



DISTRICT OF HIGHLANDS
MINUTES OF THE
COMMITTEE OF THE WHOLE MEETING

Monday, June 10, 2013 @ 7:00 P.M.
School House, 1589 Millstream Road

PRESENT:

Mayor
Councillors

Jane Mendum
Allen Dobb
Diane Gill
Marcie McLean
Karel Roessingh
Ken Williams

ABSENT:

Councillor

Sigurd Johannesen

IN ATTENDANCE:

Chief Administrative Officer
Corporate Officer
Planner
50 members of the public

Chris Coates
Tina Neurauter
Laura Beckett

1. APPROVAL OF THE AGENDA

MOVED BY: COUNCILLOR ROESSINGH
SECONDED: COUNCILLOR WILLIAMS

That the agenda be approved.

CARRIED

2. ADOPTION OF THE MINUTES

a) Committee of the Whole – May 13, 2013

MOVED BY: COUNCILLOR MCLEAN
SECONDED: COUNCILLOR ROESSINGH

That the Committee of the Whole minutes dated of May 13, 2013 be adopted.

CARRIED

3. NEW BUSINESS

The Mayor informed the audience members that both presentations will be heard and then a question and answer period will take place.

a) Ministry of Environment Presentation
RE: SOIL REGULATIONS

Alan McCammon, Manager with the Land Remediation Section of the Ministry of Environment was in attendance to present Council with information regarding Contaminated Soil Regulations. The objective of the division is to protect the environment.

Mr. McCammon's presentation focused on the regulatory regime in BC to put in place some checks and balances regarding contaminated sites. The presentation will include information on the site remediation regulatory framework, environmental quality (remediation) standards for soil and soil relocation from contaminated sites.

Site Remediation Regulatory Framework

The primary piece of law in BC for protecting the environment is the *Environmental Management Act EMA* (main regime in the Act is the prohibition to discharge waste to the environment). In 1997 a significant amendment was made to the law called *Contaminated Sites Regulation*. Key objectives of the regulatory framework under the *EMA* is human, health and environmental protection especially drinking water aquifers. Also comprehensively assess and reduce risks that may come to be from contaminated soil, water, sediment and vapour. Clarity of process is always being updated regarding cleanup or remediation of contaminated sites.

Part 4 of the *Environmental Management Act* – the part that deals with Contaminated Sites - describes the science based strategies in identifying, assessing sites, characterizing them and sets clear targets for remediating sites. These standards change with the latest remediation standards. The Ministry approves and certifies remediation projects. This process is based on a cost recovery system, public in general, is not charged for this remediation. Direct linkages within the *Act* connect with local government via the *Community Charter*, *Land Title Act* and Development Permits. This part of the *Act* lays out responsibility (liability) for who is responsible for the cleanup of contaminated sites – polluter pays principle. Private sector qualified professionals are relied on for recommendations on projects. Information on sites is readily available on bconline. Notifications are also built into the process.

Environmental Quality (Remediation) Standards

The two main or commonly referred to standards are Generic (numerical) and Site-specific (risk based) standards for soil, water, sediment and vapour. All standards are risk-based and generally based on the type of site receiving the soil. Standards vary for different uses and include industrial, commercial, residential, urban park, agriculture and all have a minimum standard. There are also standards for water and uses include drinking water, aquatic organisms, irrigation and livestock watering.

Public concerns (local government) for soil relocation prompted a ministry formed multi-stakeholder Soil Management Task Force in 1997 which recommended a development of a uniform system for regulating the classification and movement of soil.

If soil moved from a site exceeds certain trigger values (standard as discussed above) there is a requirement of a Contaminated Soil Relocation Agreement (CSRA) before soil can be moved, unless an exemption applies (includes soil relocated to same site, soil moved to authorized facility or if volume is less than 5 cubic metres). A CSRA is a tri-party agreement (source property owner, receiving site owner/ operator, ministry

Director) authorizing relocation subject to any condition the Director imposes. Relocated soil must meet either the generic or site-specific environmental quality standards at the receiving site. This process requires advance notification as well. The soil must meet applicable standards at the receiving site. The receiving site cannot be rendered contaminated.

Compliance Promotion and Verification

The province investigates referrals/ complaints, some of these come from the Agriculture Land Commission and local governments who receive the complaints. Educational workshops are offered for local government stakeholders, land owners, developers, truckers and environmental consultants. The Province has assisted with the CRD soil relocation workshop, City of Surrey relocation informational brochure development and have “Key Topic” on the ministry website.

Upcoming work from the ministry will include review of soil relocations regulatory framework to identify opportunities for improvement and streamlining, including: terminology, increased coordination with other parts of the *Environmental Management Act*, provincial and local government “concurrent regulatory authority” in area of prohibiting soil removal/ deposit (provincial regulations and local bylaws and the preparation of a discussion paper and consultation on any proposed changes.

Chris Coates, Chief Administrative Officer of the District of Highlands then lead a presentation of the District’s new soil deposit/ removal and fees bylaw.

