

NSFM – SPRING WORKSHOP

Less Talk, More Action: Five Thoughts
For a Changing Municipal Landscape

Articles

May 2, 2025

Truro, Nova Scotia

Kevin Latimer, K.C. – Cox & Palmer

klatimer@coxandpalmer.com

Chris Markides, MCIP, LPP – ZZAP Consulting Inc.

chris@zzap.ca

TABLE OF CONTENTS

1. May 2022 – Municipal World Article: Cumberland County landfill divestiture offers new model.
2. May 2025 - Streamlining the Process: Why Clear Development Rules Are A Win-Win For A Growing Nova Scotia.
3. October 29, 2020 – 10 Certain Steps to Better Municipal Council Meetings.
4. May 2025 - Knowing the Score: Why Monitoring Your Plan Matters for Everyone.
5. November 2024 – Municipal World Article: User pay model to allow for cost recovery of wastewater services.

1

CANADA'S MUNICIPAL MAGAZINE SINCE 1891

MUNICIPAL — WORLD —

**Wildfires, climate
change, and
resilience**

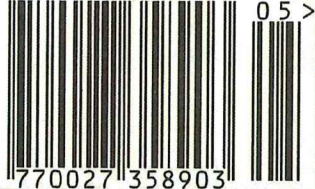
Designing safer
streets puts
people first

