

Environmental Sustainability Advisory Committee - Minutes

Present:

Chair – Councillor Hayne
B. Campbell
G. James
W. Mbaho
S. Sabharwal
G. Sahota (Rep. to DAC)
D. Skaey
B. Stewart
J. Stewart
S. Van Keulen (AFSAC Rep.)
A. Fasciani (YR)

Regrets:

J. Purewal
A. Zhang (YR)

Staff Present:

T. Capuccinello, Assistant City Solicitor, Legal Department
T. Uhrich, Parks Planning Manager, Parks, Recreation & Culture.
S. Godwin, Environmental Coordinator
N. Aven, Manager, Urban Forestry & Environmental Programs
A. Mathewson, Manager, Sustainability
O. Croy, Manager, Parks, Recreation & Culture
J. Gallinger, Legislative Services

A. ADOPTION OF MINUTES

1. Environmental Sustainability Advisory Committee Minutes of June 11, 2014 to be approved.

It was

Moved by B. Stewart

Seconded by W. Mbaho

That the minutes of Environmental

Sustainability Advisory Committee meeting held on June 11, 2014 be approved.

Carried

B. DELEGATIONS

1. **Proposed Pipeline**

File No. 5500-01

T. Capuccinello, Assistant City Solicitor and T. Uhrich, Parks Planning Manager, were before the Committee to present on the proposed Kinder Morgan (KM) pipeline project. The following comments were made:

- Here to provide direct feedback on what the City is currently focusing on regarding the proposed KM pipeline project. This is an accelerated process designed by legislation.
- The current pipeline transports refined oil products from Strathcona County, AB to Burnaby with a current capacity of 300,000 barrels per day.
- With a proposed increased capacity to 890,000 barrels per day, by twinning the existing line, KM has been granted approval to sell and distribute the additional barrels and is seeking approval to build the necessary pipeline infrastructure through the National Energy Board (NEB) hearing process. NEB regulates inter-provincial pipelines.

- The existing line traverses Surrey through highly developed residential, commercial and industrial lands and twinning the pipeline through this existing right-of-way is not desirable for reasons such as:
 - high life and health safety impacts with high remediation cost impacts in the event of a rupture or spill;
 - high infrastructure and project cost impacts, where future City infrastructure and improvements cross or are in proximity to the pipeline, including project delays; and
 - limits development of land that could otherwise be developed and potentially increased risk of third party damage to pipeline.
- The City prefers decommissioning and removal of the existing pipeline.
- **Pros** of the proposed alignment, which parallels the existing South Fraser Perimeter Road (SFPR) and CN Rail Corridor, include reduction of some of the negative impacts that would otherwise be associated with twinning along the existing pipeline right-of-way such as:
 - life and health safety impacts being reduced;
 - infrastructure and project cost impacts are reduced with minimal project delays (if any);
 - little(if any) effect on development of land as much of the surrounding land would not be slated for development; and
 - potential risk of third party damage to pipeline is reduced as negligence is minimized.
- **Cons** of the existing and proposed alignment include:
 - the corridor, as proposed, runs in part through Surrey Bend Regional Park, other local parks and environmentally sensitive areas; and
 - potential negative impacts to these areas will need to be minimized and mitigated by employing construction methodologies that recognize the environmental sensitivity and biodiversity of these areas. Staff is operating on the premise that negative impacts will have to be mitigated.
- Parks impacted, within the study corridor, include Port Mann Park, Fraser View Park, Surrey Bend Regional Park, the North Slope Buffer and the 27A and 28A Greenbelts. Of note, is that Surrey Bend Regional Park has a split ownership between Metro Vancouver and the City of Surrey. Metro Vancouver operates and maintains the park. The pipeline would run along the north side of CN Rail corridor along the park boundary.

The Committee asked if the City was advocating switching to the south side of the CN Rail therefore in the CN Rail corridor. The Delegate replied that it was part of the process and that one of the areas focused on is that KM must answer the question as to why it is not feasible to switch to the CN Corridor or SFPR rather than along the Surrey Bend Regional Park boundary. Some of the answers sought revolve around the shifting of the proposed pipeline.
- A restrictive covenant was already in place, restricting the disturbance of the subgrade, when the park was purchased by Surrey and Metro Vancouver.