The bylaw was adopted in late 2012 and is an more enhanced regulatory tool than what had been in effect in the District prior to that point. The regulatory framework in which the District had to work within has limits; soil bylaws require three Provincial approvals from the Ministry of Energy and Mines, Ministry of Environment and the Ministry of Community, Sport and Cultural Development. Local Governments have the power to regulate but cannot prohibit.

The District’s bylaw defines soil as sand, rock, silt, clay, peat or any other substance of which land is composed. Exemptions from the permit process include: less than 10 cubic metres per parcel per year, any work done by or on behalf of the District, landfill operations, work related to a building permit, driveway maintenance and if material is relocated within the parcel it is removed from.

Applications between 10 and 500 cubic metres are dealt with at staff level. All permits exceeding 500 cubic metres are forwarded to Council to enhance community awareness – this does not impose a higher standard for approval but rather a higher standard of notice (sign must be posted on property and notice is provided to residents within 100 metres of the parcel).

On permits of 10 – 100 cubic metres staff determine application submission requirements. On permits greater than 100 cubic metres detailed requirements include: Engineered drawings depicting site conditions, proposed slopes of fill or excavation, drainage, water courses and accesses.

Off-site issues must also be addressed on permits greater than 100 cubic metres and include: schedule, traffic management plan, transportation routes and for information for deposit permits registered with BC Site Registry to ascertain whether the soil involved is under provincial jurisdiction and if so that it has been removed and will be deposited in accordance with Provincial Regulations.

Restrictions on permits may and can include: buffer zone of the lesser zoning setback or 7 metres, no impact to surface water or groundwater, no damage to adjacent lands, no contravention with other bylaws, not to result in use of land inconsistent with zoning, deposit not susceptible to erosion, slipping, landslides slumping or settling, no activity undertaken between November 1 and April 30 and no work on Sundays or Holidays.

Monitoring on permits over 100 cubic metres require engineered sign off on quantities (monthly) and has right to access and monitor for compliance – suspension or revoking permits for non-compliance is permitted. Fees are based on quantity of material (\$ 0.50 per cubic metre and the same for security for road damage).

As both presentations were finished the Mayor announced that the question and answer period would begin. Where an answer was given it will be recorded.

- ***What tools are given for access onto sites to monitor or test for groundwater contamination (residential wells)?***
 - bylaw has requirements that state aquifers have to be identified and not impacted but there is a jurisdictional issue. The District cannot venture into provincial jurisdiction. The bylaw does inquire into site conditions.
- ***With respect to the Tervita Site – if monitoring identified contamination what would this trigger with the Province and what kind of track record is there relating to receiving these types of soils?***
 - The facility should have operational standards for the site. There may also be information on this site and others on the Ministry website.
- ***Is there a CSRA for the Graving Dock Project? Will there be pre-treatment of the dredged sediment?***
 - No – this project is exempt under its Operation Certificate. Mr. McCammon commented that he was not sure on all the specifics for this project.

The Mayor stated that questions regarding the Graving Dock Project should be directed to Public Works Canada.

- ***Regulation to help keep projects of this type (Graving Dock) safe?***
 - Assessing and demonstrating up front that the receiving facility (in this case a licensed facility with an Operational Certificate) is capable of dealing with the product (engineering protection).
- ***Chain of liability – as the soil moves who is liable for the soil?***
 - Private contracts could determine the responsibility. Typically provincial legislation gets involved in high-risk matters where logical parties will not voluntarily get to the bottom of the issue and take some action.

- **Who will be responsible for the Tervita site in the long-term future?**
 - Typically waste management facilities have a number of flexibilities for the decision makers with respect to monitoring, security and long-term future work. Mr. McCammon is not up to date enough with this site to provide a proper answer.
- **What is the process if the owner wants to change the Operational Certificate?**
 - A Design and Operation Plan has to be approved by a decision maker and all permits are open to the public.
- **Does the Province have the same authority over First Nations land?**
 - There are some exemptions for First Nations Land. If the graving dock sediment was deposited first onto First Nation Land and then to a public land then the same regulations would have to be followed.
- **If drinking water becomes contaminated – what can the Province do about it?**
 - Site standard have changed over time and there is strong policy now in BC. Facilities have engineered designs and monitoring systems. Decision maker has discretion as well.
- **Would Highlands's aquifer been taken into account regarding this project?**
 - Yes, generally they are.
- **Why couldn't this remediation take place on-site?**
 - *** This question was asked at the Council meeting of June 3 – please refer to those minutes for an answer from Public Works Canada.*
 - Mr. McCammon could not answer this question but informed that the province does not get involved with site location – they act as a regulatory body when applications are received.
- **Does the Provincial exemption also exempt the amount of tonnage per year? What is the process that would allow them to exceed this amount?**
 - The Operational Certificate issued under the Solid Waste Management Plan issued by the Capital Regional District specifies the annual amount of waste. Also it can be amended through an operational plan.
 - Nothing in the current law can stop a facility for updating or amending their Operational Certificate. The local government does not have a say in this process.
 - This may be a good question for an upcoming discussion paper on possible amendment to the *Act*.
 - As Tervita is part of the CRD's Solid Waste Management Plan if an amendment to Tervita's Operational Certificate triggered an amendment to the SWMP there would be an opportunity for public input in that process.