Scaling up
community-led
tree planting

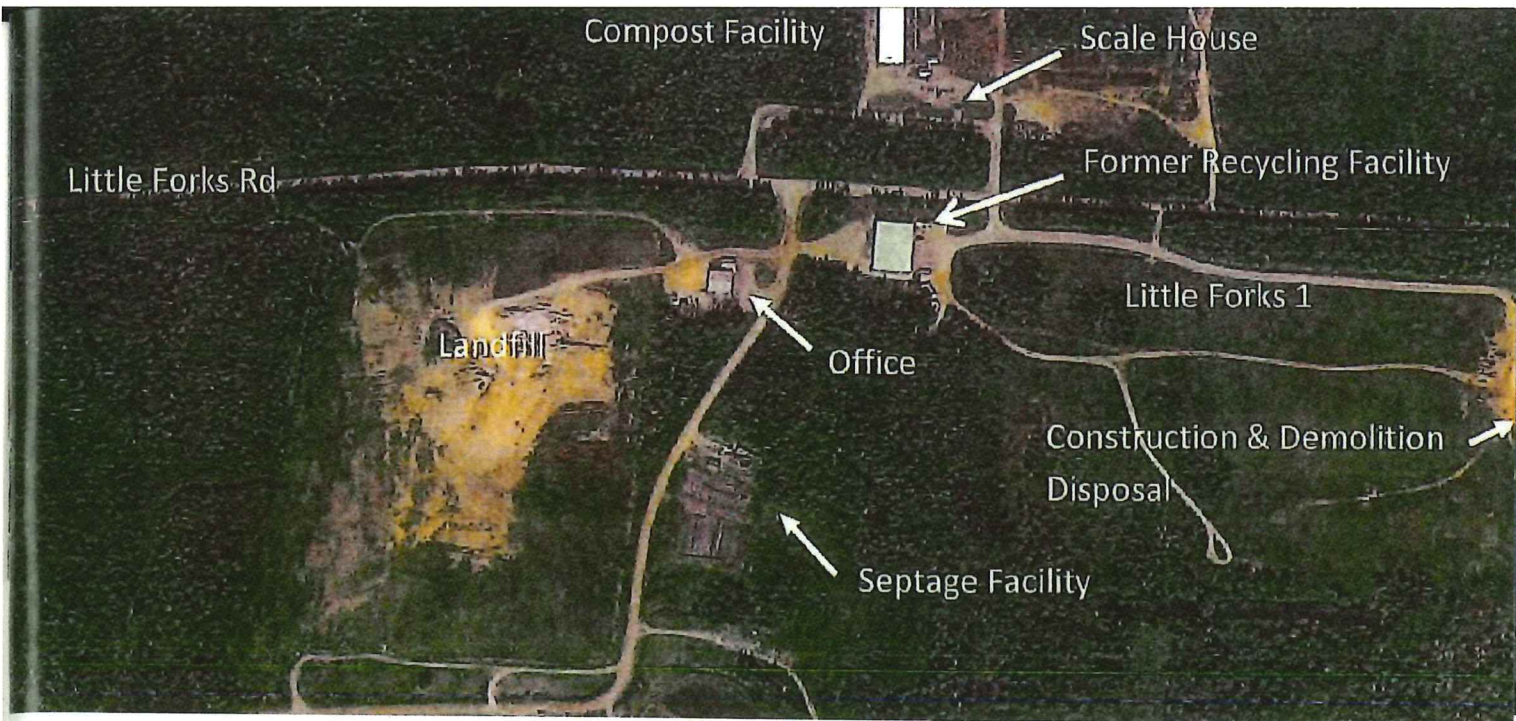
Cumberland
County Landfill
divestiture

MAY 2022 | \$11.25
www.municipalworld.com

ISSN 0027-3589



9 770027 358903



Cumberland County landfill divestiture offers new model

Waste management often eats up an awful lot of municipal fiscal and human resources. Faced with the continuing and growing challenges associated with owning and operating a municipal solid waste management system, Nova Scotia's Cumberland County and the towns of Amherst and Oxford concluded taxpayer interests could best be protected through a different business model.

The three municipalities face challenges typical of many rural Canadian municipalities. Urbanization is eating away at the municipalities' population and the demographic is generally older than, for example, the urban population of Halifax. Declining population means less waste to dispose, meaning higher costs per unit of waste. They also face higher costs due to necessary but demanding regulations to protect the environment.

Guiding Principles

With leadership provided by their chief administrative officers, the municipal councils agreed that other options should be explored for the landfill in Little Forks, Cumberland County, which, for about 50 years, had

been jointly operated by the tripartite Cumberland Joint Services Management Authority (CJSMA). The councils agreed that they would test private sector interest in the waste disposal system by issuing a Request for Proposals, but only after the municipalities had clarified among themselves exactly how they would proceed and what they would need as part of any agreement with a private sector operator.

The councils, through a public procurement process, selected an outside "lead negotiator," someone who could guide the councils through the nuances of the proposed transaction and help them find the outcome that would best meet the needs of their communities. To oversee this process, the councils formed a steering committee consisting of the municipalities' mayors and chief administrative officers and the general manager of the CJSMA. The steering committee made every decision by consensus, with the understanding that any final agreement would need to be approved by all three municipal councils.

The councils understood the importance of getting the right deal for their region and individual communities. They

were under no pressure to sell quickly; there would be no "fire sale." A transaction could only happen with a private sector partner committed to the public sector goals articulated by the municipalities. To ensure this happened, the three councils established guiding principles that defined the problems they were trying to solve and the issues that had to be addressed by any prospective partner. The guiding principles would guide the process at every turn, negotiation, and decision.

The guiding principles required the councils to consider the real costs associated with per-unit waste disposal fees, and how they could ensure a favourable tipping fee arrangement for businesses and residential taxpayers for years into the future. The guiding principles also ensured that existing CJSMA staff were retained on comparable terms to ensure



Kevin Latimer (klatimer@coxandpalmer.com), Q.C., is a partner with Cox & Palmer and was Lead Negotiator for the Cumberland Central Landfill divestiture in April 2020.

continuity of existing facility expertise. The councils wanted to optimize the proceeds of the proposed sale while divesting themselves of environmental liabilities. The councils also agreed that, consistent with protocols required in commercial negotiations, residential and commercial

that every important term was discussed and addressed in the early stages of the negotiation.

In June 2021, following due diligence reviews, discussions with regulators, meetings, analysis, and negotiations, the steering committee brought forward the

around the essential elements in any agreement. We knew what we wanted and, to their credit, the municipal councils stuck to our guns until we got what we wanted.”

For local citizens, success comes in the form of better coordination of waste management services and long-term certainty around tipping fees. For local businesses, success includes the improved coordination of local rules, by-laws, and policies within the region. Businesses operating anywhere in the region can expect predictability and coordination across multiple locations.

The regionalization of assets business model adopted by the Cumberland municipalities may be a great option for other municipalities looking to create incremental value for the community, and cost certainty for taxpayers ...

Consolidated and Centralized Approach to Waste Management

taxpayers would be kept informed.

These guiding principles were embedded into the request for proposals seeking a private sector owner/operator. Any prospective partner responding to the RFP understood that these minimum conditions would need to be met. The councils and the steering committee were not willing to compromise on these points.

RFP Process

In June 2020, the councils collectively called for proposals for the sale of the Cumberland Central Landfill. This was not a sale at any cost or even a sale to the highest bidder. The steering committee was looking for a “preferred proponent” – not just a buyer, but a trusted proponent to help the municipalities achieve their goals. The steering committee received three proposals, two of which were compliant. In September 2020, after careful deliberation, the preferred proponent was identified, and the team set out to negotiate an agreement for the sale.