- The Delegate pointed out that if there are any expansions, in the proposed alignment, then the twinning of the existing line should not occur and the City would seek decommissioning of the existing line.

Although the terms of the existing registered statutory rights-of-way may contemplate expansion, KM will require NEB approval but may not have to acquire any additional lands.

- Focus has been on minimizing and mitigating environmental and other impacts on Surrey and accounting for the possibility that the Project may be approved. Staff has been advocating that terms and conditions should be imposed by the NEB on any approval of the proposed alignment and pipeline expansion project to ensure that:
 - appropriate emergency response planning requirements and risk management practices are imposed, implemented and monitored;
 - resulting conflicts with existing and future infrastructure, improvements and land development projects are appropriately addressed including a requirement that any increase in project costs, related to existing and proposed infrastructure and improvements crossing or in proximity to the pipeline, are borne fully by KM;
 - generally that all costs the City incurs, that would not have been incurred "but for the pipeline", are borne fully by KM;
 - conditions are imposed that minimize and mitigate potential impacts on environmentally sensitive lands, riparian areas and existing residences/residents and businesses; and
 - the portion of the existing pipeline, in Surrey, is decommissioned and removed and that all environmental impacts are addressed.
- As part of minimizing and mitigating impacts, Staff is exploring a potential refinement to the proposed alignment so that the pipeline occupies as much of the SFPR Corridor, the CN Rail Corridor and the Golden Ears Connector Corridor as is feasible, thereby reducing intrusion into Surrey Bend Regional Park and City Parks. Staff believe the SFPR can accommodate the proposed pipeline and avoid highly sensitive areas of Surrey Bend Park and will be evidenced in the City's submission.
- The relevant timeframes to the Intervenors were reviewed as noted below. There is a limited period amount of time that Trans Mountain (TM) has to respond. Many responses to submitted questions were received in June although the TM answers were found insufficient.
- The question as to whether or not the City was offering KM anything in regards to the decommissioning of the existing pipeline the Delegate responded that the City was not offering anything and that it is NEB's decision as to what the appropriate alignment will be. The City would like minimal impact by shifting the alignment into the SFPR corridor and the CN rail corridor.
- The Delegate noted that the Provincial Government was opposed to aligning the proposed pipeline within the SFPR corridor and responded as to why Highways does not want the pipeline along the SFPR by stating that the answer received from the Ministry was that it was due to public safety.

- Steps already taken by Surrey, in regards to the NEB hearing include filing an Intervenor Application on February 6, 2014, Round 1 Information Requests submitted to TM on May 12, 2014 and a motion filed to compel TM to provide full and adequate responses to Surrey's Round 1 Information Requests (July 4, 2014) for better answers.
- Upcoming Key Dates in NEB Hearing include:

Date	Item:
September 18/14	Intervenor Round 2 information requests to TM
March 16/15	Intervenors file written evidence
April 18/15	Intervenor information requests to other Intervenors
April 18/15	TM information requests to Intervenor
April 29/15	Intervenors respond to other Intervenor requests
April 29/15	Intervenors respond to TM information requests
June 3/15	Board information requests to Intervenor
June 17/15	Intervenors respond to Board information requests
June 19/15	Board releases draft conditions for comment
June 24/15	Intervenor and TM file affidavits swearing evidence
July 2015	Oral hears to hear TM's oral summary argument
July 29/15	Intervenor file written argument-in-chief and reply to TM including comments on draft conditions
September 2015	Oral hears to hear Intervenor oral summary argument and/or reply argument
January 25/16 (time limit end)	Board releases its report to Governor-in-Council and provides it to the Minister of Natural Resources
- Affected jurisdictions have been contacted and dialogue is being held. An opportunity to have a shift out of Surrey Bend Regional Park is one of the items being discussed.
- Legally, there is nothing that the City could do to prevent the construction of the pipeline if approved except presenting best evidence and good arguments to NEB through the NEB process. It is NEB that has the final decision.
- In summary, the City does not want negative impacts. The best case scenario, given that there is a strong likelihood that the project will be approved, the City wants to ensure that any costs related to the Project must be borne by KM and the Project must happen in the most environmentally sustainable way possible. The City has to do everything possible to minimize the impact to Surrey.
- The City will be making additional information requests through the NEB process in September with more questions which will require responses. There is a likelihood that the project will be approved and the City has to pressure KM to building the project with the lowest possible impacts to the City.

