

EASTERN REGIONAL SERVICE BOARD

Minutes of Meeting #3

February 29, 2012

7:00 p.m.

Capital Hotel, St. John's

In Attendance:

Dave Aker, Mount Pearl
Ches Ash, Trinity Conception North
Bill Bailey, Clarenville & Isthmus
Danny Breen, St. John's
Walter Butt, Small Metro
Wally Collins, St. John's
Joy Dobbie, Trinity Bay South & Isthmus East
Woodrow French, Conception Bay South
Frank Galgay, St. John's
Derrick Green, Bay Roberts
Sandy Hickman, St. John's
Kim Mercer, Southwest Avalon
Harold Mallowney, Southern Shore
Sterling Willis, Paradise

Regrets:

Gerry Colbert, St. John's
Shannie Duff, St. John's
Debbie Hanlon, St. John's
Tom Hann, St. John's
Sheilagh O'Leary, St. John's

Guests:

Cory Grandy, Municipal Affairs
Sarah Morgan, Bonavista Pen Waste Mgmt
Leigh Puddester, MMSB
Ken Kelly, CAO, EWM
Kevin Power, FOO, EWM
Lynn Tucker, Recording Secretary

1. Call to Order

Mr. Harold Mallowney, Vice-Chairperson called the meeting to order at 7:00 p.m.

2. Adoption of Agenda

It was moved and seconded (S Hickman/C Ash) to adopt the agenda as circulated.

MOTION #2012-001: Carried

3. Notice of Motion – Ratification of the attached list of appointments to the Board Committees

It was moved and seconded (S Willis/B Bailey) to ratify that attached list of appointments to the Board Committees.

MOTION #2012-002: Carried

4. Committee Reports

a. Strategy & Policy Committee

No report – meeting cancelled.

b. Finance & Audit Committee

i. Request Funding from Province for Capital Purchases

It was moved and seconded (D Breen/B Bailey) to send two funding request letters to Municipal Affairs for the following : (a) Construction of a Waste Recovery Facility at Sunnyside in the amount of \$256,033.51; and, (b) Investigation of Hazardous Materials Depot at the former Harbour Grace Incinerator Site in the amount of \$3,173.88.

MOTION #2012-003: Carried

ii. Audit Report 2010

The Chairperson asked Mr. Kelly to provide an overview of the Financial Statements prepared by Harris Ryan Chartered Accountants. Mr. Kelly outlined the following:

- p.2 Accounts Receivable of \$80,419 – this is made up of outstanding Chairperson fees owed by Municipal Affairs to EWM and the HST rebate that EWM was not able to apply for before becoming a regional service board. EWM is now in the process of applying for HST rebates;
- p.2 Accounts Payable of \$83,005 – this is monies owed to the sub-regional committees for waste management fees collected through pre-authorized debit, debit and credit card. These monies are accepted by EWM and reimbursed to the sub-regions – this is an “in and out” item. It was set up this way so as to avoid having seven (7) POS terminals at the EWM office – one for each of the sub-regions;
- p.2 Capital Asset Fund of \$7,919 – this is the value of EWM’s office furniture.
- p.3 Net Assets – nothing substantial to report – Net Assets for 2010 = \$26,832.
- p.4 Excess of Revenue over Expenses = \$4,644.
- MMSB through its Waste Management Trust fund was EWM’s main funding source for 2010.
- Municipal Affairs funded the Chairperson’s position.
- p.4 Expenses was mostly salaries
- p.5 Cash – End of Year = \$20,796

Several members asked why the professional fees increased from approximately \$5,000 in 2009 to \$20,000 in 2010.

Mr. Kelly explained that EWM became more active in 2010 and engaged the services of a professional firm for public relations, communications work, etc.

It was moved and seconded (D Green/B Bailey) to adopt the Eastern Waste Management Committee Financial Statements Year Ended December 31, 2010 as tabled.

MOTION #2012-004: Carried

- iii. **Transfer of Sub-regional Contracts to ERSB** - Mr. Breen reported that another issue raised at the Finance & Audit Committee meeting was the issue of transferring the existing sub-regional contracts to ERSB. There was much discussion at committee regarding any outstanding monies and how ERSB would collect those fees. At this time, the sub-regional committees have been using Small Claims Court. Committee members felt ERSB requires better ability to collect fees so as to ensure that contractual obligations are met. It was the consensus of the Finance & Audit committee that the ERSB Vice Chairperson should write the Minister of Municipal Affairs to request that any delinquent fees be withheld from the Municipal Operating Grant for those towns who do not pay. A draft letter has been prepared.

