

WEST HANTS REGIONAL MUNICIPALITY
Fences and Arbitration Committee Meeting Agenda
November 23, 2022 – 11:00 p.m.
Held in person, Council Chambers at 76 Morison Drive and via ZOOM



1. Call to Order
2. Attendance
3. Approval of the Agenda, including additions or deletions
4. Fencing Complaint WHRM22-01 – PID 45018645 - Status Update
 - a) By Law Enforcement, Ryan Parker (updated report and / or photos)
5. Chief Administrative Officer, Mark Phillips Update
6. Next Meeting Date / Adjournment



WEST HANTS REGIONAL MUNICIPALITY REPORT

Information x	Recommendation <input type="checkbox"/>	Decision Request <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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To: Fences and Detention of Stray Livestock Committee

Submitted by: Ryan Parker
By-Law Enforcement Officer

Date: November 23, 2022

Subject: Cattle at large on November 19/20, 2022

LEGISLATIVE AUTHORITY

Fences and Detention of Stray Livestock Act CHAPTER 166 OF THE REVISED STATUTES, 1989 as amended by © 2016 Her Majesty the Queen in right of the Province of Nova Scotia Published by Authority of the Speaker of the House of Assembly Halifax 2002, c. 1, ss. 9-18; 2016, c. 20, ss. 1-5

RECOMMENDATION or DECISION REQUEST

Information report plus recommendation noted in Chief Administrative Officer section at the bottom of the report.

BACKGROUND

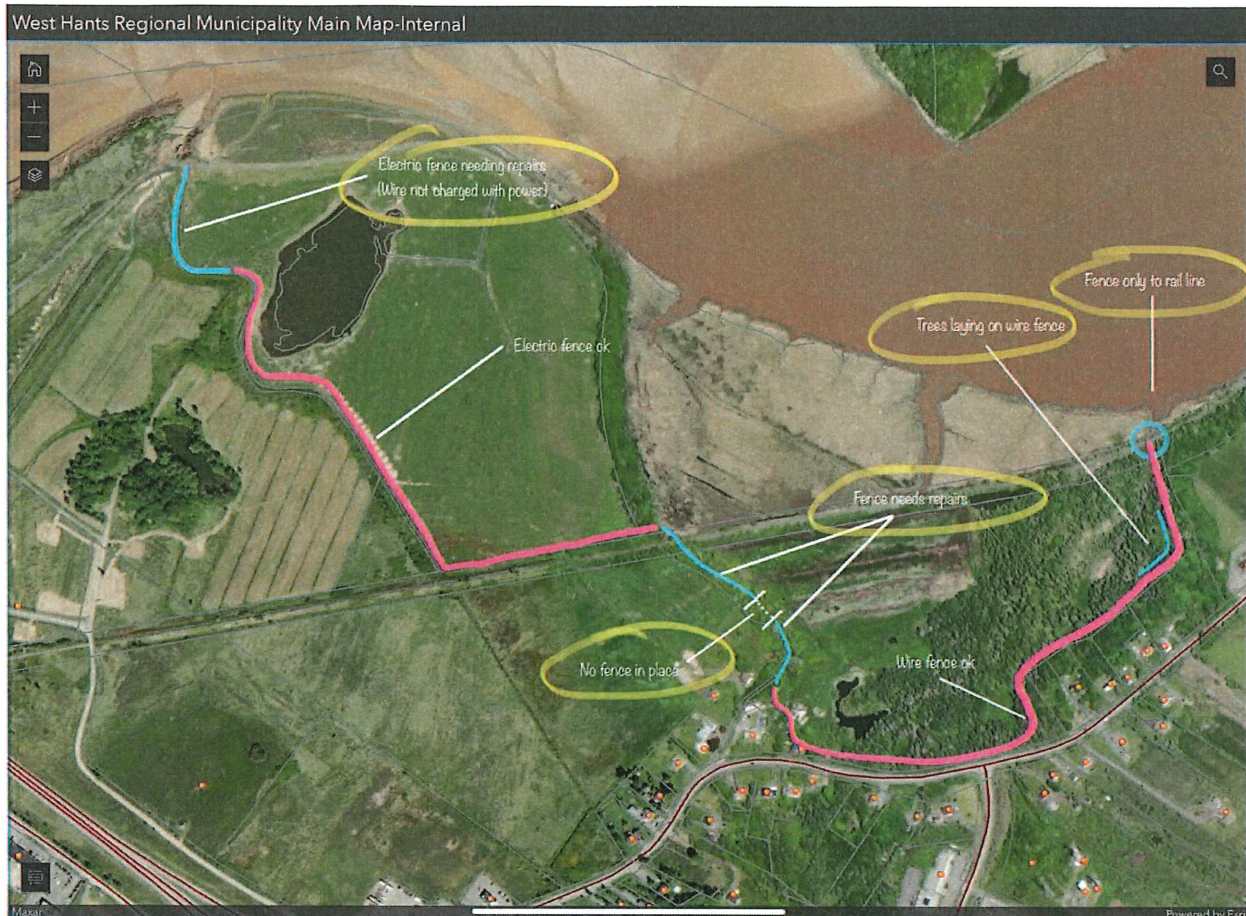
November 20, 2022, the CAO notified me there were complaints received of Harold Morash’s cattle being at large at some point Saturday night into Sunday morning and asked me to respond to gather evidence to support the complaint.

