direct that an audit and review of the CMC go forward. Authority to "modernize" the CMC is not found within the agreement between Halifax Waste Resource Society and HRM. Further, given the unique and autonomous role of the CMC, in that it is an arm's length entity, the very real question arises concerning the authority of HRM to direct that an audit and review take place. That issue was not raised in the course of the discussion at HRM Council prior to the passage of the motion. This procedural oversight is one which HRM should review prior to taking any further steps.

Respectfully submitted by the CMC for consideration of Mayor Savage and HRM Councillors.

Sincerely,

A large black rectangular redaction box covers the signature area.

Scott Guthrie
Chair, CMC
(For CMC Executive Committee)

Copy:
Directors, Halifax Waste Resource Society
HRM Clerks Office

From: "Taylor, Colin" <taylorc@halifax.ca>
Date: February 3, 2022 at 3:27:35 PM AST
To: [REDACTED]
Cc: "Philopoulos, Andrew" <philopa@halifax.ca>
Subject: Review of Otter Lake Community Monitoring Committee

Hello Mr. Rankin and Mr. Guthrie,

I am a solicitor in HRM's legal department and I have been tasked with preparing the staff report requested by Regional Council regarding the "financial, administrative and governance policies and practices" of the Otter Lake Community Monitoring Committee. I am in the midst of conducting my own analysis but I thought it would be prudent to ask you, as the Executive Director and Chair of the CMC, for your input and perspective.

The Department of Environment has produced a guide of best practices for community liaison committees like the CMC (see attached). My initial assessment is that the CMC is *generally* structured and operating in conformity with these best practices. I do have some questions about governance and expenditures that I would like to run by you. For instance – Are you satisfied with the process through which expenditures for the CMC are currently made, ratified and approved? It's a deviation from what was contemplated in the agreement between HRM and the Halifax Waste Resource Society – but one which was acquiesced to by both parties several years ago.

Would you be willing to have a MS Teams meeting with Andrew Philopoulos and me in the next week or two to discuss? I would appreciate your insights.

Sincerely,

COLIN TAYLOR
HE/HIM
SENIOR SOLICITOR
LEGAL & LEGISLATIVE SERVICES
C. 902.483.7471

HALIFAX

The Halifax Regional Municipality is located in Mi'kma'ki, the ancestral and traditional lands of the Mi'kmaq people. The municipality acknowledges the Peace and Friendship Treaties signed in this Territory and recognizes that we are all Treaty People.

This communication is intended for the addressee(s) only. It contains confidential or privileged information and is subject to solicitor/client privilege. No rights to privilege have been waived. Any copying, distribution, taking of action in reliance on, or other use of the information in this communication by person other than the addressee is prohibited. If you have received this communication in error, please notify the sender and delete or destroy all copies of this communication.

Legal opinions, or any portion, are not to be disclosed or referred outside of HRM without the express written approval of the CAO or Municipal Solicitor – Executive Director of Legal & Legislative Services.