



EastLink

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August 19, 2011

Darrell Jodrey
Planner
Halifax Regional Municipality
40 Alderney Drive, 2nd Floor
Dartmouth, NS

Colin MacPhee
Planner
EastLink
6080 Young Street 6th Floor
PO Box 8660 Station A
Halifax, NS B3K 5M3

Re: 10.1.2 Case 16620: Telecommunication Tower, Leslie Road, East Lawrencetown

At EastLink we take the concerns of the public very seriously. In response to the concerns set forth by area residents, HRM staff, and the members of the Marine Drive, Valley and Canal Community Council, EastLink has reassessed the location of the proposed telecommunications tower and has chosen an alternate site. As such, in selecting the new antenna site, we have adopted recommendations put forward by members of the public and municipal councilors who were present at the meeting of June 22nd, 2011.

"During the discussion, the following points and suggestions were raised:

- By selecting an alternate site, the tower would still be in the view plane of the horizon; however, it would not be an obstructive object right in the street line of Leslie Road.*
- If a telecommunication tower is to be located in the East Lawrencetown region, residents are prepared to accept the tower, but would prefer its placement in the back land of the region."*

MARINE DRIVE, VALLEY AND CANAL
COMMUNITY COUNCIL MINUTES June 22, 2011

EastLink is committed to working diligently to find solutions which meet our customers' needs while respecting the concerns of the community. Having provided this information, we kindly request that HRM Planning Group forward comment within ten business days, at which point EastLink will consider the consultation period completed.

Respectfully,

Colin MacPhee



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

September 6, 2011

Colin MacPhee
EastLink
6080 Young Street 6th Floor
P O Box 8660 Station A
Halifax, Nova Scotia
B3K 5M3

Dear Mr. MacPhee:

Re: Case 16620 Telecommunication Tower, Leslie Road, East Lawrencetown.

In response to your letter received August 19, 2011 HRM staff have reviewed the proposal for the alternative location of a telecommunications tower in East Lawrencetown and find the proposed location to be a substantial shift from the original location on Leslie Road to another residential area on the Crowell Road and cannot agree this is what is meant by "back land".

A valid concurrence for this particular consultation process would be a positive recommendation from Community Council in favour of the proposed location. In the interest of procedural fairness a second public meeting should be held at which time the residents of Crowell Road and area should have a certain expectation to attend and make representations. The residents of this area may not have participated in the first public meeting and it seems that fairness requires them an opportunity to make any possible concerns known.

In order to conclude this consultation we believe a telecommunications tower application should be submitted for the proposed site at Crowell Road to address public concerns and seek Community Council's concurrence.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darrell Joudrey".

Darrell Joudrey

c.c. George Hastings, Director, Nova Scotia, Spectrum Management and Telecommunications
Directorate
Councillor David Hendsbee, District 3

Colin MacPhee

From: Darrell Joudrey [joudred@halifax.ca]
Sent: Tuesday, September 13, 2011 2:26 PM
To: Colin MacPhee; hastings.george@ic.gc.ca; Richard.Arnold@ic.gc.ca
Cc: David Hendsbee; Kurt Pyle
Subject: Case 16620 Telecommunication Tower Re: Eastlink Conclusion of Consultation

George Hastings
Director, Nova Scotia
Spectrum Management and Telecommunications Directorate,

Richard Arnold
Spectrum Management Officer
Radio Regulations

Colin MacPhee
Planner
Eastlink

Re: Case 16620 Proposed Telecommunication Tower, Leslie Road, East Lawrencetown

In response to the letter from Eastlink dated September 6, 2011 regarding the decision to go forward with an alternative location at Crowell Road in Lawrencetown without undertaking further discussion or public consultation with the local land-use authority and unilaterally conclude the process with disregard for the particular and special interest in the matter that the residents of Lawrencetown had and that Eastlink is aware of, HRM offers the following.

Under the *CPC-2-0-03, Section 4.3 Concluding Land-use Authority Consultation* a 120 day timeline is imposed by Industry Canada on the local land use authority. Case 16620 in East Lawrencetown exceeded the 120 days but HRM did not notify Eastlink that the response to the proposal would be made at the June meeting of Marine Drive, Valley and Canal Community Council shortly after the PIM was held in the community. During this time Industry Canada did not notify HRM that they considered the land-use authority consultation process concluded because of the additional time required.

It is HRM belief that concluding the land-use authority public consultation process is not to be a unilateral decision by either party involved to arbitrarily impose a ten day response to an alternative site in the case of a unresolved application that has not received concurrence from the land-use authority. Reading the second paragraph under *Concluding Land-Use Authority Consultation* the responsibility for concluding public consultation would seem to lie with the land-use authority and not the applicant:

"Depending on the land-use authority's own process, conclusion of local consultation may include such steps as obtaining final concurrence for the proposal via the relevant committee, a letter or report acknowledging that the relevant municipal process or other requirements have been satisfied, or other valid indication, such as the minutes of a town council meeting indicating LUA approval."

HRM has not made final concurrence for the original proposal, indeed the staff report to Marine Drive, Valley and Canal Community Council was the opposite, or acknowledged the process or requirements have been satisfied in any way. In terms of procedural fairness the above quote from the CPC-2-0-03 seems to contemplate the local land-use authority, HRM, making the decision as to when the consultation has concluded, not the proponent.

Arbitrary resolution of the issue by the applicant, Eastlink, without further discussion with HRM or a return to public consultation, whereas the decision is of great importance to all interested parties, would seem to require a higher degree of fairness than what we are witnessing here. Selecting comments from the June 22, 2011 Community Council meeting and calling them "recommendations" by members of the public and Council and a door-to-door survey fall short of being fair. It is unfair to act in contravention of representation that a formal dispute resolution process is available to

the interested parties under the CPC-2-0-03 (5. Dispute Resolution Process). HRM has legitimate expectations that a dispute resolution would involve those parties with concerns and objections to the proposal.

