



















**From:** David McCusker  
**To:** David Hubley; Harry McInroy  
**Date:** Thu, Jan 24, 2002 12:56 pm  
**Subject:** Re: Mill Brook lands - Brookfield

Instructions were issued to Works to take steps to make the closure. Gord Hayward is the supervisor for that area and he indicated his preference to install guardrail across the opening instead of jersey barriers. My understanding is that he has the materials at his disposal and is waiting for an opportunity amidst weather constraints to complete the work.

>>> Harry McInroy 1/24/02 9:24:11 AM >>>  
Hi David,

Can you please update me on this matter.

Thanks,  
Harry

>>> David Hubley 01/04/02 08:48AM >>>  
I agree. I faxed the Chief on December 20 asking to advise as to when this work will be completed. He has not responded and I was to the site yesterday to confirm that work has not taken place.

**Dave McCusker,**

Can someone from your department barricade the access and send the bill to the Band?

>>> Harry McInroy 01/03 9:12 PM >>>  
Hello David,

It is now a month since you advised me that Chief Paul was going to look after this long outstanding matter "ASAP".

It will soon be approaching a year since efforts commenced to have this illegal road connection to Brookfield Drive blocked off.

HRM has been painfully patient waiting for the Millbrook Band to do what it has been asked to do.

The only answer is for HRM to "take the bull by the horns" and baracade access from the Millbrook property to Brookfield Drive.

The time for "pussy footing" around has long since passed.

Please take action immediatley to have this done ..... not to get another promise that it will be done.

Your assistance with this matter will be appreciated if the illegal connection is blocked to vehicular traffic immediatley.

Thanks,  
Harry

>>> David Hubley 12/06/01 04:27PM >>>  
fyi

I spoke to Chief Lawrence Paul, his lawyer and one of his Councillors. They will appropriately block up the access asap and will notify me once completed. I will let you know when I hear back from the Chief.

**CC:** George McLellan; Gordon Hayward ; Karen MacQuarrie; Kulvinder Dhillon; Peter Kelly















































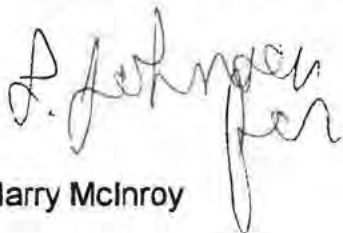


COUNCILLORS' OFFICE

MEMORANDUM

TO: Vi Carmichael, Municipal Clerk  
FROM: Councillor Harry McInroy, District 5  
DATE: September 16, 1999  
SUBJECT: Millbrook Band Development

Please place the above noted item on the Council agenda for September 21. I would like to request a staff report seeking clarification of the September 7/99 Information Report, and the Municipality's legal position on the 1991 memorandum of understanding and related sewer flow limits.


  
Harry McInroy

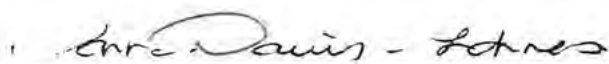


Halifax Regional Council  
September 7, 1999

**TO:** Mayor Fitzgerald and Members of Halifax Regional Council

**SUBMITTED BY:**

  
Kulvinder S. Dhillon, P.Eng., Director, Engineering & Transportation

  
Donna Davis-Lohnes, General Manager, Planning Services

**DATE:** August 31, 1999

**SUBJECT:** Millbrook Band Development - Caldwell Rd, Cole Harbour

### INFORMATION REPORT

#### ORIGIN

The following motion was put and passed at the June 15, 1999 Regional Council Meeting:

MOVED by Councillors McInroy and Cooper that the issue of the Millbrook Band Apartment and Commercial Développement on Caldwell Road, Cole Harbour, be referred to staff for a report to respond to the above concerns raised by Councillor McInroy.

## **BACKGROUND**

Millbrook Indian Reserve is located on Caldwell Road in Cole Harbour. The Reserve is comprised of two parcels of land. The parcel on the north side of Caldwell Road is approximately 26 acres, and is currently occupied by a gas station and another small building. The parcel on the south side is approximately 20 acres, and is occupied by 17 buildings - 15 single family and mobile homes, a convenience store and an office. Sanitary sewer and water service is available to all of these buildings from the Municipality and the Halifax Regional Water Commission.

