



## **MUNICIPALITY OF EAST HANTS**

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**P.O. Box 190 Shubenacadie, N. S. B0N 2H0**

**Date:** October 16,2006

**To:** Council/Committee

**From:** Connie Nolan CA

**RE:** Assumption of Financial Responsibility for Drainage Issues

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Council has expressed an interest in having a report and recommendations on a policy they could adopt with respect to the assumption of financial responsibility for Drainage Infrastructure needs.

### Background

We know that there are a number of drainage issues that have been brought to the attention of staff on a somewhat regular basis, primarily within the serviced area. Staff and council have recognized the need to focus more on drainage considerations and to that end the subdivision bylaw has been amended in an effort to reduce future problems.

A separate document has been prepared outlining a brief history and further background information on the issue.

### **Solving Existing issues using a Systematic Approach**

When council were given the consultants report on Spruce Lane/Oakmount, comment was requested from the Finance department on the appropriateness of having the debt charges associated with the costs picked up in the urban service area rate.

My comment was that it was not inappropriate to have the urban service rate pick up the cost as deemed appropriate but that Council should make its decision based on a policy that they would adopt in regards to storm drainage issues in general. Committee was advised that they should determine by policy when a drainage issue was one that would be fixed by the Municipality and there should be consideration as to whether individual home owners would pick up any portion of the cost of fixing problems. The truth is that there needs to be some framework for making decisions , otherwise every drainage issue that causes problems for taxpayers will be expected to be fixed at the expense of the larger tax base and this may not be appropriate.

## Basic Philosophy

As the Bylaws have been amended and new and more stringent guidelines have been put in place developers have been spending more money to develop their subdivisions. Those costs directly impact the cost that is paid by the future homeowner/taxpayer for the resulting lots on that subdivision. In fixing “old” drainage issues Council has to be cautious not to provide a cost free benefit to existing taxpayers that new taxpayers are being forced to pick up in the cost of their lot.

Existing taxpayers, I submit should be required to pick up at least a level of cost that any new taxpayers would pick up in their lot cost as a result of more stringent regulations. The fact that some solutions will now be necessary, long after the particular subdivision project is complete means the cost to find a solution involves “retro-fitting” the infrastructure and therefore as a general fact will cost more than had the work been done before the homes were built. This is where the wider tax base may be considered to have some “responsibility” to be involved. Based on earlier staff reports and discussion with developers it appears that current storm drainage requirements is probably adding up to \$10,000-\$12,000 to the price of a lot of land. ( This includes the need for an overall storm drainage plan, lot grading plan and buried storm sewer systems.) Curb and gutter is probably adding another \$3,000 or more to the price. Ball park cost per lot for drainage work prior to most current regulatory changes is approximately \$3,000-\$5,000 according to cost estimates provided by developers.

Council also has to be cautious to identify the drainage situations that should rightfully be corrected through government intervention ( e.g.. are a result of larger development patterns)and not issues that are individual in nature. I would also suggest that Council should only concern itself where the issues involve damage or real potential damage to properties where the solution cannot be achieved through individual intervention. It appears that most if not all taxpayers would prefer to have buried storm drainage systems as opposed to open ditches if given the option( not to say that they would want to pay the bill for such an improvement). The Municipality has to be cautious not to provide solutions that primarily address esthetic issues.

The other issue that may warrant Municipal intervention would be safety issues. Residents in some of the “trouble” areas express concern about the volume of water in the open ditches and the potential safety hazard to children. Evaluation of the nature and extent of the hazard is going to be the challenge. Until very recently the vast majority of homes in East Hants were built on roads with open ditches. At various times of the year, all ditches will have water flows that could be considered dangerous. Clearly there will be situations were the water is deeper and perhaps stays longer. I cannot think of any systematic way Council can determine whether one situation merits Council intervention while another one does not.

As I understand the variety of drainage issues that have been repeatedly identified, there is a significant issue pin pointing commonality among them. It also appears that as weather patterns are changing, the incidence of storm drainage issues is increasing. Council has to be careful not

to overreact and accept responsibility to fix what may be isolated incidence that should only occur once every 25 or 100 years. Despite much more rigorous bylaws, any home owner may experience flooding depending on the weather patterns experienced, the design of their home etc.