Early in the negotiation process, both the proponent and the steering committee (on behalf of the councils) concluded a term sheet. The term sheet set out the principal terms of the proposed transaction regarding the acquisition of the facility and the entering into of a long-term waste/resource benefits agreement. Principal terms of the deal included price, staff retention, tipping fee schedule, royalties, community and economic development, and the establishment of a community liaison committee. The term sheet was signed in February 2021, and it effectively aligned both parties with the guiding principles so

unanimous recommendation to approve the sale. This process officially concluded with the signing and execution of four agreements with the proponent: an asset purchase agreement for the facility; a waste resource benefits agreement; a septage asset purchase agreement; and a septage receiving and pre-treating agreement.

These agreements gave legal effect to the sale of the landfill, including septage assets owned by the municipalities, as well as a 25-year agreement to receive and manage solid waste for the region. The agreements, which took effect in February 2022, provide for:

- continuing employment for those working in the system;
- reduced regulatory and environmental risk for the municipalities;
- greater certainty around long-term waste disposal costs; and
- a growing business for the municipalities.

Municipal leaders say they are pleased with the outcome. Amherst Mayor David Kogon said, “We will have long-term certainty around tipping fees. That wasn’t possible before.” Cumberland Mayor Murray Scott focused on the financial risks that have now been transferred to the private operator: “Had we not done this deal, we would have faced ever growing costs. Our taxpayers are now better protected.” And Oxford Mayor Gregory Henley said, “We’re hopeful that the new operator will invest in our communities and grow this business.”

Cumberland CAO Greg Herrett said, “We went through a thoughtful process that began with the municipalities building a clear understanding, and consensus,

The new private operator sees Cumberland County as a future composting hub within the provincial waste management ecosystem. The envisioned model of regionalized assets would include high-tech, high-volume facilities that take a consolidated and centralized approach for each waste management stream benefitting from increased scale. At the same time, the processing centre will work at higher environmental standards, which will contribute to reducing Nova Scotia’s environmental footprint.

The divestment of the Cumberland County landfill over the roughly two-year process demonstrates that as municipalities across Canada face increasing fiscal, operational, and environmental liabilities and uncertainties, the business model of regionalized assets can provide a more predictable and higher value outcome. With this deal, the three municipalities will enjoy real financial benefits over the next 25 years for their constituents and local businesses. The regionalization of assets business model adopted by the Cumberland municipalities may be a great option for other municipalities looking to create incremental value for the community, and cost certainty for taxpayers, by shifting costs and operational responsibility to the private sector.

The three municipal councils are proud of this deal, and they should be. Transactions like this bring stability and predictability to local governments. The benefits are clear, and citizens will enjoy the fruits of the deal for many years to come. MW

2



Originally presented May 2, 2025 at the Nova Scotia Federation of Canadian Municipalities Annual Conference


STREAMLINING THE PROCESS: WHY CLEAR DEVELOPMENT RULES ARE A WIN-WIN FOR A GROWING NOVA SCOTIA



Chris Markides MCIP, LPP, RPP
Senior Planner ZZap Consulting
chris@zzap.ca
902-266-2408

Here in Nova Scotia, the winds of change feel particularly strong right now. Our province is growing, attracting new people and new investments, bringing undeniable energy and opportunity. But this welcome growth presents a significant challenge: how do we effectively manage the resulting pressure to build the homes, workplaces, and infrastructure needed, while protecting the character and quality of life that makes our communities special?

As a planning consultant working across Nova Scotia, I interact daily with both the private developers seeking to invest and build, and the municipal staff and Councils tasked with guiding that growth. From this vantage point, I see one area ripe for improvement that could significantly smooth the path forward: the development approval process itself. Too often, ambiguity in submission requirements, gaps in local regulations, and inconsistent expectations create friction, delays, and unnecessary costs – burdens felt by applicants, municipal staff, Councils, and ultimately, the community waiting for needed development.




Here in Nova Scotia, the winds of change feel particularly strong right now. Our province is growing, attracting new people and new investments, bringing undeniable energy and opportunity. But this welcome growth presents a significant challenge: how do we effectively manage the resulting pressure to build the homes, workplaces, and infrastructure needed, while protecting the character and quality of life that makes our communities special?

As a planning consultant working across Nova Scotia, I interact daily with both the private developers seeking to invest and build, and the municipal staff and Councils tasked with guiding that growth. From this vantage point, I see one area ripe for improvement that could significantly smooth the path forward: the development approval process itself. Too often, ambiguity in submission requirements, gaps in local regulations, and inconsistent expectations create friction, delays, and unnecessary costs – burdens felt by applicants, municipal staff, Councils, and ultimately, the community waiting for needed development.