November 21, 2022, By-Law Enforcement received an email from West Hants RCMP stating they received a complaint of 3 cows in the roadway on Wentworth Road, November 19, 2022 at 10:47pm, RCMP responded but did not see the cattle on the road.

Property <input type="checkbox"/>	Public Opinion <input type="checkbox"/>	Environment <input type="checkbox"/>	Social <input type="checkbox"/>	Economic <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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DISCUSSION

The attached map is updated to show the updated status of fencing on Harold Morash property and Ralph Morash property.



I responded November 20, 2022, to four properties who had some level of damage caused, including cattle tracks puncturing the lawns causing significant damages to one property owners' lawn in the 300 block of Wentworth Road. Complainants showed me cattle tracks and feces on their property and edge of the pavement in the 300 block of Wentworth Road, Wentworth Creek. All complainants I spoke to were frustrated with the cattle continuing to cause damage to their properties and do not understand why Harold Morash is permitted to have these cattle when there is a prohibition Order for him not to.

I inspected the fence that runs from 417 Wentworth Road, H. Morash's property, along behind 401 Wentworth Road then along 391 Wentworth Road. I was able to get through the bushes to access the fence. The page wire fence runs from H. Morash dwelling behind 401 Wentworth

Road but stops. I was able to walk out into the pasture and there was no fence. There is also a fence, of sorts, which we previously inspected that runs along the side and back property line of civic 391 Wentworth Road. I saw fresh evidence the cattle entered or escaped in two locations on the back property line of civic 391 Wentworth Road. The fence was down allowing easy access. The rear fence line on civic 391 Wentworth Road has heavy cover of bushes and thorns making it near impossible to see a fence, however the cattle did escape in two areas that were more passable than most of the fencing.

I went over to Ralph Morash's property next to the river, where H. Morash installed a new electric fence line. I tested the electric wire next to the river and there was no electrical current in the wire. I walked back to the solar fencer and saw the solar panel was lying on the ground and not able to produce any power. The remaining fence is charged by a second solar-powered fencer and there was 8800 volts on it.

I looked in Harold Morash's yard by his house and did not see any hay or silage. I also looked in both pastures the cattle use and did not see any hay or silage. The complainants lawns were still green grass and most likely the cattle were searching for a food source as the fenced in area is mostly dry dead grass, from what I saw.

It should be noted again, there is no fencing across the railbed to the rivers edge on the far right of H. Morash's property, PID 45018645. The fencing may have to be installed back along the railbed (towards Windsor) to where H. Morash owns across the railbed PID 45398732 and put the fence to the waters edge to prevent the cattle from walking the railbed towards Sweets Corner. There are also trees over the page wire fencing as noted in the map that need to be cut off and fence repaired.