The Millbrook Band has indicated a desire to develop the north side parcel. According to correspondence received from the Band's consultant, their development will eventually comprise five apartment buildings (48 units each for a total of 240 units), as well as 60,000 sq ft of retail use, and 13,000 sq ft of office space. The Band has also indicated that the development is to be serviced by municipal sanitary sewer and water.

The Band's consultant has indicated that one apartment building will be constructed as the first phase of the development.

The Reserve is located in the former Halifax County Municipality, and there are two separate agreements that contain provisions with respect to servicing of the Reserve lands.

The first agreement is dated January 10, 1980, and it provided for the Municipality to construct, operate and maintain a trunk sewer line at the northern boundary of the parcel of land on the north side of Caldwell Road. The agreement also provided that any sanitary sewer installed on the Reserve could be connected to the trunk sewer. Sections 14 and 15 of the agreement state as follows:

14. The Permittee [the Municipality] hereby agrees that such sewer systems as may be installed to service the whole or any portion of the Reserve, may be connected to the works [The works is defined as the trunk sewer installed pursuant to this agreement].

15. That the Permittee may only charge users on the Reserve the standard connection and user costs or fees charged to all other users.

It appears that all the necessary legal formalities were followed in entering into the Agreement and that it is binding upon both the Band and HRM. The effect of this 1980 agreement is that any sewer constructed on the Reserve may connect to the trunk sewer constructed pursuant to that agreement without regard to the capacity of the downstream system. The existing buildings are not connected to this trunk sewer, however; they are connected to the sewer on Caldwell Road installed pursuant to the second agreement. Also it has been indicated that the proposed apartment building will not be connected to this sewer but to the one on Caldwell Road.

The second agreement is a Memorandum of Understanding (MOU) dated July 15, 1991, signed by the former Halifax County Municipality, and the Chief and the Band Manager. It appears that this MOU may be of questionable validity, because it was not approved by the Band Council or executed by the Minister. However, the sewer contemplated by the MOU was installed on the Band property and at least a substantial number of the existing dwellings on the Reserve are connected to it. As well, some off Reserve properties are serviced by the trunk sewer.

This MOU limits the average volume of sewage which can be discharged from the Reserve lands into the Municipality's sanitary sewer to 37,800 gallons per day, which is equivalent to the rate of discharge expected from the Reserve if the land was developed as single family as it was planned in the MOU.

It is currently proposed that the Phase 1 apartment building be connected to the Caldwell Road sewer as well. The average daily sewage flow from the existing development is estimated to be 13,000 gallons. The total of this plus the proposed 12,000 gallons from the first apartment building is less than that provided for in the 1991 Memorandum of Understanding of 37,800 gallons. The average sanitary flow generated by the proposed Phase 1 would be within the requirements set by the 1991 MOU.

## **DISCUSSION**

Although no formal application has yet been made by the Band to connect to the Municipality's sewer, it is understood that the first phase of the project will comprise one 48-unit apartment building. The sewage flow from this first phase is estimated by the Band's consultant to be 12,000 gallons per day, which combined with the existing usage by the Band will still be within the capacity allocated to the Band by the MOU. The increased flow will however bring the Municipality's sanitary system on Caldwell Road close to capacity.

Were the full development to proceed, the sewage flow from it is estimated to be much greater than that, and these higher flows were not provided for in the design of the Municipality's sanitary sewage collection and treatment system in the Cole Harbour/Eastern Passage area. That was presumably why the 37,800 gallon limit was placed in the MOU.

Also, the 1980 agreement provided for unlimited connection to the trunk sewer installed at that time in the vicinity of Astral Drive. The Band has provided no information to date as to what proportion of their lands are proposed to connect to which sewer, and what those sewage flows might be, if and when the future phases proceed.





Response: Staff have not consulted the School Board on this matter. Council is aware that an elementary school is under construction at the north end of Morris lake, to address existing overcrowding and accommodate future development in the Dartmouth/Cole Harbour area. It is further acknowledged that School Board policy is to not displace students in existing neighbourhoods where an overcrowding issue is involved; rather, students resulting from new development will be accommodated at the nearest school where capacity is available.

