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## **Municipal Special Council Meeting Agenda**

**Tuesday, August 15, 2023 – 9:00 a.m.**

**MODL Council Chambers – 10 Allée Champlain Drive, Cookville**

- 1. Call to Order**
  - 1.1 Mi'kma'ki Territorial Acknowledgement
- 2. Announcements, Acknowledgements, Recognition**
  - 2.1 National Acadian Day
- 3. Public Input (15 Minutes)**
- 4. Changes/Approval of Agenda (as circulated)**
- 5. Awarding of Tenders/RFPs**
  - 5.1 Award of REOI #2023-05-500 Solar Energy Project, Conquerall Bank  
Wastewater Treatment Plant ..... 1-2
- 6. Staff Reports**
  - 6.1 Recreation, Parks & Trails**
    - 6.1.1 Grant Application – Lunenburg Doc Fest ..... 3-4
    - 6.1.2 Cape LaHave Conservation Easement ..... 5-8
    - 6.1.3 AT Project re Paved Shoulders, Mahone Bay to Martins River Bridge ..... 9-14
  - 6.2 Administration**
    - 6.2.1 Housing Accelerator Fund Application ..... (to be circulated)
- 7. Adjournment**

**Special Council**  
Item: #5.1  
Date: August 15, 2023  
Authorization: T. MacEwan



## **Municipality of the District of Lunenburg**

### **Request for Decision**

**Report to:** Council

**Submitted by:** Jamie Burgess P.Eng, Municipal Engineer

**Date:** August 15, 2023

**Re:** Award of Request for Expression of Interest (REOI) 2023-05-500 Solar Energy Project - Conquerall Bank Wastewater Treatment Plant

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#### **Executive summary**

Increasing amounts of carbon dioxide and other greenhouse gases (GHG) in the atmosphere are a leading cause for climate change. MODL declared a climate emergency in 2019 and is working towards reducing GHG emissions from its municipally owned facilities by investing in cleaner energy technologies, such as solar. This project will specifically address the Climate Change Action Plan Strategic Priority in an effort to achieve net zero emissions for municipal facilities. This solar installation will also be the first solar array on a MODL wastewater treatment facility.

#### **Discussion**

A Request for Expressions of Interest (REOI) was issued on June 19, 2023, and closed July 18, 2023. The REOI outlined the project which included supply and construction of a ground mounted solar array that would be eligible to participate in the Net Metering Program offered by Nova Scotia Power. Only one (1) proposal was received by the closing date and time. The response received is summarized in the table below:

| Contractor | Cost Excluding HST | Cost Including Net HST |
|------------|--------------------|------------------------|
| Polaron    | \$49,996.80        | \$52,139.66            |

#### **Budget implications**

This project was included in the 2023-2024 Capital Budget with a value of \$100,000.00.

## Strategic plan

This project aligns with the Climate Change Action Plan set by Council in the 2023-2025 MODL Strategic Priorities.

## Work plan

The Solar Energy Project – Conquerall Bank Wastewater Treatment Plant is included in the 2023-2024 Capital Budget with a total budget figure of \$100,000.00 and is to be completed within 2023-2024 fiscal year.

## Options

1. The only Proposal received contained sufficient insurance and Workers Compensation Board (WCB) coverage, but does not include the required safety certification. The Municipal Solicitor has advised that Council has the ability to waive any criteria contained within the procurement document allowing Council to award this REOI to Polaron Ltd. If this project is awarded to Polaron Ltd., it could still proceed as planned and be completed this fiscal year.

Council authorize staff to award REOI 2023-05-500 Solar Energy Project – Conquerall Bank Wastewater Treatment Plant to Polaron Ltd in the amount of \$52,139.66 including net HST.

2. Defer the work contained in REOI 2023-05-500 Solar Energy Project – Conquerall Bank Wastewater Treatment Plant with the intention that some of the Solar contractors will have safety certification in the future.

