



**MINUTES OF A MEETING
OF THE ASSOCIATION OF VANCOUVER ISLAND
AND COASTAL COMMUNITIES EXECUTIVE
VICTORIA, BC – LOCAL GOVERNMENT HOUSE
FRIDAY, OCTOBER 25, 2013**

- IN ATTENDANCE:** Mayor Larry Cross, Sidney, President
Councillor Cindy Solda, Port Alberni, First Vice-President
Councillor Barbara Price, Comox, Second Vice-President
Director Mary Marcotte, Cowichan Valley RD, EA Representative
Councillor Meagan Brame, Esquimalt, Director at Large
Councillor Claire Moglove, Campbell River, Director at Large
Councillor Andrew Mostad, Lantzville, Director at Large
Chair Joe Stanhope, Nanaimo RD, Past President
- STAFF ATTENDANCE:** Shelley Webber, Executive Coordinator
- GUEST ATTENDANCE:** Calvin Sandborn, Legal Director, Environmental Law Centre
Ethan Krindle, Environmental Law Clinic Graduate
Jared Wright, Director of Advocacy and Government Relations, UBCM
Michael Davis, Senior Director, Marine Development, Kinder Morgan
Sheran Bathurst, Stakeholder Engagement & Communications,
Kinder Morgan

President Cross called the meeting to order at 11:00 am, welcomed the home heating oil tank delegations (Mr. Calvin Sandborn and Mr. Ethan Krindle), and had the Board introduce themselves to the delegation.

Delegations

A. Home Heating Oil Tanks

Mr. Calvin Sandborn, Legal Director, Environmental Law Centre, University of Victoria
Mr. Ethan Krindle, Environmental Law Clinic Graduate, University of Victoria

Mr. Sandborn provided an overview of the issue of home heating oil tank issues with regards to current legislation that deals with reactive spill management in B.C., and its inadequacy in terms of preventing spills and contamination. Mr. Sandborn also highlighted another issue which is the lack of awareness on the part of homeowners of their legal responsibility for spill cleanup from tanks on private property, and in some cases a lack of awareness of the existence of a tank on their property at all. Before natural gas became available in 1957, many homes were heated by furnace oil. The tank feeding the furnace was stored underground and held between 300 and 1,000 gallons of oil. Once houses were converted to natural gas, the tanks were often left buried beneath the soil and not all were emptied properly. The containers rust and can allow oil to leach into the soil. The oil can then find its way into an older home's perimeter drainage system and flow into the storm sump, resulting in a fuel oil odor inside the home. The oil can also run into a neighbour's drainage system and cause the same problem.

The British Columbia Fire Code governs the removal or abandonment of an underground oil storage tank. If an owner removes an underground oil storage tank, or abandons its place, or temporarily takes it out of service, the British Columbia Fire Code requires the owner to use good engineering practices. In addition, a local government, such as a municipality, may also regulate the removal or abandonment of an underground oil storage tank.

If the contents of an underground oil storage tank spread to the surrounding area in a quantity or concentration that exceeds the limits in the provincial Contaminated Sites Regulation, the site is considered contaminated. If the site is contaminated, the *Environmental Management Act* and the Contaminated Sites Regulation require the owner to remediate the property. The legislation also establishes who must pay for the remediation, including, in some cases, a former owner.

According to the Real Estate Council of British Columbia, listing agents have a duty to familiarize themselves with the property that they have listed and, where they suspect an unused or abandoned underground storage tank may be present, to take necessary steps to determine if one exists. If a seller is aware of an unused or abandoned underground storage tank, that seller has an obligation to disclose this fact. An unused or abandoned underground storage tank is considered to be a material latent defect and, therefore, its presence must be disclosed in writing on the Property Disclosure Statement, as required by section 5-13 of the Council Rules.

Mr. Krindle spoke to proposed pro-active activities such as a home heating oil tank inventory that would scan for existing oil tanks and add them to a registry, that can then provide a mapped resource that could be used for future decommission plans, and provide registered properties access to a public insurance fund for future spills.