The Checklist Cure – Ending the Application Guessing Game

We've all seen it, or perhaps experienced it: a development application package, representing significant applicant investment, arrives at the municipality, only to be deemed incomplete weeks or even months later. Or perhaps a request for a costly additional study pops up unexpectedly mid-review. For developers, this uncertainty means frustrating delays, budget overruns, and sometimes, the shelving of good projects.

On the municipal side, staff grapple with inconsistent application quality, spending precious hours chasing missing information instead of focusing on substantive planning review. Council agendas get clogged with items not truly ready for a decision. This isn't sustainable, especially when resources are often stretched thin.

A black and white photograph of a long, covered walkway, possibly a transit station or a public building. The walkway has a grid-patterned floor and a railing on the right side. The perspective is from the end of the walkway, looking down its length. The lighting creates strong shadows and highlights on the floor and railing.

The antidote? **Clear, comprehensive, and tailored application checklists.** This sounds basic, but its impact is profound.

- **Tailored is Key:** A simple permit needs different information than a complex multi-unit Development Agreement application or a rezoning request asking for a fundamental land use change. Checklists must reflect the specific type and stage of approval being sought.
- **Clarity is Paramount:** What *exactly* constitutes a "complete" submission for initial review? What specific plans, studies, and supporting documents are required *before* an item should land on Council's agenda? Spell it out.
- **The Benefits:** When applicants have this clarity, they can prepare thorough packages from the outset. This dramatically reduces delays, saves applicants significant time and expense, and allows them to focus resources on project quality. For the municipality, it means staff receive better submissions, review times can often be shortened, consistency across applications improves, and Council can have greater confidence that the necessary foundational information is present when making crucial decisions. It brings order and efficiency, much like a detailed recipe ensures a successful outcome in the kitchen.


Mind the Gaps – The Critical Role of Local Standards

While checklists ensure the right *information* is submitted, **clear local development standards** ensure the *quality* and address the *impacts* of the development itself. Provincial laws like the Municipal Government Act (MGA) and the Environment Act (NSEA) provide essential frameworks, but they intentionally leave room for municipalities to address local conditions and priorities – they set the floor, not the ceiling, and often don't cover detailed site-level requirements. Relying solely on provincial minimums leaves significant gaps.

Let's examine a few common areas where robust *local* standards, enabled by the MGA, are vital:

- **Stormwater Management:** NSEA is primarily concerned with preventing pollution entering defined watercourses. It doesn't typically dictate how to manage the *increased volume* or *peak flow rate* of runoff from a new impervious driveway or roof on a standard lot, nor how to prevent that runoff from negatively impacting adjacent private properties or overwhelming municipal drainage systems. Without a specific municipal bylaw, developers face uncertainty in designing drainage, neighbours risk experiencing nuisance flooding or erosion, and the municipality may bear the cost of upgrading downstream infrastructure or resolving disputes. Clear local standards provide the necessary site-level performance requirements.
- **Streets within Developments:** The quality of new roads destined for municipal ownership – pavement structure, width, inclusion of sidewalks or active transportation pathways, lighting levels, street tree requirements – is almost entirely governed by the standards set in *your* Municipal Subdivision Bylaw. If these standards are minimal or outdated, developers lack clear direction, and the municipality inevitably inherits infrastructure that requires more frequent, costly repairs and may not meet community expectations for walkability or safety. Furthermore, without codified requirements, desirable elements like sidewalks often become bargaining chips in ad-hoc negotiations during discretionary approvals, leading to inconsistent outcomes dependent on the Council of the day, rather than being implemented as standard community-building practice.
- **Sanitary Servicing Strategy:** While the Nova Scotia Department of Environment and Climate Change (NSECC) strictly regulates on-site septic system *design*, the crucial *policy* decisions – where are such systems appropriate



A vertical black and white photograph on the left side of the page shows a long, covered walkway. The walkway is supported by a series of dark, cylindrical columns. The floor is paved with light-colored tiles, and the shadows of the columns and the roof structure create a rhythmic pattern of light and dark stripes across the ground.

versus where *must* development connect to municipal sewer? What are the triggers and policies for extending central services? – need to be clearly articulated in the municipality's own planning documents (MPS and bylaws). This provides essential long-term direction for growth and infrastructure planning.

Filling these gaps with clear, well-thought-out local standards isn't about obstructing development; it's about creating **predictability and ensuring quality**.

Predictability & The 'Backstop' Benefit – Streamlining Higher-Level Approvals

Developers consistently emphasize the value of predictability. Knowing the specific technical standards they must meet *before* they invest heavily in detailed design allows them to plan effectively, incorporate costs accurately, and reduce project risk. Clear standards create a level playing field, minimizing subjective negotiations over fundamental requirements.

