

Opportunities for Law and Policy to Effect Change *on the Ground*

Getting Your Green Infrastructure Plans *Built*

The information provided in this session is for public education purposes only. If you have particular questions about a specific case, please make an appointment to speak to one of our lawyers.

“The best laid plans....”

- The problem is the gap between design and build
- How to ensure that the best laid plans come to fruition?
- How to get all the actors singing from the same song sheet?

Development Issues

- Timing
- Surface Water Runoff
- Soil Depth
- Building Elevations
- Land Developer/Housing Contractor Responsibilities



TIMING

- Scenario: Tight timelines on work sites for getting work done in accordance with environmental and worker safety standards.
- Question: What are some options for a municipality to protect the environment and public health and safety?

- Essentials: establish clear 3rd party standards; set requirements for engineer of record to inspect/certify
- If needed: authority to stop work – BUT first generate a good factual record – due diligence to justify your actions
- Keep on top of needs: if you need more internal capacity, train up or get Council to consider extra staff at Budget time



SURFACE WATER RUNOFF

Working in or around watercourses

- Issue: Work in or around watercourses means city staff need direction from regulators on the limitations of work – type, timing etc.
- Question: How can watercourse protection be expedited?

Work in or around watercourses...

- Maintain a good relationship with DFO
- Need for certainty in regulation
 - RAR under the *Fish Protection Act*
 - *Fisheries Act*
 - Fixed setback of 30m?
 - Establish DPAs after mapping and classifying?
 - Consult on timing issues

Sediment & erosion control

- Issue: During the construction phase, monitoring and compliance are challenges.
- Question: How to get compliance?

- Sediment and Erosion Control Bylaw
- Set best management practices
- Training and education (internal and external), outreach, making information available
- Bonding – can encourage the person bonded to train those under their control
- Enforce: inspect, fine, stop work

Sediments, other polluting

- Issue #1: The *construction process* sometimes leads to accumulation of sediment-laden water, and this is an issue for safe disposal
- Issue #2: *Business as usual* can sometimes become polluting, e.g. overflowing oil/grit separators
- Question: What options exist to ensure operations do not become polluting?

- Soft: education, training, public relations campaign that your community is green
- Bylaw - CC Spheres of Concurrent Jurisdiction Environment and Wildlife s. 2(1)(a) OR sediment and erosion control bylaw powers
 - Establish maintenance practices to follow; schedule; reporting
- Hard: ticketing, fines, other provincial offence provision, do clean-up further to non-compliance and charge back to defaulter (NB if owner can be to property – on tax bill)

Drainage/grading plans

- Scenario: Multiple parties or entities work at a subdivision and its building site, making continuity in conversations challenging
- Question: How can we ensure that the original drainage/grading plan for the subdivision is adhered to?

Drainage/grading plans

- Soft:
 - Education and training both internal and external
 - Publicity and public access to info
- Hard/Regulatory:
 - Erosion and Sediment Control Bylaw
 - Building bylaw and occupancy permit requirements
 - Licensing and standards authority
 - Tools – inspections, fines, stop work order



SOIL DEPTH

- Issue: Soil depth is critical for recharge purposes; housing contractors and developers strip and sell topsoil from foundation excavations as part of development profits, and re-lay surface with soils that are impermeable
- Question: What legal avenues exist for ensuring topsoil is kept onsite as a first priority?

- Communicate, communicate, communicate
- Bylaws:
 - Runoff control requirement bylaw s. 907 LGA
 - Landscaping bylaw s. 909 LGA
 - Soil removal bylaw s. 8(3)(m) CC
 - Protection of natural environment s. 8(3)(j) CC
 - Subdivision servicing standard
- Tools: Seminars, pre-construction mtg; bonding, inspection, require reporting from developer's consultant as part of standards to meet and have certified



BUILDING ELEVATIONS

Building elevations and drainage

- Issue: Building elevations influence lot grades and surface drainage, including drainage paths.
- Question: What tools to ensure elevations do not negatively impact drainage plan's intent?

Building elevations and drainage

- Soft: use modeling (Water Balance Model), ensure clear communications re: expectations with all parties throughout (mtgs, training)
- Regulatory:
- Zoning – s. 903 siting size and dimensions, limit vertical extent
- Runoff control bylaw s. 907 LGA
- Building or occupancy permits/inspection, and licensing and standards s. 8, 15, 54 CC



**LAND DEVELOPER/
HOUSING CONTRACTOR
RESPONSIBILITY**

Recap of the challenge...

- Issue: Typical land development has 50 lots, involving sale to multiple housing contractors, each of whom has sub-trades.
- Question: How to get all of these different players acting towards your green value goals? What tools?

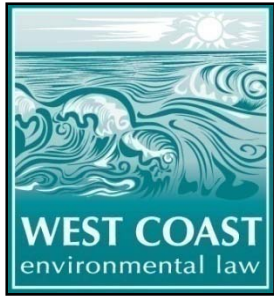
And summary

- Soft approaches lay the foundation: seminars, workshops, internal and external training, *message is interaction of green value devt components – integrated with ALL policies*
- Back up your intentions with bylaws:
 - Be clear with goals, standards and process
 - Be consistent with enforcement paths and devote resources to enforcement
 - Take security
 - Fix messes and charge the cost back!

Incentives - an opportunity to go further with the keepers...

- DCC Reductions for low environmental impact development s. 933.1 LGA
- Revitalization tax exemption bylaw s. 226 CC
- Density bonus s. 904 LGA
- Community awards (i.e. recognition for use of green technology)

*Commentary on Effective Municipal
Rainwater/Stormwater
Management and Green
Infrastructure to Achieve
Watershed Health*



THANKS FOR YOUR ATTENTION!

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