*Question 3: Another concern is with the area sewage system. Approximately one year ago residents in the Sherwood and Carlisle area had their basements flooded with backup sewage after a heavy rain storm. The system has been upgraded however, with the construction of Colby South and Morris Lake already under way the system will again be at almost maximum capacity. With the scope of the Millbrook Band construction we feel that the system will again become over burdened and problems will again occur in the area.*

Response: The Colby South and Morris Lake developments are not part of the same system as the Sherwood and Carlisle area nor is the proposed phase 1 of the Millbrook Reserve.

*Question 4: The area on the upper portion of the reserve is a seasonal swamp with very poor drainage. Several Astral Dr. residents that have property bordering the Reserve have problems with their property "drying out" after heavy rains. Depending on the amount of rain received some parts stay wet for weeks afterwards. With the construction of several apartments on the higher ground of the reserve the run off from heavy rains will flow into areas that are already soaked only compounding the problem.*

Response: This concern will be brought to the attention of the Millbrook Band Reserve and their consultants.

*Question 5: The traffic situation in the area, which has already had several close calls with children nearly being hit, since most streets do not have side walks, will increase dramatically with so many new apartments within such a small area.*

Response: A traffic impact study related to this development was prepared by a consultant retained by the Band. The study identified the requirements for a new intersection on Caldwell Road and looked at such issues as left turn storage and signalization. The study examined several phases of development and determined that the initial phase would not require any physical improvements to Caldwell Road in the vicinity of the intersection.



As a collector roadway, Caldwell Road is expected to carry relatively high volumes of traffic. As traffic volumes increase, HRM will strive to upgrade the roadway as required with infrastructure such as left turn storage lanes and sidewalks. We believe the additional volumes of traffic generated by this development are within the existing capacity of Caldwell Road. The traffic loading on Caldwell Road in the long term will be considered as part of the Morris-Russell Lake Master Planning Exercise or through a separate analysis.

*Question 6: Residents on Brookfield will also have a problem with the apartment building that is planned for a couple of metres from their yards, being so high that it blocks out the sun from their back yards for most of the time.*

**Response:** Council is advised that the Federal Government and the Millbrook Band are not forced to comply with Municipal land use policy, by-laws and regulations. It is anticipated and expected, however, that the Band and its consultants will take into account the proximity of existing abutting homes in carrying out the detailed design for the project.

*Question 7: With high-rise apartment buildings being built in the back yards of single family residences, we feel that the two areas would become segregated and not come together like the rest of the community. We would suggest that the Millbrook Band reconsider the high density housing they are planning and choose less dense housing such as townhouses or semi-detached homes that would fit into the community better and lessen the strain on the area resources.*

**Response:** Expanding on the previous response, a project of this nature would normally be required to obtain approval from Council by way of a Development Agreement. Under this planning approval process, staff would analyze the site-specific aspects of the proposed development, taking into account such matters as topography, existing vegetation and size and height of the project. Depending on this evaluation, staff would provide advice to Council concerning the type of use that would be suitable for the location and/or appropriate mitigation measures such as increased separation distances and buffering (fencing, tree planting, and so on). In this case, however, as previously mentioned, the Federal Government and Band Council are not obligated to comply with Municipal planning legislation.

Notwithstanding that the Band does not have to comply with Municipal legislation, we will forward to them copies of the information provided by the Area Concerned Citizens Group for their consideration.

**BUDGET IMPLICATIONS**

Cost of upgrades of the systems required to accommodate the proposed development by the Millbrook Band Reserve will be included in a subsequent report once the analysis of the receiving systems is completed.

**MULTI YEAR FINANCIAL STRATEGY IMPACTS**

As per the Budget Implications.

**YEAR 2000 IMPLICATIONS**

None.

**ALTERNATIVES**

None recommended.

**ATTACHMENTS**

1. Minutes of the Public Meeting held on June 15, 1999, by the Area Concerned Citizens Group.

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Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by: John P. Sheppard, P.Eng., Manager, Environmental & Development Services, Phone: 490-6958  
Roger Wells, Coordinator, Planning Applications, Planning Services, Phone: 490-5449.