It was moved and seconded (D Breen/W Butt) that the Vice Chairperson for ERSB request confirmation in writing from Municipal Affairs that any uncollectable monies owed by a community for waste management services in the sub-regions would be forwarded to ERSB through Municipal Affairs from future Municipal Operating Grants.

MOTION #2012-005: Carried

- iv. **HST Charged on Tipping Fees – increasing the costs to municipalities**

Mr. Kelly reported several communities in the Eastern region have been in contact with EWM regarding this matter. In addition, the City of St. John's also pays HST on tipping fees for all its contracted services. Even though the Regional Integrated Waste Management Facility located at Robin Hood Bay (RHB) does not charge HST on tipping fees, contractors have been informed by the Canada Revenue Agency (CRA) that because tipping fees form part of the consideration for the garbage collection service, which is taxable, the tipping fee charges must be subject to tax when passed along to the customer.

Mr. Kelly stated that discussions have been held with officials at the City of St. John's to find a resolution to this matter. However, up to the date of the Finance & Audit committee meeting, the City of St. John's was standing by their policy that whoever drives over the scales and drops material would have to pay. There would be no third-party billing.

This provided no incentive for communities in the sub-regions to enter into joint contracts as their waste management fees would be subject to an additional charge of 8%.

Since the Finance & Audit committee meeting, Mr. Kelly has received communication from the City of St. John's that they would be willing to change their policy so that a single municipality could purchase a permit and the waste dropped would be billed directly to the municipality and not the contractor.

Mr. Kelly stated that this seems to be a good resolution; however, there are still issues to resolve such as what municipality will accept the responsibility when multiple communities may be collected on the same day. These issues should be able to be resolved without too much difficulty.

In addition, several members stated they were very pleased that the City of St. John's worked on this issue with ERSB and was able to come to a resolution that should work for everyone.

Ms. Mercer asked how this decision would impact her area of the Southwest Avalon.

Mr. Kelly outlined that the Southwest Avalon Waste Management Inc. could now purchase a permit and pay tipping fees directly to the City of St. John's rather than incurring the 8% HST on tipping fees by having the tipping fees passed along by the contractor.

v. Employee Benefits

Mr. Kelly reported that ERSB has been seeking quotes to provide employee benefits (insurance, health & dental benefits) to ERSB staff. Employee benefits would be shared 50/50 by the employer and employee. This is standard practice.

Three (3) quotes were received as outlined on the document circulated this evening. Those who responded were Encon, Blue Cross and ManuLife. The quotes ranged from \$777.94 to \$1,135.43 total monthly premium.

As members of the Finance & Audit committee were not familiar with Encon, the committee requested research to be completed before a final decision is made. It's been determined that the provision of employee benefits is not Encon's core business and that they are a new provider in the market for this particular type of insurance. In addition, no other local business could be found that is or has dealt with Encon. The general feeling is that Encon bid low for the first 15-month policy to break into the local market and that ERSB could expect any subsequent quotes to increase.

Mr. French asked if TRIO, Municipalities Newfoundland & Labrador's employee benefits provider, had responded.

Mr. Kelly reported that they were asked to provide a quote but none was received.

Mr. Hickman asked what would happen after the initial 15-month policy expires – does ERSB go to market again?

Mr. Kelly stated that most likely ERSB would be going to market again at that time.

It was moved and seconded (S Hickman/D Aker) to accept the employee benefits package as offered by Encon at the total monthly premium of \$777.94. This employee benefits package is to be shared 50/50 by the employer and employee.

MOTION #2012-006: Carried

vi. MMSB – HHW Mobile Day for the Town of Clareville

MMSB has proposed a HHW Mobile Day for 2012 the Town of Clareville as they are not yet included in the regional system. This issue was discussed at the Finance & Audit committee meeting with the consensus to fully support a HHW Mobile Day for the Town of Clareville.

ERSB members present maintain the consensus of the Finance & Audit Committee to fully support a HHW Mobile Day for the Town of Clareville for 2012.

vii. Town of Sunnyside Request for Remuneration to Accept Materials from Non-Residents

Mr. Kelly informed members that to date no Waste Recovery Facility (WRF) has been constructed in the Isthmus sub-region. Municipal Affairs has gone to tender and a WRF is proposed for Sunnyside. The Town of Sunnyside has been granted permission to continue to operate their landfill so that they can continue to generate revenue from the industrial, construction and demolition, and commercial sectors that are operating in the area. In addition, the landfill is operating as a WRF and is accepting bulk household items from residents of the region. The Town of Sunnyside has requested compensation in the amount of \$1,000.00 per month to accept waste from residents of the surrounding communities in the area until the WRF is completed. Please note that five (5) other landfills continue to operate in the area.