It was

Moved by B. Stewart
Seconded by G. Sahota
That the Environmental

Sustainability Advisory Committee wishes to advise Council that full support is given to City Staff in the approach being taken in their role as Intervenors in the Kinder Morgan pipeline expansion review process, dealing with direct impacts on the City of Surrey.

Carried

2. Recovery Strategy for the Pacific Water Shrew - Public Comments

- The Environmental Coordinator, presented a presentation on a 60-day public comment period for the proposed "Recovery Strategy for the Pacific Water Shrew in Canada" to be included on the Species at Risk Public Registry by Environment Canada. The following comments were made:
- This presentation was made to AFSAC on July 3, 2014 by Environment Canada.
- Species at Risk Act (SARA) was passed by the Federal Government in June 2002 and applies to all lands and waters within Canada.
- The Federal Government and the Province of British Columbia signed an Agreement on Species at Risk in March/April 2005.
- Provincial and local governments can provide protection for species at risk through existing tools as Water Act, Wildlife Act and Bylaws, zoning and permitting.
- There are two types of Critical Habitat Protection – Critical Habitat includes Legal Protection – the type of protection required under s. 58 when critical habitat is located on federal land and effective protection required under s. 61 when critical habitat is located on non-federal land.
- Critical Habitat Identification (CH ID) is based on the best available information and is linked to population and distribution objectives. It is comprised of a geographic location or area within which Critical Habitat (CH) is found and biophysical attributes.
- The questions as to whether local or provincial government authorities have the mechanisms/tools to provide effective protection and if not can a conservation agreement under SARA or other provisions provide effective protection requires answering. If the answer is no then the Minister must make a recommendation to Governor in Council regarding use of SARA as a "safety net" order.
- Distribution of critical habitat is permanent or temporary degradation of any part of CH such that it would not serve its function when the species needs it. This is a result of a single action or multiple actions over time (cumulative effects).
- Destruction of critical habitat is not threats or partial degradation if functionality is retained.
- Critical habitat is identified to the extent possible, based on the best available information and is linked to population and distribution objectives.

- CH ID is comprised of a geographic location or area within which CH is found and biophysical attributes.
- Species at risk have been on the table for a long time and risks are now being determined. Surrey Bend Park is one of the areas where the Pacific Shrew is in danger. Science and methodology determine the required areas.
- **SARA on private land:**
 - How landowners and managers conserve species and their habitat which is flexible;
 - Environment Canada can support these actions;
 - Species and their habitat must be "effectively protected"; and
 - On provincial and private lands Environment Canada is required to assess whether "effective protection" is in place.
- The City has to ensure that those applying for building permits must conform to appropriate effective management specific to the species at risk.
- **SARA and the ALR:**
 - Local government bylaws and the *Agricultural Land Commission Act* regulate the use of Agricultural Land Reserve (ALR) lands. If approval is granted by the Commission, compliance with local government regulations as well as other legislations must be made.
 - SARA applies to all lands and waters in Canada and local governments support implementation of effective protection.
 - For land in the ALR this means avoiding destruction of CH through habitat management.
- **Canadian Wildlife Services (CWS)** has support programs that can provide landowners with options such as; ecological gifts program, potential funding, Conservation Agreements under SARA and data to assist in land use planning.
- **The Pacific Water Shrew needs and Recovery Strategy Goals:**
 - 23 sites – initially implicating approximately 300 private landowners;
 - approximately 1400 ha in the lower mainland/Fraser Valley;
 - coniferous or deciduous forest or dense marsh/wetland vegetation with an area of water and downed wood; and
 - identified needs include at least 1.5 km of stream/water course and 100 m of streamside vegetation possible.
- To ensure the survival and recovery of the species in Canada recovery strategy goals include:
 - maintaining existing populations associated with the 23 identified areas of suitable habitat; and
 - protect suitable habitat within the Pacific Water Shrew range to increase the number of populations.
- A large draft critical habitat area runs along North of Highway 10 west of the Serpentine River, which once belonged to the provincial government

and was considered Provincial surplus lands. It was sold to private land owners which the City now has to deal with.