## Conclusion

Following the closing of REOI 2023-05-500 Solar Energy Project – Conquerall Bank Wastewater Treatment Plant only one (1) proposal was received and not all the required criteria were included in the submission, specifically certification of valid safety accreditation.

| Report Preparation      |   |
|-------------------------|---|
| Department              | Engineering & Public Works                                      |
| Report Prepared by      | Jamie Burgess, Municipal Engineer, & Tyler Richardson, Engineer |
| Report Approved by      | Tom MacEwan, CAO  |
| Date Reviewed by C.A.O. |   |

**Special Council**  
Item: #6.1.1  
Date: August 15, 2023  
Authorization: T. MacEwan



## **Municipality of the District of Lunenburg**

### **Request for Decision**

**Report to:** Municipality of the District of Lunenburg Council  
**Submitted by:** Ruth Wawin, Tourism & Event Development Officer  
**Date:** Aug 15, 2023  
**Re:** Major Events Grant Application Lunenburg Doc Fest -Docs on the Dock

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#### **Recommendation**

That Municipal Council approves the Lunenburg Doc Fest application for funding through the Major Event Grant in the amount of \$1,000.

#### **Executive summary**

The application satisfies the Major Events Grant's purpose of growing large-scale events that create a positive economic impact for the Municipality.

As per the Approval Process and Procedures of the Community Grant Program/Sponsorship Request Policy MODL043, applications requesting more than \$2,500 require Council's approval. It is the recommendation of staff to approve the Lunenburg Doc Fest's grant application in the amount of \$1,000 for the Docs on the Dock community event taking place August 28th, September 4th and September 11<sup>th</sup>.

#### **Discussion**

The Lunenburg Doc Festival celebrates its 10<sup>th</sup> anniversary September 21st-27th. For three consecutive Monday's leading up to the festival, curated documentaries will play on an inflatable screen on Zwicker's Wharf. This free community event, 'Docs on the Dock' is visible to participants from both the wharf and the water so that individuals on moored boats can enjoy the show. Docs on the Dock was piloted last year and was deemed a success, the event is intended to build excitement and viewership for the Lunenburg Doc Festival.

The Lunenburg Doc Festival has a loyal audience that travels from nearby communities and as far as Halifax, these individuals contribute to the local economy through overnight stays, dining at restaurants, attending cafes and shopping at local businesses. The Lunenburg Doc Festival prioritizes buying local whenever possible, purchasing food from local caterers, renting local venues, and by using local printer services.

The application for Docs on the Dock included a funding request for \$6,000, given the size of the event, and to ensure we maintain funds in the budget for future Major Event Grant Applications during this fiscal, the recommended amount of funding to approve for this event is \$1,000.

### **Budget implications**

The approved amount is within budget.

### **Strategic plan**

Funding this event aligns with the Municipalities' Values of Thriving Communities. Community events such as Docs on the Dock provide educational and cultural enrichment opportunities for residents. These events provide opportunities for people to come together, connect, and engage with each other.

Approving this grant application is in alignment with MODL's mission of being sustainable community builders by bringing people together and fostering a sense of community among residents.

### **Alternatives**

- 1) Approve the recommended amount of \$1,000.
- 2) Approve an alternative amount of funding.
- 3) Do not approve funding request.

### **Conclusion**

The application submitted by the Lunenburg Doc Fest meets the eligibility requirements for the Major Events Grant as laid out in Community Grant Program/Sponsorship Request Policy MODL043. It is the recommendation of staff to approve the Lunenburg Doc Fest grant application for \$1,000.

| <b>Report Preparation</b>      |   |
|--------------------------------|---|
| <b>Department</b>              | Recreation, Parks & Tourism                     |
| <b>Report Prepared by</b>      | Ruth Wawin, Tourism & Event Development Officer |
| <b>Report Approved by</b>      |   |
| <b>Date Reviewed by C.A.O.</b> |   |

**Special Council**  
Item: #6.1.2  
Date: August 15, 2023  
Authorization: T. MacEwan



## **Municipality of the District of Lunenburg**

### **Request for Decision**

**Report to:** Council

**Submitted by:** Trudy Payne, Director of Recreation, Parks, & Tourism

**Date:** August 15, 2023

**Re:** Cape LaHave – Conservation Easement – Amending the Acts of 1897, the Lunenburg Commons Lands Act

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#### **Recommendation**

That Council authorizes the further amendment of Section 4 of Chapter 72 of the Acts of 1897, the Lunenburg Common Lands Act (as amended) to add the following subsection immediately after subsection 5: (5A) Notwithstanding subsection (2), the municipal council may grant a conservation easement with respect to the common lands on Cape LaHave Island.