Members of the Finance & Audit Committee had requested that Mr. Kelly get more information and he has been told that from January 3-31, 32 residents had used the site with 16 of those from outside the Town of Sunnyside. Mr. Kelly stated that the Town of Sunnyside keeps records of all traffic to their landfill. The concern is where this waste will end up – will it be illegally dumped if they are not allowed to dispose of it as the Sunnyside landfill.

Ms. Dobbie asked where those residents were from and if there is any provision for bulk collection in the area.

Mr. Kelly outlined that communities from Swift Current to Chapel Arm (Isthmus sub-region) entered into a joint waste collection contract beginning January 1, 2012 and it includes six (6) bulk collections annually.

Mr. Grandy stated that he would like to inform ERSB members that the Sunnyside landfill is a unique situation in that they are being allowed to continue to operate as they receive not only industrial waste but 'special' waste such as fish offal from fish processing facilities; offal from Country Ribbon; mink farm waste; etc. These are materials that cannot be disposed of at the Robin Hood Bay (RHB). As there is no other solution yet for the disposal of these materials, the Sunnyside landfill will be allowed to continue to operate to provide this service. Mr. Grandy reported that the proposed WRF should become operational in the area late spring or early summer.

Discussion ensued with Board members expressing concern with the arbitrary nature of the request – there is no explanation/justification why \$1,000.00 is being requested.

Members agreed that they have no issue with providing financial assistance to the Sunnyside landfill; however, they would like an explanation for the charges before making a decision.

It was agreed that Mr. Kelly would get more information.

c. **Governance Committee**

i. **Board Remuneration**

Mr. Mallowney explained that the matter of board remuneration was discussed at length at the Governance Committee meeting with the consensus that the ERSB would meet the provincial criteria to be remunerated at Level II; however, he was informed by Municipal Affairs about one-half hour ago that there are reimbursement regulations under the *Regional Service Boards Act* filed November 15, 2011 stating that regional service boards are in accordance with Level I.

A copy of the Newfoundland and Labrador Regulation 101/11 was circulated to members.

Mr. Mallowney read out Section 2.(1) *“The scale of remuneration for chairpersons and other members or officers of a regional service board shall be in accordance with Level I of the Guidelines for Rates of Remuneration for Boards, Commissions and Agencies as set by the Public Service Secretariat.”*

Mr. Hickman stated that at the Governance Committee meeting the Level I remuneration was not considered as it did not require members to have any special knowledge or expertise. The committee felt that ERSB members come to the table with special knowledge and expertise as municipal leaders and, therefore, should be remunerated as such. Being a member of the ERSB is a huge responsibility as the Board is responsible for two-thirds of the province’s population.

Mr. Mallowney pointed out that the provincial guidelines for remuneration were set in 1996 and, as such, are outdated.

A great deal of discussion took place with members expressing grave concern for the lack of respect being shown to members for the work required of the ERSB. In addition, the low rate of remuneration outlined in the regulations is ‘insulting’. Members are expected to attend regular Board meetings and committee meetings; manage assets; and, handle a tremendous amount of waste and materials. Members are expected to be or to become knowledgeable on modern waste management practices. In addition, all members are elected municipal officials with hundreds of years of municipal governance expertise around the Board table. In addition, concern was raised as to how ERSB can attract a qualified Chairperson when the compensation level is so low. Questions were raised as to how these regulations could be changed.

Mr. Grandy suggested that the ERSB write the Minister to express its concerns if they want to pursue a change in the regulations.

Members agreed that they would pursue this change and want it retroactive to the inaugural meeting of ERSB in November 2011. Several felt that ERSB should request a meeting with the Minister to discuss this matter.

Members agreed that they will not accept Level I remuneration in the interim period.

It was moved and seconded (S Hickman/W French) to set the remuneration for meeting attendance at \$335.00 for the Chairperson; \$285.00 for the Vice Chairperson; and, \$240.00 per meeting for directors retroactive to November 9, 2011 as per Level II of the *Guidelines for Remuneration and Rates of Pay for Boards, Commissions and Agencies by the Provincial Government*.

MOTION #2012-007: Carried

It was moved and seconded (S Hickman/S Willis) to set the remuneration for the Chairperson at \$1,500.00 per month and the remuneration for the Vice Chairperson at \$750.00 per month. All remuneration would be retroactive to November 9, 2011.

MOTION #2012-008: Carried

Mr. Grandy stated that the Board does not have the authority to pass this motion.