Furthermore, having these robust technical standards codified in your bylaws creates a powerful '**backstop**' that significantly benefits the entire approval process, especially for higher-level *discretionary* approvals like Rezoning or Development Agreements.

- **Reduced Upfront Burden:** When Council and staff are confident that detailed technical requirements (stormwater management, street construction, etc.) are firmly established in other bylaws and *will* be rigorously reviewed and enforced at the appropriate later stage (like final subdivision or building permit), the need for exhaustive, costly detailed engineering at the *initial rezoning or DA stage* diminishes. Detailed civil engineering can cost tens of thousands of dollars – a huge gamble for an applicant before the fundamental land use concept is even approved.

- **Focus on Policy, Not Premature Technicalities:** Instead of getting bogged down in reviewing detailed drainage calculations or road cross-sections prematurely, Council can focus its attention on the core *policy* questions: Is this proposed land use compatible? Does the overall density and form align with our community vision? Does the conceptual plan demonstrate *feasibility* in meeting the known technical standards?
- **Increased Confidence & Efficiency:** This 'backstop' approach provides Council with confidence in the eventual technical outcome while allowing applicants to manage their financial risk more prudently. It makes the discretionary approval process more efficient, more focused, and ultimately, more effective.

A solid blue rectangular graphic is positioned to the left of the section header, partially overlapping the vertical image on the left side of the page.

The Win-Win Outcome: Building Better, Together

Bringing these elements together – clear submission checklists tailored to the approval stage, and robust, predictable local standards that fill provincial gaps and act as technical backstops – creates a development approval system that truly benefits everyone:

- **For the Municipality:** Increased staff efficiency, improved consistency in reviews, reduced likelihood of inheriting substandard infrastructure, stronger legal footing for decisions, and potentially improved staff morale due to clearer processes.
- **For Applicants/Developers:** Reduced uncertainty and risk, potentially faster timelines for well-prepared applications, lower upfront costs at early approval stages, and a clearer path forward. It attracts reputable developers who prefer clear rules over ambiguity.
- **For the Community:** More consistent quality in new developments, better protection of neighbourhood

character and environmental resources, more reliable delivery of desired public amenities (like sidewalks or parkland contributions), and ultimately, the timely creation of needed housing and services.

A solid blue horizontal bar is positioned to the left of the section header.

Moving Forward: Investing in Procedural Infrastructure

As Nova Scotia navigates this period of growth and change, proactively reviewing and strengthening the foundational elements of our development approval processes is not just administrative housekeeping; it's a critical investment in procedural infrastructure. A good starting point could be reviewing your current application checklists against best practices or analyzing common bottlenecks in your current approval workflow. Are your Subdivision Bylaw standards up-to-date with current engineering practices and community expectations?

Investing the time and resources now to create clarity and predictability will pay dividends for years to come, fostering a positive environment for responsible development and helping to ensure that growth enhances, rather than detracts from, the vibrant communities we are all working to build.

3

10 Certain Steps to Better Municipal Council Meetings

October 29, 2020

Yes, Councils have broad authority to govern municipalities. But there are good ways to govern, and not so good ways. Here are 10 steps that, if followed, will produce better outcomes for Council and Committee meetings.

1. Respect the Chair

The Chair is special and important. A competent Chair is a prepared chair. The prepared Chair facilitates fair and equitable speaking time in accordance with Council's procedural policies and is mindful of the time allotted to complete the meeting agenda.

2. CAO/Mayor Consultations

The CAO and mayor/warden need to respect each other. They need a common understanding of each meeting's priorities and how best to ensure each subject gets the attention it deserves. They should ensure important issues are not dealt with in a vacuum and that no member of Council, or staff, feels disenfranchised.

3. The Council Agenda

A good agenda focusses Council on the key topics. The agenda sets the stage and tone for the discussion to follow. The agenda should be fixed and distributed in advance and only in extraordinary or emergency situations should additional items be entertained.

4. Agenda Supporting Material

Better information makes for better decisions. Make sure the agenda package includes the material necessary for a fact-based and informed discussion, particularly where a matter is coming forward for debate and a final decision. "Winging it" is never a good option.

5. Clarity

Each meeting should have clear expectations. Let councillors know what's expected. Is a decision required or will there be future deliberations? Or is the matter on the agenda as an information item only? Be clear about expectations. Eliminate the guess work. Focus attention on matters most requiring attention.

6. Do Your Homework

The agenda and supporting materials are prepared and circulated beforehand for a reason. Everyone is expected to read and understand the materials and come to the meeting prepared to ask good questions and participate in informed discussion.