The Environmental Law Clinic (ELC) is working with a number of stakeholders to draft a project proposal that will recommend the establishment of an advisory committee, project deliverables will include inventory of current locations and numbers of tanks, and will make financial projections of the total cost of the issue, if left unresolved. The goal is to carry out the groundwork that will push for legislative change. The ELC will forward a copy of this proposal to AVICC once complete. There are some issues however, that will not be addressed in the proposal, including:

- Current technology used to detect tanks. Current technology may be adequate to detect all tanks in the ground.
- Funding requirements to carry out the inventories

EA Rep Marcotte asked about the timeframe for the project, with Mr. Krindle responding that a 1-year timeframe has been proposed, but is dependent on funding. Director Moglove indicated that reimbursing property owners for participating in the inventory is a possible model for encouraging access to property for the scan.

The University of Victoria Environmental Law Clinic recommends that the province and local governments legislate:

- Mandatory physical requirements for home heating oil tanks and equipment;

- Requirements for tank system replacement and upgrades;
- A requirement that the tank systems be registered;
- Mandatory regular inspection systems;
- Require every installer of home heating systems to ensure that old oil tanks have been properly decommissioned;
- Require proper decommissioning of any tanks that no longer meet certification;
- Governments should consider legislating absolute liability for oil companies for any subsequent spills from a tank they fill;
- Subsidies to homeowners to change the cleaner home heating options;
- Establish a public insurance fund paid by surcharge on fuel to pay for spills from the property of those homeowners who have self-identified as having a tank.

B. Watershed Legislation

Jared Wright, Director of Advocacy and Government Relations, UBCM

Mr. Wright joined the meeting as a delegation to speak to current initiatives underway that involve watershed management and legislation in B.C.

Mr. Wright provided an overview of current activities, including; over 12 resolutions have been endorsed at the UBCM dealing with the watershed protection issue. The UBCM has sought opportunities to engage membership on this issue through;

- Open dialogue through Convention and conferences;
- Supported the Collaborative Governance Accord;
- Engaged the Province on the proposed Water Sustainability Act (WSA)

The Accord was presented to UBCM membership this year, with local government support. There still exists the opportunity to massage the elements of the Accord if need be. Mr. Wright has suggested to the committee that Private Forest Landowners be invited to engage on the Accord as signatories, and will continue to push for their involvement.

UBCM has engaged the Province on the proposed Water Sustainability Act, in order to ensure regional concerns were addressed. There have been 2 rounds of consultation. The legislative proposal has been released with a November 15, 2014 deadline for feedback. There is a potential to develop Watershed Sustainability Plans under the WSA, could consider activities on both crown and private lands. Mr. Wright said he would follow up on Director Moglove's question on whether or not Watershed Sustainability Plans would be made mandatory under the proposed WSA.

Second Vice President Price joined the meeting at 11:50 AM

Members of Executive expressed the following concerns/observations;

- Climate change concerns on top of existing watershed management issues, exacerbating the problem. Also that the biggest private landowners of privately managed forest lands needs to be engaged in the initiatives underway, e.g. the Collaborative Watershed Accord;
- Many local governments need to secure water quality and supply, there seems to be a history of agreements with private forest landowners not being honoured. Furthermore, it is cost prohibitive for local governments to purchase land from private landowners to secure a sustainable water supply;

- Concern that logging practices are of great concern on privately managed forest lands versus industrial logging activities on crown land which are heavily managed;
- There seems to be a premium placed on industrial versus residential water use;
- Need to start looking at increasing the size of riparian buffer zones on private land;
- Need a moratorium placed on industrial forest activities on private managed forest land until adequate baseline information and legislation in place to protect the drinking water supply of local populations.

It was mentioned that the UBCM Environment Committee was going to be meeting for the first time in November and might be a good opportunity to get this issue identified as work priority for the Committee. Mr. Wright indicated that a Working Group has not been tabled for this issue, and that a request would need to first be vetted through the UBCM Executive.

