

WEST HANTS REGIONAL MUNICIPALITY
Fences and Arbitration Committee Meeting Agenda
November 23, 2022 – 11:00 a.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

1. Call to order

Chair S. McLean called the meeting to order at 11:02 am

2. Attendance

Scott McLean, Chair, Councillor, District 2
Tim Marsh, Nova Scotia Federation of Agriculture
Mark Phillips, Chief Administrative Officer
Deanna Snair, Municipal Clerk
Ryan Parker, By-Law Enforcement Officer (ZOOM)
Shawn Levy, By-Law Enforcement Officer
Tim Leslie, Manager of Building and Fire Protection Services

Introductions were completed for the record.

3. Approval of the Agenda, including additions or deletions

MOVED BY SHAWN LEVY AND TIM MARSH THAT THE AGENDA BE APPROVED. MOTION CARRIED

4. Fencing and Arbitration Complaint WHRM 22-01, PID 45018645

By-Law Officer Parker provide a brief overview to the committee. On Sunday By-Law was notified by CAO Phillips that MR. Morashs' cattle were out again. Officer Parker arrived on scene and communicated with several residents who expressed frustration that the cattle continue to run at large, and that Mr. Morash still has ownership of them. Significant damage was done to one of the properties, as seen in the photographs included within the report. There was evidence where the cattle had been on the road defecating.

The upper blue line at the top left on the map indicated that the fence was up, but the solar charged used by the property owner to charge the electric fence was knocked down resulting in that part of the fence not having an electrical charge (no power). The charger needs to be stood back up and stabilized so it does not fall over again. Following along that line (the pink colour) indicated that the fence was in good condition and charged with 8800 volts. The next section of the fence (the blue line) requires attention. It appears that this was the area that the cattle enter and exit from. The fence was down and there was evidence of two (2) different sets of tracks coming from this area resulting in the cattle accessing the property at 391 Wentworth Road and damaged the lawn. A lot of the area was heavily covered (thorn bushes and bushes).

Officer Parker examined the 401-property next to Mr. Morash, there was a page wire fence with posts running from Harold's house along Wentworth Road, behind 401 Wentworth Road and then the fence stopped somewhere within the bushes. Officer Parker was able to walk through the area, resulted in him being in Mr. Morash's pasture. Fencing was required from the page wire stops, around the blue line and meet up with the pink line again.

The trees noted at the last meeting still remained lying on the fence. The fence also stopped near the railway location, with nothing preventing the cattle from accessing this gap from the railway to the river. This may be a concern at a later date.

Officer Parker was able to stop and take photographs of Mr. Morash's yard to provide evidence that there were no signs of feed (hay, silage) for the cattle. There were no signs of hay or silage in the property owners' field, or the neighbouring field (R. Morash)

CAO Phillips provided background information highlighting that he had been working alongside Officer Parker on this file. Also met with one property owner on Monday morning who shared their story and expressed their concern. Have been engaged with the solicitor to ensure the municipality has been fulfilling its obligation under the Fences and Detention of Stray Livestock Act and requested that a second letter to the province be drafted to further express the urgency of their response to the existing prohibition. The first letter was sent to the Deputy Minister, copying the Minister, MLA was more of a cry for help, telling the municipalities story and the need for the province to deal with the prohibition.

The municipal solicitor has drafted a second letter has more of a legal tone reminding the province of their legal obligation and any legal ramifications should they choose to continue to not enforce the prohibition.

In addition, CAO Phillips texted MLA Sheehy-Richard to provide awareness of the situation and also phoned the Minister and Deputy Ministers office to inform them of the situation. No response has been received from them. CAO also emailed Lori Skaine, (Regional Director for Enforcement) to notify them of the incident over the weekend. The response received was *"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."*

The argument was that Mr. Morash has a prohibition against owning animals and should not have the animals in the first place. It could be argued that the animals are not in a condition of good health and wellbeing. By-Law observations showed that there was not an adequate food source on site nor was there shelter. There may be water. The nutritional value on what the animals were grazing on was questioned as well.