#### **Background**

At the November 26, 2019, Council meeting, Council made the following motions:

“that Municipal Council accept the recommendation of the Policy & Strategy Committee and direct staff to develop a Conservation Easement with the Nova Scotia Nature Trust for Cape LaHave Island and to bring the Agreement back to a Council meeting for consideration; and further, that the Agreement developed include a community consultation process.”

“that Council accept the recommendation of the Policy & Strategy Committee and sign a Letter of Intent, as presented, to be sent to the Nova Scotia Nature Trust pertaining to Cape LaHave Island and Council’s intentions of donating a conservation easement.”

On November 27, 2019, a letter was sent to the Nature Trust Board of Directors stating “We, the Municipality of the District of Lunenburg, the beneficial and registered owner of Cape LaHave Island, located in the County of Lunenburg, Nova Scotia, and having Property Identification Number 60358793 intend to work with the Nova Scotia Nature Trust to conserve this land.” The

letter further goes on to state “Our intent in this undertaking is that this land be conserved in perpetuity in a natural and undeveloped state. We value the ecological significance of this property and look forward to working with the Nature Trust to ensure our mutual goal of land preservation is reached.”

A conservation easement is a written agreement between a landowner and the holder of the easement created to protect some or all of a property’s conservation value.

The Nova Scotia Nature Trust is designated under the Nova Scotia legislation as eligible to hold Conservation Easements.

Conservation easements create a structured and legally enforceable relationship between the Owner (MODL) of the land and the Land Trust (the Nature Trust). In such an agreement the Owner gives up some of his/her rights to use the land. The rights given up will be determined by the landowner and the Land Trust. The owner gives the Land Trust access to the land in order to monitor and enforce the conditions established in the Conservation easement, and to address any damage that might happen to the land if a condition of the easement is broken. The Land Trust commits to monitor and enforce the conditions in the easement.

The first step the Nature Trust would undertake is to do an environmental inventory which is called a baseline documentation report. This report is a description of the property’s natural and human-made features, and includes maps, photographs and possibly coordinates of certain features. This information would be recorded with the deed when the conservation easement is registered on title.

MODL would need to maintain property liability insurance and name the Nature Trust as an insured party, keep the property free of claims and liens and inform the Nature Trust of any damage to the property or breach of the easement.

Permitted and restricted uses would be agreed upon by MODL and the Nature Trust. MODL would need to abide by these provisions, and the Nature Trust would monitor and enforce these provisions in perpetuity.

MODL would not be responsible for actions of a third party done without MODL’s knowledge that damage the conservation values of the property. However, the easement would likely require MODL to work with the Nature Trust to find a mutually agreeable course of action to address the damage.

MODL would also not be liable for damage to the conservation values of the property resulting from causes beyond MODL’s control such as fires and floods. MODL would also not be responsible for damage caused by action taken under emergency conditions to prevent damage

to the property. The Nature Trust likewise is not responsible to MODL for damage occurring under these circumstances.

The Nature Trust will be looking to conduct public consultation to understand the current uses, concerns and to find out more about the Island.

### **Executive Summary**

It has been determined that, to enter into a conservation easement with the Nature Trust an amendment to the 1897 Act (an Act relating to Common Lands in the County of Lunenburg) will be required. The amendment made to this Act in 1981 to section 4 removed the authority of the municipal council to “rent, lease or sell any portion of the common lands under its control” (section 4(2)). Prior to the 1981 amendment, the Municipality did have the legal authority to do so. A private members bill is required to be taken to the House to amend the Act. Granting an easement to the Nature Trust, although donating it to them, is viewed as a transfer of some of the MODL’s property interest in Cape LaHave Island. The amendment to the Act would provide MODL the authority to enter into a conservation easement agreement.