NEXT STEPS

The Committee must decide on how to proceed with the current fencing in place.

FINANCIAL IMPLICATIONS

Should the Municipality be required to construct a fence the cost of construction would be applied to the tax account of the property owner as a lien.

ALTERNATIVES

The Municipality does not make Harold Morash fix his fencing or order a fence be constructed and relies on Department of Environment and Climate Change to enforce the courts prohibition order to remove the remaining cattle.

ATTACHMENTS

Morash fence line map

Photos evidence of loose cattle and fencing

Email correspondence from Department of Environment and Climate Change, Lori Skaine.

CHIEF ADMINISTRATIVE OFFICER REVIEW

I have been working alongside Officer Parker on this file. In addition to his investigation and report I have met with one property owner / complainant after the incident on November 19th/20th.

I have been engaged with our solicitor to ensure the municipality is fulfilling its obligations under the Fences and Detention of Stray Livestock Act and asked that a second letter to the Province be drafted to further express the urgency of their response to the existing prohibition.

Correspondence

- See attached, letter sent to Deputy Minister MacEachern, November 17, 2022
- See attached, draft letter to Deputy Minister MacEachern, November 23, 2022

I remind the Committee and staff that the following contact information is to be used for filing a complaint to DOECC regarding an animal that may be in distress.

On November 21, 2022 I texted MLA Sheehy-Richard, called and left messages for the Deputy Minister and Minister of DOECC and emailed Lori Skaine The Regional Director for Enforcement notifying them of the incident over the weekend. I did receive a response from Director Skaine notifying me of the following :

"I have no further updates to provide regarding this file. As I've mentioned before, the Department conducted an inspection recently and the animals were found to be in good health. At the time, they had access to food, water, and shelter." – Director Skaine , November 21, 2022

In addition, I was asked about and reminded of the fencing obligations of the Municipality and directed to communicate any complaints about animal welfare to the noted contact information below.

Nova Scotia Department of Environment and Climate Change

Reporting an animal in distress

Farm animal in distress

To report a farm animal in distress, you can call or email.

Phone: 902-956-1165

Email: ICE@novascotia.ca (monitored from Monday to Friday, 8:30am to 4:30pm)

If an animal is in critical distress after office hours, contact RCMP or municipal police for assistance.

Chief Administrative Officer Recommendation

That the Fences and Arbitration Committee issue an order to Mr Morash to repair or install fencing as noted in the above diagram to meet the standard of the 2013 Nova Scotia Livestock Fencing Guidelines by December 2, 2022.

That the Fences and Arbitration Committee endorse sending a second letter, dated November 23, 2022 to Deputy Minister MacEachern as drafted.

Report Approved by:



Mark Phillips, Chief Administrative Officer



20.11.2022 13:39



20. 11. 2022 13:21



20.11.2022 13:21



20. 11. 2022 13:23



20.11.2022 13:38



20.11.2022 14:15



20.11.2022 13:22



20.11.2022 13:15



20.11.2022 14:19



20.11.2022 13:12



20. 11. 2022 13:12



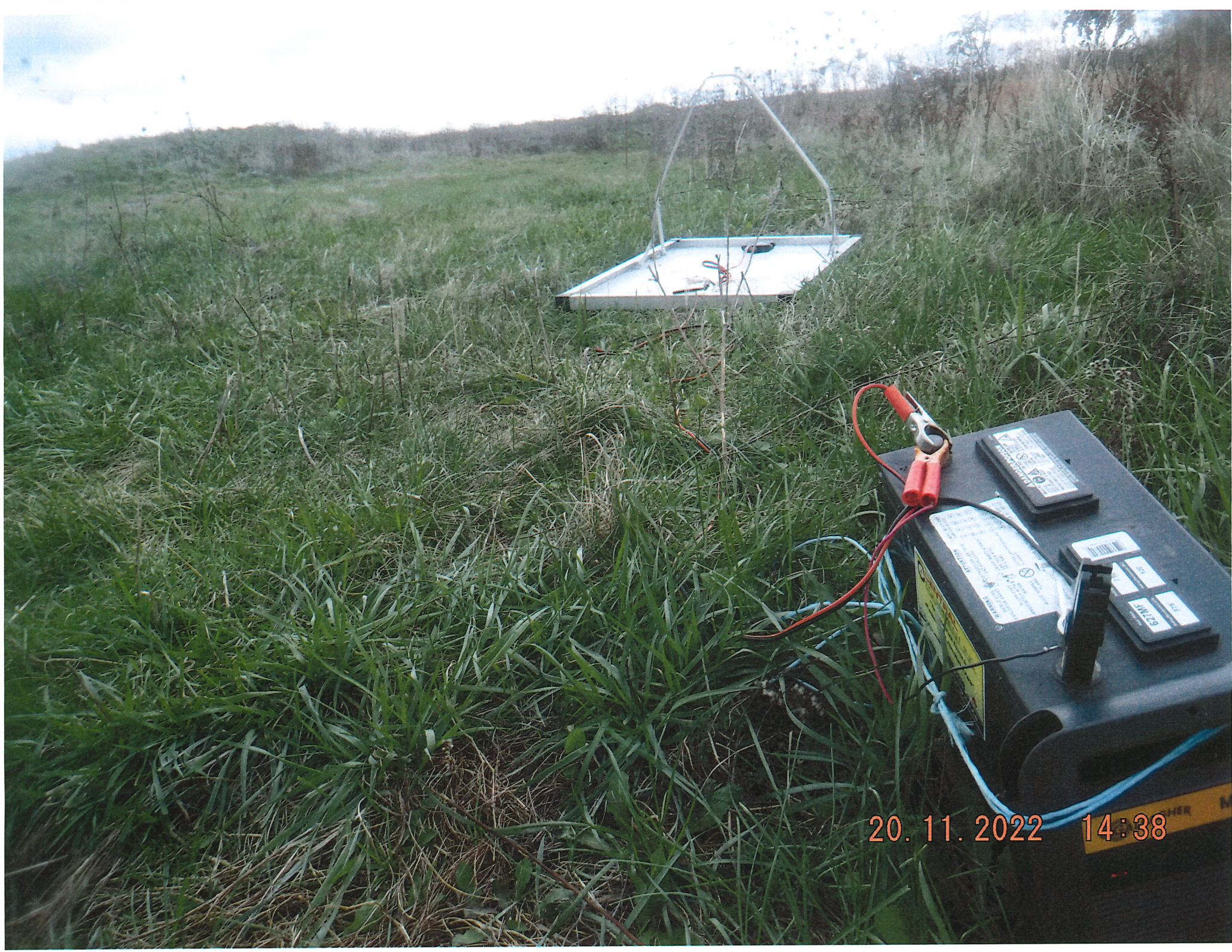
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20. 11. 2022 14:35