*OPS.*  
*RD*

## ATTACHMENT 1

### PUBLIC MEETING JUN 15 Astral Dr. Elementary School

#### Background

The Millbrook Band intends to develop their 8 acre Reserve Land bordered by Astral, Brookfield, Caldwell, and Shrewsbury. Area residents acknowledge that the Millbrook Band has the right to develop and earn a living off of their land the same as any other Canadian Citizen.

Their plan right now is for a four story 48 unit 1 and 3 bedroom Apartment complex to be constructed. This building is to be completed and ready for occupancy by Christmas this year. This will be followed closely by 2 more identical units. They are also planning five smaller buildings housing 25 apartments each. Also planned in the near future is a two story office complex. All of the above construction is to take place on the upper portion of their Reserve land with the buildings being built within a couple of meters of already existing single family homes. They are also planning a strip mall and other commercial buildings in the lower portion of the land to be completed later. At the meeting held by John K. Dobbs & Associates Inc. in cooperation with the SGE Group on June 9, select residents were told that the plan is to attract seniors in the 50+ age range with the above construction. With rents in the \$700 - \$900 range they felt confident that they would get that type of tenant. After talking with residents that were not at the meeting it became clear that many more residents were concerned with the proposed project. That is the reason why this meeting is being held tonight to inform more residents of the proposed project and to determine if we have any way to limit the impact the project will have on our community.

#### Issues of Concern

There are several issues that concern the area residents with their proposed construction. Some of these concern include.

- 1) We are uncertain that the buildings will attract the targeted age group. After consulting with other residents who work for developers that have built seniors' apartments within Halifax Regional Municipality, it appears that most seniors want one and possibly two bedroom apartments.
- 2) With so many three bedroom apartments being constructed we feel that they will be rented by families with children. Astral Dr. Elementary and Junior High Schools house approximately 1500 students now. With construction already under way with Colby South and Morris Lake these two schools would not be able to handle the number of new students that will likely move into the three bedroom apartments, over burdening the school system.
- 3) Another concern is with the area sewage system. Approximately one year ago residents in the Sherwood and Carlisle area had their basements flooded with backup sewage after a heavy rain storm. The system has been upgraded however, with the construction of Colby South and Morris Lake already under way the system will again be at almost maximum capacity. With



the scope of the Millbrook Band construction we feel that the system will again become overburdened and problems will again occur in the area.

4) The area on the upper portion of the reserve is a seasonal swamp with very poor drainage. Several Astral Dr. residents that have property bordering the Reserve have problems with their property "drying out" after heavy rains. Depending on the amount of rain received some parts stay wet for weeks afterwards. With the construction of several apartments on the higher ground of the reserve the run off from heavy rains will flow into areas that are already soaked only compounding the problem.

5) The traffic situation in the area, which has already had several close calls with children nearly being hit, since most streets do not have side walks, will increase dramatically with so many new apartments within such a small area.

6) Residents on Brookfield will also have a problem with the apartment building that is planned for a couple of meters from their yards being so high that it blocks out the sun from their back yards for most of the time.

7) With high rise apartment buildings being built in the back yards of single family residences, we feel that the two areas would become segregated and not come together like the rest of the community. We would suggest that the Millbrook Band reconsider the high density housing they are planning and choose less dense housing such as Town Houses or Semi-Detached homes that would fit into the community better and lessen the strain on the area resources.

We the area residents would like our elected officials to give us any possible assistance in relation to this matter and address the concerns of the area residents.

Signed  
Chales Stewart  
for  
Area Concerned Citizens Group

A patition is being circulated in the area, it states.

We the undersigned do not want the Millbrook Band Council to proceed with the proposed construction of several apartment buildings on Reserve Land bordered by Astral Drive, Shrewsbury Road, Caldwell Road and Brookfield Drive. We feel that the idea is ill conceived and pays no attention to the enormous strain that will be placed on the educational, sewage, water drainage, and transportation facilities in the area. We urge the government at all levels to help stop this development from destroying our community by doing whatever they are able to do to stop this development.