There are a number of steps that must be undertaken to present a private members bill. One is to have Council make a resolution to request or support a Bill or amending a Bill. If Council passes the recommended motion, this step will be completed.

Another step is to arrange for an MLA to introduce the Bill. Staff have been in communication with MLA Druhan who has agreed to introduce/sponsor the Bill.

MODL’s solicitor has been in contact with the Legislative Counsel Office and has received a draft Bill for Council’s consideration, which is attached. He is satisfied with the draft as it “merely adds a section to authorize MODL Council to grant a conservation easement over Cape LaHave Island.”

If Council passes the recommended motion, a certified copy of the resolution will be forwarded to the Legislative Counsel Office along with any additional information and the MLA’s name.

The Legislative Counsel has provided MODL with a sample advertisement in which MODL will be required to post notifying the public about the Bill. Legislative Counsel will inform MODL of the date for the Private and Local Bills Committee. This is the Committee that hears presentations with respect to private and local bills.

### **Budget Implications**

There will be legal, advertising and other costs and fees related to the Bill. The Legislative Counsel will inform MODL of the approximate amount to be paid once the Bill is received.

### **Strategic Plan**

The Local Climate Change Action Plan 2030 identifies “natural Environment Protection and Conservation”, which includes land conservation.

### **Work Plan**

Entering into a conservation easement agreement has been on the workplan since Fall of 2019.

### **Alternatives**

The alternative is to not pass the recommended motion and amend it.

### **Conclusion**

Entering into a conservation easement with the Nature Trust with regards to Cape LaHave Island was a decision made by Council in November of 2019. This easement is currently not in place as it has been determined that an amendment to the Acts of 1987, the Lunenburg Common Lands Act (as amended) is required to enable MODL to enter into a conservation easement with regards to Cape LaHave Island. A resolution is required by Council in order to officially start the process to bring forth a Private Members Bill to the House of Assembly.

| <b>Report Preparation</b>      |  |
|--------------------------------|--|
| <b>Department</b>              | Recreation, Parks, & Tourism and Department          |
| <b>Report Prepared by</b>      | Trudy Payne, Director of Recreation, Parks & Tourism |
| <b>Report Approved by</b>      |  |
| <b>Date Reviewed by C.A.O.</b> |  |

**Special Council**  
Item: #6.1.3  
Date: August 15, 2023  
Authorization: T. MacEwan



## **Municipality of the District of Lunenburg**

### **Request for Decision**

**Report to:** Municipal Council

**Submitted by:** Trudy Payne, Director of Recreation, Parks & Tourism

**Date:** August 15, 2023

**Re:** Active Transportation Project – Paved Shoulders Trunk 3 from Mahone Bay northerly to Martins River Bridge

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#### **Background**

Staff were notified by the Area Manager with Public Works that the repaving project for Trunk 3, from Mahone Bay Northerly to Martins River, has been moved up in their highway program to this summer and asked if MODL is interested in cost sharing paved shoulders for this project.

This section is approximately 5.4 km with an original project estimate cost of \$600,000. This section is not part of the Blue Route and therefore, would not automatically be included in the Public Works tender, unless there is a partnership with the Municipality.

The Municipality of the District of Chester has funded paved shoulders on Trunk 3 through the entire area within the Municipality, in which there will be paved shoulders as far as Martins River by the end of 2023. If MODL made the decision to fund paved shoulders from Mahone Bay to Martins River, this would connect with the paved shoulders within the Municipality of Chester.

The Area Manager did state in an email that “If the project were to come in over budget from whatever the formal estimate and cost share agreement is, the municipality gets the opportunity to decline at that stage.”

In the 2023-2024 capital budget there is \$150,000 for Active Transportation projects. The estimated cost of this project is \$600,000 leaving \$450,000 not budgeted for, nor are there any funds in an Active Transportation reserve. The Director of Finance has stated that based on the five-year capital plan and looking at reserves, if the Municipality wanted to proceed with this project, she would advise to use future AT money now using the \$150,000 for the first four years

of the five-year capital plan, meaning the next Active Transportation project could be in 2027/2028. In looking at the Nova Scotia Public Works five-year plan the other projects eligible for paved shoulders are in 2024-2025 from Mahone Bay southerly to Martins Brook (5.7km) and trunk 10 North River Road to Annapolis County Line (6.2 km). In staff's opinion of the two proposed future projects paving the shoulders from Mahone Bay southerly to Martins Brook would be beneficial as it aligns with the MODL's Active Transportation Plan as it is on the Lighthouse route and would make a connection to this year's project if Council decides to proceed with partnering in establishing paved shoulders from Mahone Bay to Martins River.