On a motion by First Vice President Solda, seconded by Director Moglove a letter be drafted and sent to UBCM President Martin requesting a UBCM working group be struck on the issue of watershed management on private managed forest lands, with local representation was
CARRIED

On a motion by Director Brame, seconded by First Vice President Solda, That a response to the proposed Water Sustainability Act be forwarded to the Province of B.C. by November 15th, 2014 deadline was
CARRIED

C. Trans Mountain Pipeline Expansion Project (Kinder Morgan)

Michael Davis, Senior Director – Marine Development, Trans Mountain Expansion Project, Kinder Morgan Canada Inc.

Sheran Bathurst, Stakeholder Engagement & Communications (Vancouver Island and Gulf Islands), Kinder Morgan Canada Inc.

Mr. Davis provided an overview of the current NEB application by Kinder Morgan Canada Inc. for the Proposed Trans Mountain Pipeline Expansion Project. The application is expected to be submitted to the NEB by December 2013.

- Proposed expansion to 890,000 bpd, **Long-term Contract: 708,000, Spot Market: 182,000**
 - Scheduled in-service 2017
 - Total capital investment \$5.4B
 - 21 new storage tanks at existing facilities
 - 11 new pump stations at 10 existing locations
 - Three loading berths plus one utility berth with spill response equipment
 - 36 inch pipeline diameter full length of pipeline

With respect to the marine route for tanker traffic:

- Transit follows established traffic separation scheme (CCG and USCG)
- Traffic is monitored by vessel traffic services (CCG and USGC)
- Aids to navigation maintained by CCG and USCG

- PMV and Transport Canada rules and regulations in place
- BC Coast Pilots (certified by Pacific Pilotage Authority) onboard between Victoria and Terminal
- 2 Pilots during loaded transit
- Tug escort arrangements using tethered tugs during harbor transit (loaded and ballast)
- Up to 4 tugs during departure
- Tethered purpose built escort tug through Haro Strait and Boundary Pass (loaded)

Current Studies Underway for the NEB application:

- Quantitative Risk Assessment (DNV)
- Complete suite of studies required by TERMPOL and NEB
- Key items:
 - Identify credible incident locations
 - Identify credible outflow (spill) volumes
 - Carry out initial study suite on fate & behaviour of diluted bitumen spills in marine environment
 - Conduct spill modeling – include output information from fate & behaviour study (Stochastic, Deterministic, 3D Simulation, Spill Calc Model, Waves (SWAN) Hydrodynamic, Adios 2, Advection, Wind, Air (Calpuff), 2012 Met Data)
 - Apply spill model output towards response planning
 - Update best practices as deemed necessary
- Marine Environmental and Socio-economic Assessment
 - Normal Operations
 - Accidents and Malfunctions

Western Canadian Marine Response Corporation is responsible for spill response and coordination. Can currently respond to 10,000 tonne spill, with a 72-hour response time. Kinder Morgan is waiting for the Federal Government (Tanker Safety Expert Panel) to release a spill response regime and planning standards “Canada’s Marine Oil Spill Preparedness and Response Regime on behalf of the Minister of Transport, Infrastructure and Communities”, which may alter standards and requirements for spill response.

There is currently a provincial (BC) review in place. In the next month or so, can expect to see what the future of spill response in B.C. will look like.

Executive meeting broke for lunch at 12:30, and agreed to a working lunch

Discussions with the Kinder Morgan delegation continued:

AVICC Executive expressed:

- 72 hours is too long for spill response, a lot of damage can happen in that amount of time. The delegation noted that the WCMRC can respond faster than 72-hours, but that time frame can be improved upon. Mr. Davis also noted that although it is the oil industry that pays for the spill response capacity in the country, it is a service that is utilized and available to many people and companies.
- Asked about mitigation activities in place, as spills could have devastating impact on communities and their economies, would like to see mitigation focused on just as much as recovery plans.