20.11.2022 14:39



20. 11. 2022 14:38

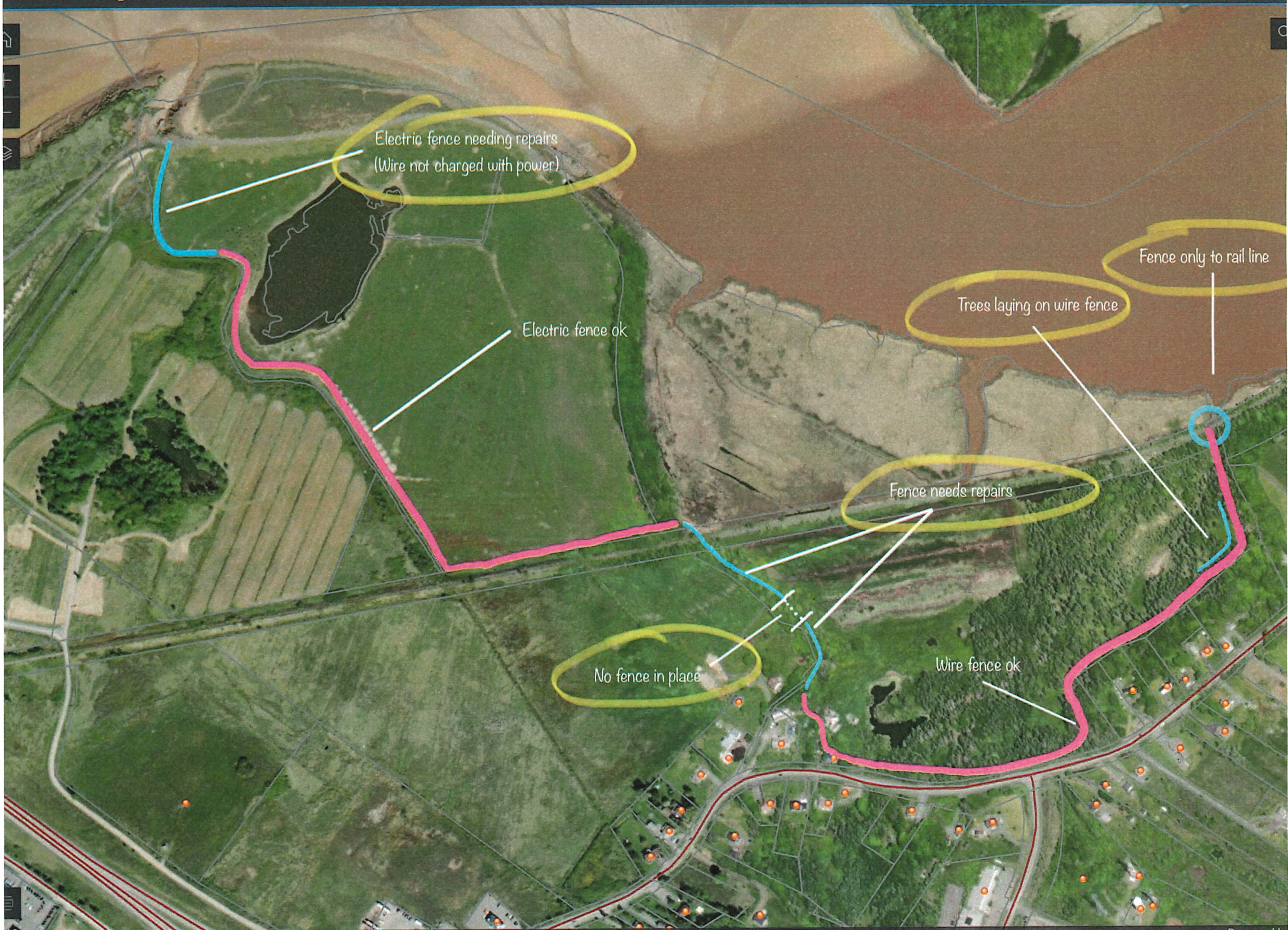


20. 11. 2022 13:25





20.11.2022 14:16



Electric fence needing repairs
(Wire not charged with power)

Electric fence ok

Trees laying on wire fence

Fence only to rail line

Fence needs repairs

Wire fence ok

No fence in place



November 17, 2022

Deputy Minister of Environment and Climate Change
Lora MacEachern
Barrington Tower, 1894 Barrington Street, Suite 1800
P.O. Box 442
Halifax, NS
B3J 2P8

Re: Animal Prohibition Enforcement – Harold Morash, 417 Wentworth Road, West Hants

Please accept the following letter in relation to the current ownership of cattle by Harold Morash at 417 Wentworth Road, West Hants, NS and the current prohibition against Mr. Morash from owning animals under the Nova Scotia Animal Protection Act.

The West Hants Regional Municipality has been engaged with Mr. Morash through the Fences Arbitration Committee due to complaints received from residents about his cattle straying outside his pastures on his property on Wentworth Road and near Highway 101 Exit 5A in Windsor, Nova Scotia.

Inspections by Bylaw Enforcement Officers have resulted in evidence that his five (5) cattle have strayed to neighboring lands causing property damage and creating a serious risk to the travelling public and to the cattle due to their proximity to roadways. Mr. Morash has confirmed his ownership of the cattle at the October 4, 2022, Fences Arbitration Committee Meeting.

