



Greenways Nova Scotia

Volume 3 Issue 2

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The Perils of Consultation

Special points of interest:

- **Consultation: The Good, The Bad and the Ugly**
- **What people are saying- two editorials**
- **Greenways Director greens his house**
- **Paradise- what now?**

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Dictating is easy. Consulting is hard.

Consulting is risky for everyone- for developers, government bodies, or project proponents. It is even more risky for citizens being consulted. People know when they are being asked to carry an unreasonable burden or live with an ongoing problem in their community or damage to their environment. Gov-

ernments who consult thus risk pushback from alert voters or the sinking of pet projects or policies. And if they use their power to ma-



nipulate process so they can win the battle, they may lose the war. They

slip on the banana peel, so to speak, of cynical, disengaged or outraged voters. Everyone wins when consultation by those who hold power is done respectfully, ethically, and wisely. Everyone loses when that does not happen.

This issue of our Greenways newsletter is all about consultations, from horror stories to hopeful trends.

Treading on Paradise: A Tale of Two Consultations

The Paradise Active Healthy Living Society (PAHLS) is appealing a judge's ruling that the Minister of Natural Resources, as "owner" of an abandoned rail corridor deeded from the Trans Canada Trail, is not bound by policy or fair procedure in decisions about that property's use. PAHLS argues that the Minister holds this land in public trust, and arbi-

trary use of this ministerial "ownership" leads to absurdity. Court proceedings brought startling information to light, which should be of concern to all Nova Scotians. Government affidavits agree that an extensive Rails to Trails consultation which gave Paradise a non-motorized status for the rail bed in question correctly followed policy guidelines. **(continued on pg. 2)**

Treading on Paradise (continued from pg. 1)

It was agreed by DNR staff that motorized use was unwanted and inappropriate in Paradise. The Minister conveyed his decision to all concerned: after a two-year “sunset” period, motorized traffic must cease through Paradise, with or without an alternate route for Off-Highway Vehicles.

Knowing the government’s push for a continuous Off-Highway Vehicle motorway through rural communities, Paradise felt fortunate. Many signed a thank you note to the Minister. In January, 2008, as promised, a new Minister finalized the decision, placing barriers, as per the Trails Act, at either end of the Paradise rail bed. But OHV organizations complained, and within days of the barriers going up, a detailed construction plan for a motorized trail through Paradise had been prepared! Everything abruptly changed. Briefing notes from senior bureaucrats began to reframe the Minister’s wording and intent. Paradise now needed “resolving”. Barriers were “temporary”. The matter became political. The Premier himself, Rodney MacDonald, joined the reinvention to “resolve” Paradise, directing his Minister to re-think, as the Leader of the Opposition, Stephen MacNeil, was “agitated” about the Paradise trail:

“Given that they have not been able to solve this issue locally....I’d like to open it up again-MacNeil and I discussed this and agree on the direction- I gave him my word that this would be done as it relates to earlier commitments (sic) from this past winter.”

The Minister’s original written decision which had so carefully followed policy disappeared, literally at one point, until someone found it, but it was still ignored.

In March, 2008, DNR’s Executive Director of Strategic Planning accepted a startling proposal. It came from Health Promotion and Protection’s “Coalition” of motorized valley trail groups. The

“intended action” was that the Coalition would build a motorized trail through Paradise, singling out two of the affected homeowners to have berms or fences near their front or back doors. DNR would give the Coalition \$50,000. A secret “summit” meeting between high-level bureaucrats and selected representatives was held.

The “intended action” was that the Coalition would build a motorized trail through Paradise... DNR would give the Coalition \$50,000.