Mr. Davis noted that in Canada, liability and compensation for ship-source oil spill pollution are governed by the *Canada Shipping Act* and *Marine Liability Act*. Both acts reflect Canada's commitment to international conventions administered by the International Maritime Organization (IMO), such as those regarding the International Oil Pollution Compensation (IOPC) Funds. Conventions limit the liability of the Responsible Party (ship owner) and establish sources of funding for clean up and compensation for damages. Up to \$1.312 billion is available for an individual spill. Executive questioned whether that would be adequate coverage.

Responsible Party's Protection & Indemnity Insurance

The Responsible Party's liability is limited based on ship tonnage to a maximum of approximately \$138 million and would normally be paid by insurance (IOPC Funds, 2012). For ships between 5,000 and 140,000 units of tonnage, the 1992 *Civil Liability Convention* limits the liability of the ship owner to \$6.95 million for the first 5,000 tonnes, plus \$972 for each additional tonne (IOPC Funds, 2008).

International Oil Pollution Compensation (IOPC) Fund, 1992

Under the 1992 *Fund Convention*, this fund becomes available for spills of persistent oil once the Responsible Party's liability limit is reached. It provides up to an additional \$174 million for a cumulative total of up to \$312 million (IOPC Funds, 2012).

International Oil Pollution Compensation (IOPC) Supplementary Fund

According to the *Supplementary Fund Protocol*, this fund becomes available for spills of persistent oil once the 1992 fund is exhausted. It provides up to \$840 million for a cumulative total of up to \$1.152 billion (IOPC Funds, 2012).

Canada's Ship-source Oil Pollution Fund (SOPF)

Under Canada's *Marine Liability Act*, this fund becomes available when both IOPC funds are exhausted and provides up to \$160 million for a cumulative total of up to \$1.312 billion. Initial claims can be made to this fund and the administrator will take over the task of recovering costs from the Responsible Party and IOPC funds (Office of the Administrator of the Ship-source Oil Fund, 2012).

First Vice President Solda mentioned a Port Alberni study on diverting some tanker traffic to Port Alberni.

1. MINUTES

On a motion by Past President Stanhope, seconded by EA Representative Marcotte, That the minutes of the June 19, 2013 and September 6, 2013 Executive meetings be adopted was CARRIED

2. REPORTS

a) President's Update

Mayor Cross reported on his attendance at a MIABC conference where a presentation on long-term strategies under climate change was discussed.

On a motion by Past President Stanhope, seconded by Director Mostad, that the report was received and staff are directed to forward on the contact for the climate change presentation to UBCM for their interest. CARRIED

b) Executive Coordinator's Report

Staff briefly summarized the written report provided.

On a motion by Past President Stanhope, seconded by First Vice President Solda,
That the reports be received was

CARRIED

3. FINANCIAL AND ADMINISTRATION

a) Financials to September 30, 2013

On a motion by EA Rep Marcotte, seconded by Second Vice President Price,
That report be received was

CARRIED

b) AVICC Constitution & Bylaws Update for Membership

On a motion by Past President Stanhope, seconded by Director Brame,
That the report be received and the proposed process for handling of membership
applications and new members be approved was

CARRIED

4. CONVENTION

a) Debriefing AVICC Luncheon at 2013 UBCM Convention

On a motion by Past President Stanhope, seconded by First Vice President Solda,
That the report be received and that President Cross, Director Moglove and staff
communicate feedback that has been provided for incorporation into future years planning
was

CARRIED

b) 2014 AVICC AGM & Convention Program Planning

On a motion by Past President Stanhope, seconded by Director Brame,
That the report be received and that staff extend an official invitation to Trevor Greene, with
the understanding that a firm commitment from Mr. Green must be secured immediately,
and that a donation in the amount of \$4000.00 be provided to the Greene Family Education
Initiative if he is secured as the Keynote Speaker. If Mr. Greene cannot provide a firm
commitment, staff are then directed to extend an official invitation to Deb Grey was