As I understand the consultants report and the response of engineering staff, it is difficult if not impossible to say with certainty what the impact of the various construction options will be because it can be so influenced by the amount of snow we get in any given year and the freeze/thaw patterns, among other factors. The consultants did not have the benefit of any prior thinking of Council as to what issues they were intending to address (basement flooding/high water in ditches/soggy back yards etc). They were simply asked to study and give options. Nor was the consultant given any reason to concern themselves with the cost of the options. They would have no reason to consider the “affordability” of the solutions, who would pay, or how the option might be precedent setting in the bigger drainage issues facing the community. Without cost or political concerns the consultant has a fairly easy job- recommend the solution most likely to give some certainty of result without looking too extreme. Once the consideration of who pays and what similar demand is likely to follow, the logical decision may be considerably different. This is no different than in any other situation where consultants are hired to do reports or indeed when staff are asked to bring forward reports.

All in all, it is quite a challenge to come up with a set of principles that would guide Council in determining 1. when they will get involved and 2. how much individual homeowners should contribute to the solution ( again recognizing that any solution is not a guarantee of a particular outcome).

My laypersons understanding of the situation is that the biggest issue faced by homes (with flooding concerns) built prior to the most recent regulations is they were built at an elevation that is below the adjacent ditch and that many have a pipe from their footing extended out into the ditch. The homeowner relies on their contractor/developer to design their house and to the extent that drainage is an issue after construction it appears to come back to the decisions of those parties and not the municipality.

This does not mean that the Municipality should not get involved in solving long standing flooding issues. There may still be an interest in the government administering the solution to a community problem but I think it must be done in such a way that 1. the Municipality is not assuming or seen to be assuming the legal responsibility for what has happened and 2. solutions are selected and cost recoveries are assigned that are not cost prohibitive collectively and do not put some taxpayers at an advantage

General Principles:

Whether to get involved:

1. Council should ensure that the flooding issue is more than esthetic. Require homeowners to submit information substantiating that their homes/properties have been flooded and independent verification of the extent of the damage. One incident of flooding (whether one or multiple homes in a given area) may not be reason to respond if the weather patterns or combination of circumstances is considered unique such that the flooding is not likely to reoccur or may only reoccur with an infrequent combination of weather patterns.
2. Ensure that homeowners have taken steps that can be taken individually to solve and or substantially minimize their exposure. Municipal involvement would be considered only where the cost to provide a solution exceeds the accumulated cost of individual homeowners paying for their own solution and the cost to an individual home owner exceeds the cost they would have paid had the drainage issues been dealt with as part of the larger development( e.g. \$10,000 per home).

#### Choosing the Solution:

1. Consider number of homes/properties impacted ( as per #1 above) and cost of improvements to individual properties to address if applicable.
2. Choose solutions that protects to the extent of a 1 in 5 year storm. Solutions giving better protection would be considered only if the resident wants to pay the difference.

#### **Cost assigned to Homeowner:**

##### Option 1.

Minimum of \$5,000 per property plus the cost of infrastructure that puts the property owner in a better position than they would be had their property been subject to pre 2006 regulations for storm drainage if they eventually hook into piped storm drainage infrastructure ( assigned by property frontage).The base charge will include homes which hook into a new pipe service or whose property front on the improvement area or are otherwise determined to benefit directly from the capital work.

##### Option 2

As outlined in option 1 and:

Other homes/properties in the development which are determined to have an impact on the drainage pattern of the area where the problems exist but which will not ultimately hook , a one time contribution of \$1,000 ( this will be difficult to determine which properties should pay).

##### Option 3

The homes directly impacted by the improvement pick up 10% of the final project costs (and 100% of the “extraordinary” costs), divided equally among them or by such other method as permitted by Bylaw and voted on by the homeowners.

Note: Unless some cost is assigned to the individual homeowner, the Municipality can certainly expect an unlimited number of requests for upgrade.

**Costs Assigned to the Whole Municipality:**

Option 1: Municipality picks up 20% of “essential” project costs.

Option 2: Municipality picks up 30% of “essential” project costs

Balance of costs:

Picked up by the Urban Service Rate

**Council has to consider than these option, for the most part, will have to include forced taxation as the use of petitions will most certainly result in negative results.**

Final note:

Regrettably the motion that is coming from committee probably violates some of the basic principles outlined in this report and would likely see the individual homeowners absorbing all costs above the cost of larger culverts. This puts the Council in an awkward position.