- ***Is there any section of the permit process where the applicant has to state the long term monitoring process or plan?***
 - Considerations are mostly connected to engineering, design and provisions that are put in place to monitor the engineering. The long term stuff can be included in the long term monitoring and provisions by the decision maker.
- ***Will Tervita have to abide by the May to October provision in Highlands's Bylaw?***
 - No as this is a Provincial process (exempt) and the District has no say.
- ***What can the District do regarding contaminated soil coming onto a property in the District or if the run-off from the site is contaminated?***
 - The District's bylaw does ask if the soil is from a contaminated site and if so a Certificate is required. If something falls between the cracks? The District has no authority to ask for testing – the Province will not delegate this responsibility. There is certain types of contaminated soil (regulated under the *Environmental Management Act*) that can be received by a recipient site based on zoning on the property.
 - The Province has taken a firm line on this. It may be because originally the Province did not want conflicting information?
- ***When contaminated soil is removed from a site is there information on the receiving site – how is it characterized as to where it can go?***
 - The material is characterized and then it is forwarded to a site or facility and this is very much based on the receiving site's zoning. It all depends on the standard of the soil and the receiving site. Notification for this is given to the local government.

The Mayor convened the meeting for a 5 minute break at 9:15pm.

The meeting reconvened at 9:20pm.

- ***What department or agency will be responsible for monitoring the site after the 25 year monitoring of the site stipulated in the Operational Certificate is finished?***
 - The 25 year stipulation is a standard time for municipal waste. There is usually always a closing plan and it would be the responsible of the owner to execute this plan. There is generally no need for further monitoring. If a landfill site is closing and would like to reuse the land it would have to achieve a Certificate of Compliance. Through the 25 years the responsibility is on the owner and the Province.
- ***What is the long term stability of this waste? Is there enough information provided by qualified professionals. What is our knowledge base?***
 - The professions are self regulating – professional development requirements, compliance, enforcement and standards for these professionals. The science is always advancing and this does change the standards.

It was asked by an audience member if a specific meeting could be arranged to discuss specifically the Tervita site and its Operational Certificate and the decision maker from the Province for this site.

- ***What is the definition of contaminated soil - specifically related to Tervita?***

- This would be specified in the Operation Certificate. There was a discussion on the difference between hazardous and contaminated soil. Bench marks are set and determined for both of these standards and the legal definitions can be found in the different Acts. It all depends on the type of contaminate and the level of contaminate. There is always a requirement to screen the soil.

***Public Works Canada has promised to supply to the District information on the contaminates coming from the Graving Dock project.*

- ***What provisions are in place in the bylaw that would require the applicant to do baseline work on the soil being deposited?***

- The bylaw requires information on the site and other regulatory processes that may be required in order for their permit to be considered. Material coming onto the site is controlled by provincial regulation and the District asks the applicant if the site is registered on BC Registry.
- The bylaw does require a site reclamation plan and an invasive species plan.

- ***Will the District rely on its own staff to review the plans submitted with applications.***

- There is always an opportunity to peer review and may be based on site conditions and magnitude of the application. As a general rule the onus is on the applicant and their Qualified Professional.

Complaints are always researched and acted on by staff and would communicate with another regulatory body if required. The current bylaw makes soil deposit/ removal very difficult because of the required regulations within the bylaw. This activity is not a large problem with many other local governments as there are only a few with large lots capable of taking large deposits.

- ***Is Tervita going to be submitting a revised Operation Certificate to the Government?***

- Tervita has submitted an Operations Plan to reflect the changes taking place on the land. The Operational Certificate copied to Council is only for the CRD Solid Waste Management Plan.

- ***Is there monitoring of any runoff related to large deposit projects?***
 - Hartland Landfill was used as an example – the process was described for monitoring, measuring and action taken.

- ***What about non-regulated sites?***
 - The Province does have recent files regarding this type of soil. This is another potential gap area. It is possible that this type of soil could trigger a CSRA but typically does not. This could be another topic for review.

- ***What is the Statute of Limitations for a Profession Engineer? Again what would happen after the 25 years?***
 - This may be better answered by a future meeting specific to the Tervita site.

- ***Will groundwater be monitored from the beginning of the Tervita project and will that information be shared?***
 - This monitoring information could be asked specifically from Tervita and if there is a problem the information can come from the Province.

Mayor Mendum thanked Mr. McCammon for attending and providing so much information regarding these regulations.

4. ADJOURNMENT

MOVED BY: COUNCILLOR ROESSINGH
SECONDED: COUNCILLOR GILL

THAT the Committee of the Whole meeting adjourn at 10:20pm.

CARRIED

MAYOR

CORPORATE OFFICER