And a government-controlled consultation was set up to window-dress the whole plan. This second consultation process, a one-day affair, was so poorly monitored and so contrived that no one involved in it could explain it in court proceedings. Worse, the signed submissions of nearly 80% of adjacent homeowners were deliberately buried and not included in the facilitator’s report. The barriers came down, and the Coalition moved in with construction machines. But their plan failed when the targeted

homeowners held firm and did not consent to the berms and fences, in spite of tremendous pressure and personal health issues. The Coalition’s Interim Letter of Authority was abruptly suspended when their employee falsely claimed to have their consent. (conclusion on pg. 6)



Paradise Trail June 2012—four driveways just ahead

CONSULTATIONS: WHAT WORKS

Models Examined and Reviewed

1. Information meetings

Proponents or government invite the public or specific groups to attend an information session. Questions may be asked, but will have no impact on decision-making.

Benefits: Sometimes the information is important for the public to have. Knowledge gained can help citizens to offer ongoing input.

Drawbacks: People are frustrated when there is no opportunity for their input.

2. Public Meetings

A public announcement is issued as to time and place, and anyone can attend.

Benefits: This process is an open forum and allows participants to say exactly what they wish to say.

Drawbacks: Organized interest groups can pack a meeting and drown out opposing views or reasonable evidence. Bullying, intimidation, and adversarial shouting matches have been known to take place.



Those who are not able to attend or choose not to because of intimidation will miss this chance to give input.

3. Roundtable discussions:

The attendees are divided into groups and engage in face to face discussions. They are generally given specific questions to answer or are guided to discuss a particular aspect of a problem. A recorder presents each table's points.

Benefits:

- ◆ This model prevents the kind of intimidation or monopoly of time that public meetings can allow. Each person's contribu-

tion is of equal value.

- ◆ The face-to-face conversations foster mutual understanding and respect, and can actually generate new ideas or solutions. The formation of relationships among stakeholders of diverse views can be invaluable in conflict situations.

Drawbacks:

- ◆ There are physical limitations to the numbers of attendees.
- ◆ The quality of the engagement will depend on the skill of the facilitators and the material given to the groups to discuss.
- ◆ The desire to give all points equal value means the most creative and appropriate responses may be buried among all the others and lost.
- ◆ Recorders with their own agendas may manipulate the all-important table reports.

4. Citizen Jury or Planning Cells

First used to overcome the limitations of standard consultation processes for complex scientific issues of public importance, they are now used worldwide for many purposes. A citizens' jury brings together a group of 12-20 randomly chosen citizens into a panel that matches a profile of the community at large using selected criteria. It takes place over a number of days during which the panel is given detailed balanced information about the issue, hears a wide range of views from expert presenters (or 'witnesses'), and is able to question the presenters as well as seek out additional information. It is organized in consultation with an advisory committee, (and sometimes an additional stakeholder reference group), which is responsible for ensuring the integrity and credibility of the project and

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and the high quality of witnesses. A neutral facilitator supports the panel by managing group dynamics and information flow. A chair oversees contributions from the presenters and makes sure they respond to the jury's questions appropriately (sometimes the role of chair and facilitator is combined). The jury deliberates in a variety of formats such as small group discussion, brainstorming and full panel discussion, and concludes with the panel preparing a report which records its recommendations and any dissenting points of view.

Benefits:

- ◆ The results are likely to provide the best possible recommendations in the specific circumstances involved.
- ◆ The citizens' jury is the least susceptible of any model to bias, manipulation, and abuse of power.

Drawbacks:

- ◆ The logistics of organizing such a panel call on many resources.
- ◆ The formation of the jury requires research, unbiased decisions, and the political will to provide fairness and competence free of undue influence by special interest groups.
- ◆ Much depends on the skill of the facilitator or chair.
- ◆ Government may choose to override its recommendations.

5. Voluntary Planning

Volunteers with credible backgrounds set up panels, and engage in extensive meetings and interviews with ordinary citizens or expert representatives. They develop recommendations to submit to government.

Benefits:

- ◆ As a basis for legislation or policy development it is superior to internal planning by senior bureaucrats who may find them-

selves simply following the political direction of the Cabinet of the day.

- ◆ Its honesty and lack of political bias offer a good chance that public good will be foremost in legislative or policy decisions.