CARRIED

c) Networking and Partner Events

On a motion by First Vice President Solda, seconded by Director Brame,
That the report be received and the following feedback be incorporated into Convention
planning was

CARRIED

Entertainment for Annual Banquet

AVICC Executive - First Choice: Eddie and the Funk

AVICC Executive - Second Choice: The Buddy Holly Show

First Vice President Solda directed staff to investigate the above entertainment options with
respect to the following;

- 1) Socan Fees
- 2) Writer Fees
- 3) Sound/AV Costs

Shuttle Service

On a motion by First Vice President Solda, seconded by Director Brame,
That the report be received and that shuttle service for the following Convention events will
be offered: the Annual Banquet, Partners Program and Pre-Convention Study Tours.
Furthermore, staff are directed to offer a carpool list on both the Convention website, and at
the hotels where delegates will be staying was CARRIED

d) Pre-Convention Program Planning

On a motion by Director Mostad, seconded by Second Vice President Price,
That the report be received and that direction from Executive be incorporated into the
planning was CARRIED

On a motion by Director Moglove, seconded by Director Brame,
That staff follow up on securing the following choices for the Pre-Convention Program

- 1) Study Tour of the North Island Wildlife Recovery Centre
- 2) Tour of the New Oceanside Health Care Facility
- 3) Vancouver Island University Milner Garden Tour

Was CARRIED

e) Chinese Consulate Event

On a motion by Past President Stanhope, seconded by Director Moglove that the report be
received and that staff are directed to explore sponsorship options for the Chinese Consulate
into the event without bumping current sponsors was CARRIED

f) 2014 Resolutions & Nominations

On a motion by First Vice President Solda, seconded by EA Rep Marcotte,
That the report be received, and that Monday, February 24, 2014 be set as the Resolutions
and Nominations deadline, and that the draft cover memo be approved and accompany the
Resolutions Notice and Call for Nominations was CARRIED

g) 2014 Sponsors & Sponsorship Policy

On a motion by Past President Stanhope, seconded by Director Brame,
That the report be received and that the drafted section outlining new sponsorship policies
be incorporated into the Executive Policies, that all prior year's sponsors be invited to
continue their sponsorship in the coming year, and that the benefits for the various levels and
the associated benefits be approved was CARRIED

h) Staff Attendance at Sister AA Conventions

On a motion by Past President Stanhope, seconded by First Vice President Solda,
That the report be received and that AVICC Executive Policy Section 11.1 (d) be revised as
follows:
(d) Presidents and staff of the four sister area associations will receive complimentary full
registrations

And that the AVICC staff travel allocation be increased to accommodate attendance at one
area association Convention every two years was CARRIED

5. POLICY

a) Watershed Legislation

b) FortisBC and Natural Gas Operating Agreement

Past President Stanhope provided a status update on the Gas Operating Agreement.

On a motion by Director Moglove, seconded by Director Brame,
That the report be received was

CARRIED

c) Derelict Vessels

On a motion by First Vice President Solda, seconded by EA Rep Marcotte,
That the report be received, and that a letter be forwarded to Minister Thompson in follow-up to the commitments made at the September 17th, 2013 meeting was

CARRIED

d) Rural BC Project

On a motion by EA Rep Marcotte, seconded by Second Vice President Price,
That staff be directed to invite the Rural BC representatives to the January Executive meeting as a delegation was

CARRIED

Depending on what results from the presentation at the January Executive meeting, may consider inviting them to submit a proposal for a business session at the 2014 Convention.

e) Home Heating Oil Spills Delegation

f) Trans Mountain Pipeline Expansion Project Delegation

6. CORRESPONDENCE/COMMUNICATION

On a motion by Director Moglove, and seconded by Second Vice-President Price,
That the correspondence be received was

CARRIED

7. Next Meeting

11:00 am – 3:00 pm, January 17, 2014
Regional District of Nanaimo, Nanaimo, BC

The meeting was adjourned at 2:20 pm.

Mayor Larry Cross
President

Shelley Webber
Executive Coordinator