Moving forward with this project would enable connectivity with the paved shoulder work completed by our neighboring municipality, the Municipality of the District of Chester. In MODL's Active Transportation Plan, goal 2 is "To Create Interconnectivity" meaning to "create linkages and extensions between existing and proposed active transportation infrastructure." This project would create a linkage between existing and proposed active transportation infrastructure.

Also, in MODL's Active Transportation Plan, when residents were surveyed, they stated that "The most important infrastructure improvements that might encourage people to use active transportation are, in order of importance: 1. More bike lanes/paved shoulders on selected rural roads (this was emphasized again in the open-ended responses)." The impacts from a tourism perspective staff believe would also be very positive.

One of the Regional Route Infrastructure priorities in MODL's Active Transportation Plan is to "Pave shoulders on the Lighthouse Route" on both sides. Trunk 3 is part of the Lighthouse Route.

In the very first paragraph in MODL's Active Transportation Plan under project objective it states, "By creating a well-connected, safe and functional Active Transportation Plan, the District of Lunenburg can encourage a more active, healthy lifestyle." Moving forward with this project would create a connected, safe and functional route.

The other factor to consider is that roads do not get paved annually or every five years, it is more like every 25 years, meaning the window of opportunity to create paved shoulders to encourage active transportation from Mahone Bay to Martin's River is now and this project aligns with the Municipality's Active Transportation Plan.

### **Executive Summary**

At the July 25, 2023, Council meeting Council made the following motion:

"that Council approve the Cost Share Agreement No. 2023-037 for an estimated cost of \$600,000 plus HST with Nova Scotia Public Works for the Active Transportation Project to pave

shoulders on both sides of the road on Trunk 3 from Mahone Bay northerly to the Martins River Bridge and that these funds come from the AT capital budget for the next four fiscal years beginning in 2023 and ending in 2028; and further, that the CAO and Municipal Clerk be authorized to sign Agreement No. 2023-007.”

The agreement does state that if costs “exceeds the total estimate by more than ten percent (10%), then the Province shall, before awarding a contract for the Work and subject to any confidentiality requirements outlined in its tender document and the proponent’s bid submission, provide the Municipality with the details of the successful bid, including all details pertaining to the proponent’s pricing submission as show in the attached Schedule “B” (the ‘Tender Over Estimate Memo”). The Municipality shall, within ten (10) business days of receipt of such bid details, provide the Province with written acknowledgement of it’s consent to the Province awarding the tender, which consent will not be unreasonably withheld. If the Municipality reasonably withholds its consent to the award of the tender, then the Agreement will be immediately terminated by the Province.”

The Province has provided the Municipality with the ‘Tender Over Estimate Memo” showing the tender has come in at \$834,275 as opposed to the original estimate of \$600,000, which is over by 234,275 or by 39%.

### **Budget Implications**

If the Municipality decides to move ahead with this project the impact would be using future funds allocated in MODL’s five-year capital plan and going into year 6 to pay for this project. The potential impact is that future AT projects may not be able to happen. Other budget implications are if there are any cost overruns the Municipality would be responsible to pay for the overruns.

If Council decides to proceed, other capital projects planned within the 5-year capital plan may have to be delayed.

### **Strategic Plan**

Paving shoulders fits within the Municipality Active Transportation and Active Living Strategies.

### **Work Plan**

Working on Active Transportation projects aligns with the Department’s work plan.