Under the obligation of the Nova Scotia Fences and Detention of Stray Livestock Act, The Municipality has issued an order to Mr. Morash to properly install fencing in compliance with the 2013 Nova Scotia Livestock Fencing Guidelines in order to detain his cattle. As the Committee continues to meet and monitor Mr. Morash's response to the order, Committee Members, of which one is a member of the Nova Scotia Federation of Agriculture, discuss the importance of proper care and wellbeing of the cattle as a critical component of their effective containment. Recognizing it is not the jurisdiction of The Municipality to monitor the care and wellbeing of livestock, it is the observation of Bylaw Enforcement

that there are no visible signs of fall or winter feed or adequate shelter on his property. It is the opinion of Committee Members and staff that this is the cause for the cattle straying as they are in search of food, and this may lead to conditions of distress for the animals.

The proper care and wellbeing of the cattle is the ongoing frustration of The Municipality as it is widely known in the community that there is a current Provincial Prohibition restricting Mr. Morash from owning cattle. This has been confirmed by Environment and Climate Change representatives. When The Department was approached the following communication was respectfully provided.

“NS Environment & Climate change has no immediate plans to seize the cattle in question after two (2) previously unsuccessful attempts. We are in the process of investigating the issue of ownership and the welfare of the cattle located on Mr. Morash’s property to determine if there are any current violations or breach of the court order that is currently in place”

- Lori Skaine, Regional Director, Western NS Environment and Climate Change

The Municipality is becoming increasingly concerned about the ongoing safety issues associated with the animals as well as the safety of the public. Mr. Morash has been very slow to respond to the fencing order leaving the Municipality facing the decision to install a proper fence on his property and placing a lien on his property if reimbursement is not received as authorized under the Fences and Detention of Stray Livestock Act.

The Municipality is very troubled in making this decision about fencing as it is very clear that Mr. Morash is not to own animals. The failure of the Department to enforce the prohibition is now resulting in the Municipality to engage in a matter that it otherwise would not be doing so. This is difficult to explain to complainants, staff and Council members. As a result of this matter, we are continuing to engage municipal resources and have had to ask our solicitor to review this matter to determine what other options exist for The Municipality to bring this matter to a close, including a review of what measures should be undertaken by the Province to enforce its order against Mr. Morash.

In closing, the Municipality urges the Department of Environment and Climate Change to apply its strictest authority to uphold the prohibition as it is a matter of life and safety for the general public and the animals.

If you have any questions or concerns in addition to the letter and existing information your department has been provided, please contact me. We look forward to your response and cooperation in addressing this matter.

West Hants Regional Municipality

PO Box 3000, 76 Morison Drive, Windsor, NS, B0N 2T0

902-798-8391 • www.westhants.ca

Yours Truly;



Mark Phillips
Chief Administrative Officer

Copies to:

Timothy Halman, Minister of Environment and Climate Change

Melissa Sheehy-Richard MLA Hants West

Fences and Arbitration Committee Member, Councillor Scott McLean

Fences and Arbitration Committee Member, Tim Marsh

West Hants Regional Municipality Planning Department

West Hants Regional Municipality

PO Box 3000, 76 Morison Drive, Windsor, NS, B0N 2T0

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Queen's Marque, 600-1741 Lower Water Street, P.O. Box 997
Halifax NS B3J 2X2 Canada tel: 902.420.3200 fax: 902.420.1417 stewartmckelvey.com

File Reference: SM022124-3

November 23, 2022

John T. Shanks
Direct Dial: 902.420.3329
Direct Fax: 902.420.1417
jshanks@stewartmckelvey.com

VIA FACSIMILE

Lora MacEachern
Deputy Minister of Environment and Climate Change
Barrington Tower
1894 Barrington Street, Suite 1800
PO Box 442
Halifax, NS B3J 2P8

Dear Deputy Minister MacEachern:

Re: Harold Morash – 417 Wentworth Road, West Hants, NS

We are writing as legal counsel for the West Hants Regional Municipality (the "Municipality").