CONTACT

HALIFAX

Kevin Latimer, QC

(902) 491-4212

klatimer@coxandpalmer.com

7. Reports

Good decision-making is helped by good staff work. Solicit staff's views, particularly on contentious or tricky issues. Request a report and, ideally, a staff recommendation where appropriate. Make sure the report is distributed and the author is available, if necessary, to present and discuss the recommendation to assist Council in coming to a position.

8. Make the Decision

Perfect information is rarely available and rarely can every possible stakeholder be heard. But delay and procrastination seldom produce better results. Citizens have a right to timely Council decisions. Citizens expect council to make the best decision possible based on the information they have. Recognize that there's real public benefit in having the courage and discipline to regularly make timely decisions - and move on.

9. Disagree Without Being Disagreeable

The Chair will invite discussion and facilitate a debate that typically includes a range of perspectives and opinions. Then the item will be voted on, amended or otherwise dealt with. Not everybody will be happy with every decision. Remember, debate and disagreement are fundamental to avoid group think. Always strive for collegiality and nurture an environment that respects and reconciles divergent views. Lingering hostilities are never good for those you serve.

10. Follow-up

Have someone keep a record of items requiring follow-up from each meeting. What action needs to be taken and who has responsibility to complete it? The action list can then be captured in the minutes and carried forward as a standing agenda item at subsequent meetings until the item is completed or otherwise removed from the list.

What are the key factors in your experience that contribute to effective Council decision-making? How can Councils operate more effectively to service citizens better? Share it in a message to me at klatimer@coxandpalmer.com.

Kevin Latimer, Q.C. is a partner in the Halifax office of Cox & Palmer with extensive public law and local government leadership experience.

Cox & Palmer publications are intended to provide information of a general nature only and not legal advice. The information presented is current to the date of publication and may be subject to change following the publication date.

4

Originally presented May 2, 2025 at the Nova Scotia Federation of Canadian Municipalities Annual Conference

KNOWING THE SCORE: WHY MONITORING YOUR PLAN MATTERS FOR EVERYONE



Chris Markides MCIP, LPP, RPP
Senior Planner ZZap Consulting
chris@zzap.ca
902-266-2408

Across Nova Scotia, municipalities invest enormous amounts of time, resources, and community goodwill into creating Municipal Planning Strategies (MPS). These documents represent countless hours of consultation, debate, and careful consideration, outlining a shared vision for the future – how land should be used, where growth should occur, what community values should be protected. As a planning consultant, I've participated in many of these processes, and the initial energy and optimism are always palpable.

But what happens *after* the plan is formally adopted and placed proudly in binders on municipal shelves? Too often, I see a disconnect emerge – what planning experts call the "implementation gap." Daily decisions get made, development proposals come and go, yet the ambitious goals laid out in the MPS seem to fade into the background. The plan risks becoming a static snapshot rather than the dynamic guide it was intended to be. Especially with the pace of change and growth pressures facing our province, simply having a plan isn't enough. We need to ensure our plans are actively working for us

A black and white photograph of a long, empty hallway. The floor is covered in a grid pattern, and there are rows of pillars or columns on the right side. The perspective is from the end of the hallway, looking down its length. A blue rectangular box is overlaid on the top left of the image, partially covering the text.

The 'Plan on the Shelf' Syndrome & The MGA Reality

Why does this implementation gap happen? Part of the context lies in our provincial framework. The Nova Scotia Municipal Government Act (MGA) mandates that municipalities have an MPS and Land Use Bylaws, meeting certain Minimum Planning Standards. These standards require municipalities to state how they intend to review their plans and mandate a formal review at least every **10 years**.

This 10-year review cycle is important for major updates. **However**, the minimum provincial requirements *don't* explicitly detail a framework for **ongoing monitoring, systematic evaluation, or regular public reporting** on progress towards the plan's goals *between* those major reviews. This isn't a criticism of the legislation, but an observation: meeting the minimum requirement doesn't automatically ensure continuous alignment or effectiveness. Without a deliberate effort to track progress more frequently, it's easy for plans to sit idle while the world changes around them.

This is precisely why proactive monitoring and evaluation, adopted voluntarily by municipalities, becomes so crucial for transforming plans from symbolic documents into powerful tools for governance.