### **Summary**

Paving shoulders from Mahone Bay northerly to Martins River Bridge does align with the Municipality’s Active Transportation Plan and the plan specifically mentioned the Lighthouse Route. This project would also continue the paved shoulders connection to the work completed by our neighbouring Municipality, the Municipality of the District of Chester. The tender price

is substantially higher than the estimated costs received by Public Works, which would impact the capital budget for a number of years.

| <b>Report Preparation</b>      |   |
|--------------------------------|---|
| <b>Department</b>              | Recreation, Parks & Trails                          |
| <b>Report Prepared by</b>      | Trudy Payne, Director of Recreation, Parks & Trails |
| <b>Report Approved by</b>      |   |
| <b>Date Reviewed by C.A.O.</b> |   |

**2023-125 - Trunk 3 from Mahone Bay to Martins River Bridge**

| Item             | Quantity | Estimated    | Extended             | Bid          | Extended             |
|------------------|----------|--------------|----------------------|--------------|----------------------|
| Grubbing         | 3.5      | \$ 12,500.00 | \$ 43,750.00         | \$ 22,000.00 | \$ 77,000.00         |
| Excavation R&D   | 1500     | \$ 20.00     | \$ 30,000.00         | \$ 30.00     | \$ 45,000.00         |
| Compaction       | 1000     | \$ 5.00      | \$ 5,000.00          | \$ 2.75      | \$ 2,750.00          |
| Water            | 500      | \$ 10.00     | \$ 5,000.00          | \$ 10.00     | \$ 5,000.00          |
| Grading          | 21600    | \$ 2.00      | \$ 43,200.00         | \$ 3.00      | \$ 64,800.00         |
| Rock Fill        | 1000     | \$ 30.00     | \$ 30,000.00         | \$ 38.35     | \$ 38,350.00         |
| Gravel Type 1S   | 1500     | \$ 25.00     | \$ 37,500.00         | \$ 46.00     | \$ 69,000.00         |
| Gravel Type 1    | 500      | \$ 25.00     | \$ 12,500.00         | \$ 39.45     | \$ 19,725.00         |
| Tack             | 1000     | \$ 3.00      | \$ 3,000.00          | \$ 3.50      | \$ 3,500.00          |
| PGAB             | 160      | \$ 900.00    | \$ 144,000.00        | \$ 1,300.00  | \$ 208,000.00        |
| Asphalt Type CHF | 2900     | \$ 80.00     | \$ 232,000.00        | \$ 99.00     | \$ 287,100.00        |
| Engineering      | 1        | \$ 14,050.00 | \$ 14,050.00         | \$ 14,050.00 | \$ 14,050.00         |
| <b>Total</b>     |          |              | <b>\$ 600,000.00</b> |              | <b>\$ 834,275.00</b> |

**MEMO - URGENT**

**To:** Trudy Payne  
**From:** Craig Smith  
**Email:** craig.smith@novascotia.ca  
**Date:** 8 August 2023  
**Re:** Agreement 2023-037 – Trunk 3 widening  
**CC:** Laura Cunningham  
**# Of Pages:** 1

RE: Construction Agreement 2023-037 – Estimated Project Cost Increase (Tender Bid)

As per clause 7 of agreement 2023-037, the Province is required to notify the Municipality of the District of Lunenburg in writing of any cost overruns of more than 10% of the estimate provided on the signed agreement.

The Department is prepared to proceed with this work, but the Municipality’s approval of the increased costs is required to award the tender.

An **immediate response** is requested so that this project does not delay the awarding of the tender. Complete the attached page and return by email asap, but no later than the details outlined in the signed agreement.

**To:** Craig Smith  
**Email:** craig.smith@novascotia.ca  
**CC:** Laura Cunningham (laura.cunningham@novascotia.ca)

The Municipality of the District of Lunenburg agrees to proceed with the project **as indicated** below.

| Project Name     | Original Estimate | Tender Amount    | New Cost Share Amount | % Over/Under original estimate |
|------------------|-------------------|------------------|-----------------------|--------------------------------|
| Trunk 3 widening | \$600,000 +Tax    | \$834,275.00+tax | \$834,275.00+tax      | +39%                           |

\_\_\_\_\_  
Signature (Authorized signee)

\_\_\_\_\_  
Date (Month/Day/Year)

\_\_\_\_\_  
Name and Title (Print)