Members stated that Municipal Affairs needs to change the authority – they did not come here to be insulted.

ii. **Rules & Procedures for Board Meetings**

Included in tonight's meeting package is the *Greater Avalon Regional Waste Management Committee Rules and Regulations Governing the Procedures of Meetings*. Mr. Kelly stated that these are standard procedures that would be familiar to Board members.

It was moved and seconded (W French/F Galgay) that the rules and regulations governing the procedures of meetings formerly adopted by the Greater Avalon Regional Waste Management Committee be adopted with the changes outlined below:

- p.1 – Authority: discussion took place regarding whether ERSB is an advisory board or a governance board – members present felt ERSB is a governance board.
- p.1 – Regular and Special Meetings: The last sentence should be changed to *“The Committee has adopted the fourth (4th) Wednesday of each month at 7:00 p.m. as the regular monthly meeting.*
- p.2 – Meetings Open to the Public: It was the consensus of the Board that ERSB meetings will not be open to the public.
- p.2 – Attendance at Meetings: This issue was discussed in detail at the committee meeting as all ten (10) councillors for the City of St. John's have been appointed to ERSB; therefore, this is a moot point for them as they would not have a replacement if a member were removed for non-attendance. After discussion, it was agreed to leave the attendance policy in place with the following change, *“In the event a member fails to attend three (3) consecutive monthly meetings without just cause, then a review will be conducted regarding whether to remove said member and appoint a new member.”*
- p.3 – Quorum: It was agreed that the Chairperson would count towards quorum and that a majority of members appointed to the Board constitutes quorum for the purpose of a meeting of the Board.
- Committees to use consensus or motions: It was agreed that consensus would be used at committees.
- Voting by Email: It was agreed that voting by email would be allowed with ratification of any decision(s) at the next regular Board meeting.

- It was agreed that any stipend/remuneration would be paid for attending meetings. Mr. Kelly pointed out that the provincial criteria for remuneration outlines that for meetings less than 3 ½ hours would be paid at one-half the remuneration rate.

MOTION #2012-009: Carried

5. Other Business

- a. Mr. Ash asked if it is wise to pass motion without authority? Is the motion legal?

Again, discussion ensued with Finance & Audit Committee members stating that the motion may be without authority but it was made in good faith following much deliberation and debate at the committee level. Committee members gave up several hours of their time to work on this matter and do not appreciate being told that their time and effort was in vain.

There was discussion regarding whether or not to rescind the motions or to change the motions to read that ERSB is recommending to the Minister that the Level II rates be adopted. However, no new motion was put forth.

Mr. Grandy again suggested that the ERSB write the Minister of Municipal Affairs to request a review of Regulation 101/11.

Committee members stated that they felt the recommended remuneration rates were fair and equitable – if the rates contravene the regulation, then so be it. If the Minister becomes focused on the authority rather than the issue, then he is missing the message that ERSB is sending.

Mr. Breen stated that the issue here is whether ERSB is a Level I board or a Level II board.

Members asked if the Minister would be able to make the necessary change to the regulation?

Mr. Grandy responded that the Minister would not have discretion to make the requested change. The change would have to be a cabinet decision.

Members agreed that Mr. Mallowney, Acting Chairperson, Vice Chairperson, ERSB write the Minister as soon as possible to request the change to Level II status for ERSB and to request a meeting with the Minister to discuss this matter in detail.

- b. Mr. Kelly outlined that one of the Committee members from the Policy & Strategy Committee has expressed concern that she may not be available to attend regular meetings due to work and personal time commitments. Therefore, would another committee member be willing to serve on that Committee.

Mr. Derrick Green volunteered to become a member of the Policy & Strategy Committee.

- c. Mr. Ches Ash stated that he is hearing concerns in his area regarding the lack of a WRF. A WRF is proposed for Harbour Grace but they have not heard anything about when to expect it to be completed?

Mr. Kelly stated that the Regional Plan prepared by the former Eastern Waste Management (EWM) Committee designated a WRF for Harbour Grace and at this time EWM is working with officials at Municipal Affairs to see if the existing incinerator site at Harbour Grace could be used as a WRF site. Land ownership may be an issue.

Several members wondered if regular household waste could be dropped at the WRF and Mr. Kelly explained that the WRFs will not accept regular household waste that is collected weekly at roadside and goes directly to RHB. WRFs are for the collection of bulk type item.

Mr. Ash will call Mr. Kelly to get the most up-to-date information for his area.

6. Next Meeting

The next regular ERSB meeting will take place on Wednesday, March 28, 2012.

7. Adjournment

It was moved (W French) to adjourn the meeting at 8:30 p.m.

MOTION #2012-010: Carried

*Prepared by:
Lynn Tucker
March 2, 2012*