Monitoring as Active Learning – Asking the Right Questions

Effective monitoring isn't just about collecting statistics for an annual report. It should be viewed as a continuous **process of learning** – a vital feedback loop for the municipality. It helps answer critical questions that go beyond simply having policies on the books:

1. **Are We Following the Plan?** (Conformance) Are Council decisions, rezonings, development agreements, and even staff actions consistent with the policies laid out in the MPS? Or are exceptions becoming the rule?
2. **Is the Plan Actually Working?** (Performance) Are the policies achieving their intended outcomes? If we aimed to increase affordable housing or direct growth to serviced areas, is that actually happening? Why or why not?
3. **Is the Plan Still Relevant?** (Context) Have the conditions or assumptions upon which the plan was based changed significantly? Has population growth exceeded projections? Have new environmental challenges emerged? Is the core vision still aligned with current community needs and provincial priorities?

Answering these questions requires identifying *meaningful* indicators tied directly to your plan's goals, establishing a baseline understanding of where you are now, setting realistic targets, and committing to tracking and analyzing this information regularly.

Why Monitor? Clear Benefits for Municipalities, Developers & the Community

Treating monitoring as this active learning process unlocks significant advantages for everyone involved in shaping our communities:

- **It Boosts Predictability & Helps Align Development:** This is huge. When a municipality consistently tracks and reports on its progress towards specific plan goals (e.g., housing targets, density in key centres, infrastructure priorities), it sends clear, unambiguous signals about its priorities. From my perspective working with developers, this clarity reduces uncertainty and market risk. It gives them the confidence to invest time and resources in proposing projects that genuinely align with the community's stated vision, leading to better proposals and smoother, more objective conversations based on data.

- **It Enables Adaptation & Builds Accountability:** Monitoring provides the evidence needed to adapt proactively. It acts as an early warning system – if a policy isn't delivering results, or if external factors shift dramatically (like the current housing pressures), the data highlights the need for course correction *before* waiting potentially a decade for a formal review. Furthermore, openly reporting on progress demonstrates transparency. It shows residents, staff, and the development community that the municipality is serious about its plan and accountable for achieving its goals. This builds essential trust.

A solid blue rectangular graphic is positioned to the left of the section header, partially overlapping the background image.

From Static Document to Dynamic Guide

In a province experiencing the growth and change Nova Scotia is seeing today, our Municipal Planning Strategies need to be more than just reference documents. Active monitoring and evaluation transform them into dynamic guides for decision-making and adaptive management. It ensures the considerable effort invested in creating the plan translates into tangible results on the ground.

Embracing monitoring as a continuous learning process is simply good governance. It fosters clearer communication, supports smarter resource allocation, builds trust, and ultimately helps ensure that as our communities evolve, they do so in a way that truly reflects the vision and goals we've collectively set for ourselves. Let's commit not just to *making* plans, but to actively using them to build a better Nova Scotia.

CANADA'S MUNICIPAL MAGAZINE SINCE 1891

Municipal World

Emerging energy issues and impacts on water

Protecting
communities from
backflow contamination

User pay model to allow
for cost recovery of
wastewater services

Planning for impactful
environmental outcomes

November 2024 | \$11.25
www.municipalworld.com



** B0J 9Z0 HALIFAX NS FWD
PM#: 40012386 231663
Library Copy
Cox & Palmer
PO Box 2380 Station Central RPO
Halifax NS B3J 3E5
49/7 xXP 1(L)



Cape Breton Regional Municipality (CBRM) adopted a user fee and cost recovery model to provide wastewater services in a sustainable and affordable manner.
Photo: Sydney Harbour West WW Treatment Plant courtesy of CBRM

User pay model to allow for cost recovery of wastewater services

by Kevin Latimer

Facing daunting capital and operational challenges, Cape Breton Regional Municipality (CBRM) has amended its wastewater discharge bylaw to allow for cost recovery of wastewater services through a user pay model. The municipality sees this as the first step in a larger transformation.

Like many Canadian municipalities, CBRM had aging wastewater infrastructure and faces more stringent, but necessary, federal regulations for discharging wastewater. The municipality has also been challenged by a declining population as its historic coal mining and

steel industries have disappeared. This declining population left fewer taxpayers to fund increasing costs.

“Since COVID, we’ve stemmed the population decline,” CBRM Mayor Amanda McDougall-Merrill said. “More Cape Bretoners have come home, Baby Boomers are retiring here, and we’re attracting more immigrants – many of whom were attracted to Cape Breton University and who decided to stay in Cape Breton after graduation.”

In the face of these challenges, municipal staff advised council that new federal wastewater discharge regulations

would obligate the municipality of about 100,000 people to spend roughly \$156 million to upgrade infrastructure. In turn, that would create increases in annual operating expenses of close to \$4 million.

Looking ahead for a further 15 to 20 years, council was told future capital expenditures of about \$360 million would be required. Doing nothing was not an option.