Sincerely,

Darrell Joudrey

Darrell Joudrey
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Community Development
Planning Applications - Eastern Region
P. O. Box 1749
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Nova Scotia
B3J 3A5
Canada
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September 14, 2011

Darrell Joudrey
Planner, Community Development
Halifax Regional Municipality

Dear Mr. Joudrey:

Re: Case 16620 Telecommunications Tower, Leslie Road, East Lawrencetown

EastLink is in receipt of your letter dated 6 September 2011, as well as your email letter dated 13 September 2011, regarding our proposed telecommunications tower on Crowell Road in Lawrencetown. EastLink would like to clarify the intent of our 6 September 2011 letter and to address the HRM's concerns noted in its two September letters.

For context, EastLink has participated in public consultation processes in municipalities outside the HRM that have also resulted in alternative site proposals. In some cases, when our network plans have allowed us to agree to an alternative site, proposed by the public and/or the municipality, those municipalities have not requested further consultation. In those cases, EastLink has nevertheless taken extra efforts to consult with any newly affected local citizens and has submitted updated information to the municipality, after which we have typically sent a message to the municipality similar to our 6 September 2011 letter. In those cases, the municipalities have agreed with our due diligence and we have been free to begin construction.

EastLink considered the Lawrencetown case to be no different. EastLink had first notified the HRM in October 2010 of our intention to build a tower in Lawrencetown. We had then participated in a public consultation process with those potentially affected by the proposed tower and had considered comments from the public and the HRM Councillor for the area, David Hendsbee. As a result of these consultations, we had agreed to the recommended alternative site on Crowell Road. Since then, EastLink had distributed information and gone door-to-door in the area, larger than three times the tower height, around the new Crowell Road location just to be sure all parties supported the alternative site. The public was consistent in its preference for the alternative site. EastLink had also submitted the updated plan information to the HRM for comment. As a result, EastLink expected that all parties supported the recommended alternative site and we believed that the consultation process was concluded, as we indicated in our 6 September 2011 letter.

In your two September letters, you have explained that this is not the case. While EastLink notes that we submitted our initial request nearly a year ago, that we have participated in a public consultation, that we have consulted with the public surrounding the alternative site, and that our alternative site was recommended by the community, we continue to be willing to work

with the HRM to ensure that all parties have been properly consulted. EastLink, therefore, is willing to participate in the second public meeting referenced in your 6 September 2011 letter and suggest that we discuss the issue at either the 28 September or 26 October 2011 PIM. This should be possible as all the information has been filed and local stakeholders have been informed of the proposed tower. In any case, EastLink believes that these additional consultation activities should delay final approval by no more than 90 days, considering all the time, effort and compromise that EastLink, Council, and Lawrencetown residents have invested in this proposed tower.

We look forward to arranging this next public meeting with you and to moving this mutually agreeable site toward final approval.

Respectfully,

Colin MacPhee

cc.: George Hastings, Industry Canada
Richard Arnold, Industry Canada



September 28, 2011

Darrell Joudrey
Planner, Community Development
Halifax Regional Municipality

Dear Mr. Joudrey:

Re: Case 16620 Telecommunications Tower, Leslie Road, East Lawrencetown

EastLink is in receipt of your letter dated 6 September 2011, as well as your email letter dated 13 September 2011, regarding our proposed telecommunications tower on Crowell Road in East Lawrencetown. HRM requested in these letters that EastLink participate in a second public meeting and submit a new application for the Crowell Road site where we have agreed to locate our tower at the recommendation of the East Lawrencetown community. Further to EastLink's letter of 15 September 2011, in which we agreed to participate in a second public meeting and submitted that the recommended Crowell Road location should move toward approval on an expedited basis, we have attached to this letter an application form and a cheque for the full amount of \$1,130 to cover any expenses related to the second public meeting.


EastLink notes that we have also submitted to HRM staff, on 19 August 2011, a complete information package for the Crowell Road location, including a complete set of drawings and photo renderings, prepared by Genivar, consulting engineers. Now, with today's letter, HRM staff has the requested application, payment, and a complete information package for the Crowell Road site. Therefore, EastLink believes that HRM has all the information it requires to establish a date for the second public meeting. Please let us know immediately if that is not the case so that we can address the issue quickly.

Furthermore, EastLink reiterates that we do not consider this to be a new application. Rather, this submission is a complete information package for the mutually agreeable alternative site recommended by the community of East Lawrencetown, and validated by EastLink, as part of the consultation process for our proposed location on Leslie Road. In its 23 September 2011 letter, Industry Canada indicated that it also considers this consultation a continuation of the original process for Leslie Road, and suggested that this consultation be completed in a timely manner considering the time that has already passed. Given EastLink's already completed public consultation activities – including door-to-door consultations surrounding the Crowell Road site and a public meeting in East Lawrencetown – and given the time staff has had to review the information submitted on 19 August, EastLink expects that this mutually agreeable Crowell Road location could move toward approval in no more than 90 days from today's date, as indicated in our 15 September letter. EastLink requests that a PIM be established as quickly

as possible, ideally scheduled for a date in the next 30-45 days. Please let us know if there is any outstanding information you require to establish the public meeting.

We look forward to arranging this next public meeting with you and to moving this mutually agreeable site toward final approval.

Respectfully,

A handwritten signature in blue ink, appearing to be 'Colin MacPhee', with a large, stylized 'C' and 'M'.

Colin MacPhee

cc.: George Hastings, Industry Canada
Richard Arnold, Industry Canada