This letter is further to the November 17, 2022 correspondence of Mark Phillips, Chief Administrative Officer of WHRM. In that letter, CAO Phillips identified continuing concerns which the Municipality was having in relation to its resident, Harold Morash, and his ownership of cattle located at Wentworth Creek, Nova Scotia.

As I suspect you are aware, Mr. Morash is the subject of a 10 year prohibition from owning animals issued by the Provincial Court. This Order was secured by your Department through a prosecution of Mr. Morash under the *Animal Protection Act*. The 10 year prohibition runs from August 2017 to August 2027.

Recently, Mr. Morash has begun caring for livestock (approximately five cattle) at his Wentworth Creek property, contrary to the terms of the Order. This matter has come to the attention of the Municipality and, in particular, its Fences Arbitration Committee due to repeated incidents of the cattle leaving Mr. Morash's property and straying on neighbour lands, as well as onto public highways. Mr. Morash's property is near the 101 and although there have been no reports of the cattle reaching that roadway yet, they have been on the Wentworth Road and it is feared that it is a matter of time before they will stray onto the 100 series highway.

Following the November 17, 2022 correspondence from CAO Phillips, our client received an email reply from Lori Skaine, Regional Director, Western Nova Scotia Department of Environment and Climate Change. Ms. Skaine was responding both to the November 17, 2022 correspondence as well as updated email correspondence from CAO Phillips dated November 21, 2022 regarding the above-referenced situation.

In that most recent correspondence, CAO Phillips outlined an additional problem which occurred over this past weekend in which the animals again escaped Mr. Morash's property and caused damage to neighbouring properties as well as strayed onto the provincial highway. In response to this information, Director Skaine confirmed that the Department had recently conducted an inspection of the animals in question and that they were found to be in good health.

Respectfully, this is not the issue to be addressed at this time. The health of the animals, while it may actually be questioned by the Municipality's Fences Committee, is secondary to the fact that Mr. Morash is prohibited from owning or caring for livestock by the Order which was obtained by your Department. The fact that Mr. Morash is able to continue to own and care for these animals in direct contravention to the Order of the Provincial Court means that the Municipality and neighbouring residents to Mr. Morash are now required to take additional and costly steps to secure their property and the safety of the Municipality's residents. These additional actions are the direct result of the failure of the Department's enforcement activities.

The Municipality finds it disconcerting that the Department, with full knowledge of the terms of the Order of prohibition against Mr. Morash, continues to allow Mr. Morash to own and care for these animals, and has even undertaken an inspection of them which has led the Department to apparently determine that no additional steps will be taken. As indicated to our client by the members of the Fencing Arbitration Committee, part of the reason that these animals are straying from the Morash lands is because there is insufficient feed provided for them at that property.

This situation will only get worse as we move into the winter season and the animals will be more likely to stray from the property even if increased measures to fence the property are undertaken. Thus far, only moderate property damage has resulted from these animals leaving the Morash property; however, given the proximity of these lands to a number of roadways, including Highway 101, there is significant potential for much more property damage and personal injury.

Given that the Department officials have now acknowledged that Mr. Morash is keeping these animals at his property and they have even undertaken an inspection of them, it is difficult to understand how the Department could disavow responsibility for future incidents involving these livestock. The Department has the opportunity, authority and, our client would say the obligation to enforce its ban of ownership of livestock which was issued against Mr. Morash. While increased fencing measures could reduce the potential for future harm by these livestock the proper enforcement of the Order obtained by your Department would wholly prevent any future incidents.

The Municipality is committed to working with the Department to provide any assistance that it can in relation to this matter and to work toward the enforcement of the Order against Mr. Morash and thereby remove this continuing hazard to its residents and to Mr. Morash's neighbours.

Yours very truly,

A handwritten signature in blue ink, appearing to read 'J. Shanks', written in a cursive style.

John T. Shanks*
Partner

*Law Corporation

- c. Mark Phillips, CAO
The Hon. Tim Houston, Premier Nova Scotia
The Hon. Timothy Halman, Minister of Environment and Climate Change
The Hon. Melissa Sheehy-Richard, MLA West Hants
WHRM Fences and Arbitration Committee