With this understanding complainants should be directed to the Nova Scotia Department of Climate change for an animal in distress 902-956-1165 or by email at ICE @novascotia.ca. If the animal was in critical distress after office hours, contact the RCMP or municipal police for assistance.

CAO Phillips provided some recommendations for the committee to consider:

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.

The Fences and Arbitration committee were disappointed with the provinces response but action was required. Weather will be impacting fence construction The weather will be cold enough that it will freeze the current water supply and grazing does not supply adequate nutrition this time of year; their welfare will be in jeopardy. It was felt that the cattle were roaming due to lack of nourishment. It was felt that through the correspondence all parties, including the province were aware that Mr. Morash was in possession/ownership of the cattle. This issue was that lack of enforcement.

By-Law Officer Parker confirmed there was no shelter available of the R. Morash property, if the province stated there was shelter available it must be on the H. Morash property.

It was recognition there was some form of compliance by Mr. Morash, but that a shorter time frame was needed, and the municipality needed to be prepared with resources to get a fence constructed. If Mr. Morash was not able to complete the work by the December 2 deadline, then it would be reported to the committee and the municipality would step in and completed the necessary work. All costs were to be billed to Mr. Morash for recovery.

Through the Order, Mr. Morash has not complied with the guidelines and the timeline of December 2nd could be accelerated. The municipality's legal responsibility was with fencing, supplementary feed was outside the legal responsibility. Providing feed was considered a charitable act, any costs associated with this would not be able to be recouped. If the animals were in the care of the municipality, then feeding would be a requirement. Consensus was to move in the direction of an accelerated deadline. The new deadline was November 25, 2022 with an inspection to be completed by By-Law Officer Parker by end of day. There was also value in copying the Premier in the letter and also consider sending a formal complaint on behalf of the municipality.

The solicitors advise was that there was a level of compliance. In order to be able to increase the fencing standard, there was a requirement to prove that the work completed by Mr. Morash did not work (did the animals go through the repaired fence). An argument could be made that the standard to follow was what was completed by Mr. Morash. If the cattle don't respond to the work completed by the municipality based on Mr. Morash's standard, then there would be the ability to increase the standards.

Based on the advice and direction from the solicitor approaches would be developed regarding cutting branches and shrubs to complete the fence. If there was no ability to cut the shrubs,

bushes, a plan B would be required. Legal advice was also required regarding putting a fence over train tracks to ensure the cattle were fully enclosed.

This would be a progressive approach through a series of steps; match the current standard and then proceed from there, keeping in mind public safety was priority. Concern was raised that solar power was used to power the fence. As it got colder the charge on the batteries would decrease resulting in the fence being less effective.

MOVED BY CHAIR S. MCLEAN AND TIM MARSH THAT THE FENCES AND ARBITRATION COMMITTEE ENDORSE SENDING A SECOND LETTER, DATED NOVEMBER 23, 2022 TO DEPUTY MINISTER MACEACHERN AS DRAFTED. MOTION CARRIED

MOVED BY CHAIR S. MCLEAN AND TIM MARSH 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 NOVEMBER 25, 2022. MOTION CARRIED.

The Fences and Arbitration Committee direct the CAO to send a formal complaint about the care and wellbeing of the livestock be forwarded to The Department of Environment and Climate Change to follow their proper processes.

5. Next Meeting Date / Adjournment

The next meeting of the Fences and Arbitration Committee will be determined based on the inspection completed by By-Law Officer Parker on Friday, November 25, 2022. Communication will be shared via email.

**MOVED BY SCOTT MCLEAN AND TIM MARSH TO ADJOURN AT 11:47 A.M.
MOTION CARRIED.**

The meeting ended at 11:47 a.m.

Chair Scott McLean