- Another proposed critical habitat area for the Pacific Water Shrew is Fergus Creek area. The City has acquired a large portion of this area as Fergus Watershed Park.
- Barn Owls are another species that requires recovery and strategic goals. Barn Owls require tall living/dead trees that have cavities, or in partially enclosed human made structures such as old wooden barns, silos, attics or nest boxes for nesting purposes. Modern barns are replacing older barns which limit nesting structures.
- Grasslands, marshlands, and other grassy areas such as pasture hayfields (including field edges) are required as this is where Barn Owls find their prey. Critical habitat is identified as anything within a 1k radius around known nest/roost sites or based on telemetry data.
- Recovery strategy goals, for Barn Owls, include ensuring the survival and recovery of the species by maintaining existing populations and protecting the existing habitats.
- A 60 day comment period will be posted in 2015.
- The internal mapping layer on COSMOS ensures that permits for barn demolition with Barn Owls nests are reviewed.
- Staff is trying to keep in front of this. Federal government is reducing staff which impedes ability to consult. Challenges are being presented and dealt with by City Staff.
- A copy of the proposed Strategy (released on June 9, 2014) is available at the Species at Risk Public Registry website:
http://www.registrelepsararegistry.gc.ca/document/default_e.cfm?documentID=1289
- The 60 day comment period ends August 8, 2014 and it is very easy to access and to leave comments.

The Committee made the following comments:

- Management's plan, to provide mini barn structures to provide nesting/roosting for the barn owls is a great idea, but where does this stop? Restrictions of property owners will not be successful and a proactive approach should be taken. On Monday, the Biodiversity Conservation Strategy was approved. Strategically acquiring lands, allowing corridors, build in parks, and working with farmers, are amongst the strategies to ensure the survival of several species.
- At AFSAC the point was made that the *Act* has the potential to extremely impact farmers in the Surrey area financially and otherwise.
- The City developed a process with the Ministry of the Environment to adequately manage for eagle and heron through the development of Nest Management Plans. These Nest Management Plans have been very effective in the management of these species while allowing development to occur. Surrey Staff envision a similar scenario for the management of Barn Owls.
- Eagles are relatively tolerant to human disturbance. Nest Management Plans are being developed which has allowed development to occur will relatively minor mitigation required.

C. OUTSTANDING BUSINESS

1. **PipeUp** – the Committee reviewed and discussed the recommendation from PipeUp which is seeking support of City Council.

- PipeUp is requesting the Environmental Sustainability Advisory Committee recommend to Council that:

"The City join other communities in the region in rejecting bitumen transport through Surrey."

The following comments were made:

- Everything published shows that there is no way to clean up bitumen. PipeUp, speaking to the philosophical issues, notes that if the pipeline is approved that the City should be prepared to make a stand against the transportation of bitumen through the City.
- It is the Committee's responsibility to advise Council to oppose the project.
- The question was asked whether the City was in a position to make a recommendation without knowing what the citizens of the City think.
- The City's official position to-date is that Surrey has not supported or opposed the pipeline. As Intervenors the City's concerns will be brought before the NEB. The City wants to be at the table to represent the best interests of Surrey. There are two vastly different paths that the project could take through Surrey and the City wants to be at the table to point out the best location.
- When it comes to the City's position, Surrey does allow gas pipelines ie. the Fortis current gas pipeline project is being allowed.
- Bitumen is close to the coal transport issue. KM could install double the size of pipe through the right-of-way without any opposition. The danger of bitumen once in the water is very real.
- It was pointed out that a number of different products are being transported through the existing pipelines.
- The heavy bitumen will come out of Alberta no matter what – whether through pipeline or through rail. By rail you would have a far greater chance of disaster than through the pipeline. All angles must be looked at and thoughtful recommendations made to Council.
- Bitumen and natural gas are products that are in demand. As an environmental committee we must mitigate.
- The City should not be enablers. Tankers are another threat as their number will increase with the expansion of the pipeline. Until such time that tanker transport can be shown as absolutely safe opposition against the pipeline needs to be strict.
- Bitumen is being shipped in a raw form. The City should be looking to the future to see if it could be shipped in a better and safer form.
- The transportation is three parts – there is product, tankers and pipelines. These are three items that need to be reviewed and ways determined as to the safety. The question was posed whether the same opposition would exist if products other than bitumen were being transported.