“While we’re seeing modest growth – water consumption has been growing by about 1.5 per cent in recent years – we recognize that we need to modernize our approach to water and wastewater,”

McDougall-Merrill said. “The problem of under-investment in infrastructure, and the challenge of meeting new federal guidelines, is not going away. We need a new approach.”

Restructuring Water Supply

Historically, CBRM’s engineering and public works department delivered wastewater services with costs recovered through property taxes approved by regional council and with no regulatory oversight. Potable water, on the other hand, was delivered under the general authority provided under provincial legislation with water rates reviewed and approved by the Nova Scotia Utility and Review Board.

CBRM’s challenge is not unique. Historically, investment in underground infrastructure has not been a priority for municipalities that now face challenges brought on, largely, by rapid growth in the Canadian population and more demanding guidelines imposed by the federal government. While the regulation of wastewater differs across jurisdictions, federal data from 2022/2023 shows that many municipalities, particularly coastal communities, will face similar challenges to meet the new federal regulations.

Contemplating changes, the municipality considered guidelines provided by Karen Bakker, assistant professor of geography, University of British Columbia. Jointly commissioned by the Federation of Canadian Municipalities and the Program on Water Issues, “Good Governance in Restructuring Water Supply: A Handbook” suggests three reasons for restructuring:

- to improve performance
- to better access financing
- to better meet new legislative requirements

All three came into play in CBRM’s case.

The Commission Model

CBRM spent more than a year exploring options, but the preferred path forward was to establish a water and wastewater commission. This was an approach considered by many to be “best practice.” Such a commission would operate at arm’s length from the municipality and would own and operate water and wastewater systems in CBRM.

Under the commission structure, council would have representation on

the commission but retain only indirect accountability for system operations and environmental compliance.

One of the benefits of the commission model would be regulatory oversight by the review board. The commission would propose rates for wastewater. The board, the province’s independent utility regulator, would have the responsibility to finalize the rates, balancing the needs of ratepayers with the need to ensure efficient utility service delivery over the long term.

As it turned out, the special provincial legislation required to establish a commission to provide water and wastewater services subject to the mandate of the review board was not forthcoming. The municipality responded by amending its existing wastewater discharge bylaw to provide for a new user fee model.

The User Fee Model

CBRM adopted a model based on the Water Environment Federation approach to wastewater user fee and cost recovery, an approach considered industry best practice for equitable cost recovery of wastewater service. It is believed that the switch to a user fee, when coupled with significant federal and provincial contributions, offers the best opportunity to provide wastewater services in a sustainable and affordable manner, given the new federal regulations.

Greg Campbell, P.Eng., CBRM’s manager of technical support services – utilities, said adoption of the commission model remains the preferred approach. But he acknowledges there will be a new mayor after the municipal election in October, as McDougall-Merrill has decided not to reoffer. The new council will undoubtedly want to consider whether to again ask the provincial government for legislation creating an arm’s-length commission to manage water and wastewater services.

“We had hoped the province would grant us approval to establish the commission,” Campbell said. But the requested legislation did not fit with the provincial government’s legislative agenda and timeline. “As far as we know, the province is still supportive.”

It will be up to the new council elected in October to decide whether to again ask for the legislation. In the meantime,

Campbell said the new system being introduced with current bills will be fairer to taxpayers and water users.

System to Protect Essential Infrastructure

A 19.1 cent charge per \$100 of assessment will disappear from annual property tax bills. Instead, water users will see a new charge for wastewater that will correlate with the amount of water used. The charge will be based on a “water in, water out” calculation, with costs being paid by water users and not by property taxpayers. CBRM council will continue to be responsible for setting wastewater rates without board oversight.

“The new system will be better all around. It will be more equitable with users being responsible for the actual costs,” Campbell said. “Wastewater services will no longer be subsidized by those who use little or no water, and users will have greater control of their costs because they control their usage. And, if users better manage their consumption, the environment will benefit.”

Campbell also said the system is sufficiently flexible so that, for example, a brewery or bottling plant that does not discharge water proportionate to its intake will be accommodated.

Over the longer term, CBRM recognizes that the arm’s-length commission approach to management of both potable water and wastewater is the preferred way to go.

“The commission model is really the only way we can reasonably proceed to meet the federal guidelines,” Campbell said. While it may be difficult for those on the outside to see the forest for the trees, Campbell said, “We know the wastewater cost recovery model is a good step toward creating a system that’s fair and one that protects essential infrastructure.”



Kevin Latimer (klatimer@coxandpalmer.com), K.C., is a partner with Cox & Palmer in Halifax. Latimer advised Cape Breton Regional Municipality on corporate structures to best manage water and wastewater.