- The Committee recommends that the City not support an expansion of the pipeline. If a pipeline is approved it must be away from communities, be safely installed and not impact the City in any way.
- Notwithstanding the valuable efforts that the City is taking, the Committee recommends that Council oppose the proposed pipeline.
- The current pipeline has operated close to 60 years without a problem. The pipeline was built and based on history of 60 years ago.
- Would the pipeline exist today if there was no pre-existing pipeline and is it smart to have a pipeline in this area? The City needs to take an approach that holistically does not agree with the expansion of the pipeline. Governments need to recognize that times have changed and the City must make it known that the pipeline expansion is opposed.
- If it is known that the City is opposed to the pipeline in principal, rather than the opposition of the pipeline going through the City, Staff would have to provide evidence of impacts and respond to questions.
- The definition of community has changed over the years. Is the City not better served to acknowledge that the pipeline is an asset rather than something to be opposed too.
- On a practical level the City is doing right and philosophically ESAC does not feel that it is right to support the pipeline for any reason.
- As the current pipeline is 60 years old is the City at risk? From the City's understanding the current pipeline is not in danger of failure although maintenance must be done regularly to check the integrity of the lines.
- As the existing line will have to be dug up for maintenance it is a contradictory statement by KM to do so for twinning purposes.

It was

Moved by B. Campbell

Seconded by G. Sahota

That the Environmental Sustainability

Advisory Committee recommends to Council that, for Environmental reasons, the City of Surrey not support the proposed expansion of the pipeline.

Carried

D. NEW BUSINESS

There was no new business.

E. ITEMS REFERRED BY COUNCIL

There are no items referred by Council.

F. CORRESPONDENCE –

1. **Letter from Shirley Samples** dated July 8, 2014 in regards to the PipeUp recommendation (Item C.1).

It was

Moved by B. Stewart

Seconded by G. Sahota

That the correspondence from

Shirley Samples dated July 8, 2014 be received.

Carried

G. INFORMATION ITEMS

1. **Agricultural Food and Safety Advisory Committee (AFSAC) Update**

The AFSAC representatives stated that there was no report to be given.

Tree Policy

- The AFSAC Representative distributed an article from the July 17, 2014 Peace Arch News entitled "Residents preserve beauty" on the City's tree policy and stated that Surrey's tree policy needs to be reviewed.
- The Representative was informed that that topic had been brought before Council on Monday, July 21, 2014 and that Council has requested that the Bylaws be reviewed and for a Corporate Report, with recommended amendments, presented to Council in the fall.

2. **Development Advisory Committee (DAC) Update**

The DAC Representative stated that there was nothing to report that pertained to ESAC.

H. MOTION TO CLOSE MEETING

It is in order for the Environmental Sustainability Advisory Committee members to pass a resolution to close the meeting to the public pursuant to Section 90 (1)(d) and 90 (1)(j) of the *Community Charter*, which states:

"A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

- (d) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity.
- (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*."

I. NEXT MEETING

The next meeting of the Environmental Sustainability Advisory Committee will be held on **Wednesday, September 17, 2014** at 6:30 p.m. at City Hall, 2.E Community Room B.

J. ADJOURNMENT

It was

Moved by J. Stewart

Seconded by S Van Keulen

That the regular meeting of the

Environmental Sustainability Advisory Committee meeting do now adjourn.

Carried

The Environmental Sustainability Advisory Committee adjourned at 8:39 pm.

Jane Sullivan, City Clerk

Councillor Hayne, Chair