Drawbacks:

- ◆ Like the Citizens' Jury, Voluntary Planning may find that its wisdom is ignored by those who find its recommendations politically unpalatable.
- ◆ The present government has dismantled Voluntary Planning.

6. Standing advisory board

Advisory Boards are permanent committees made up of stakeholders or experts. The primary requirement for those holding a seat on the Board is their ability to make a contribution.

Benefits:

- ◆ It can stabilize the evolution of policy and ad hoc decision-making.
- ◆ It gives bureaucracy balanced input, acting as a permanent and arms-length Review Board.
- ◆ It goes beyond stakeholder conflicts, blending some aspects of a citizens' jury or voluntary planning. For instance, a Provincial Trails Advisory Board might include not only the trailbuilders or user groups, but such members as adjacent homeowners in proximity to the trails, civil engineers, cost managers, qualified surveyors, watershed experts, watercourse and drainage technicians, environmental experts on species at risk, agricultural representatives, woodlot owners, municipal representatives, and kinesiology or recreational academic researchers.

Drawbacks:

- ◆ As we saw with the now-defunct Off-Highway Vehicle Ministerial Advisory Committee, balance can be lost if the
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appointments favour industry or a particular direction the government has chosen.

7. Professional Consultants

A consulting firm is given terms of reference to study the validity of proposals or even to draw up proposals. The firm may or may not work with a selected committee. It may be commissioned to create a project or a proposal.

Benefits:

- ◆ A good consulting firm is above bias and manipulation and has the resources to do the work required in an efficient and trusted manner.

Drawbacks:

- ◆ Much depends on the terms of reference provided by the hiring entity.
- ◆ If the result is unwelcome to the body which holds most power, it may ignore the study or simply commission another.

Summary: It is clear that without trust, integrity, and political will, no model of consultation is immune from risk to proponent and citizen alike. The Solution? Earn the trust. Only when procedures are fair and the consultations are actually used in decision-making can the drawbacks be overcome. If consultations are used as cover for decisions already made, or are structured to favour the bias of the group with the most power, citizens will cease to participate. Nothing could be worse for our democracy.



Nova Scotia, We Have a Problem by Bob Connell (published in the Chronicle Herald, May 19, 2012)

Raymond Plourde of the Ecology Action Centre says thousands of Nova Scotians who participated, in good faith, in the Natural Resources strategic review process have been shunted aside. He calls it a “slap in the face” (“NDP chops down pair of proposed changes to Crown lands bill,” May 12).

Yes. We, among many, were invited to meet with the Department of Natural Resources’ expert panel, parks and trails, who recommended a review of the “shared use” trails policy (motorized trails by default). They recommended active transportation (e.g. walking and cycling) as a priority for populated areas. Motorized trails could continue in more remote areas. Both recommendations disappeared in the final report.

Our organization, Greenways Nova Scotia (formerly NSPACTS), promotes green, quiet trails for our communities. Non-motorized trails are celebrated worldwide for their measurable benefits to population health, culture and heritage, experiential tourism and property values. But in Nova Scotia, the greenways movement has been stifled by

government policy. Communities are denied greenways in favour of industrial interests, unless they can prove they are somehow “exceptional.” The norm is to allow Off-Highway vehicles on railbed trails, even when they go through residential areas and near homes. Not even the courts have levelled this playing field for communities.

The Expert Panel are not the first to advise the government against this concept. In 2004 the Voluntary Task Force on Off-Highway Vehicles, “Out of Control”, recommended that while rail beds might be suitable for Off-Highway Vehicles in some places, a different approach should apply to residential communities or rural areas near homes. The Provincial Action Plan of 2005 referred to prohibited sections. And finally, credible surveys by professional consultants, municipalities, and community groups show consistent rejection of OHV use on rail beds through communities. A wealth of data has been ignored or suppressed. For example, in St. Margaret’s Bay 86% of respondents wanted an ATV-free trail; we know this only through a Freedom of Information request. It took the recent Paradise court case to learn that nearly 80% of adjacent homeowners there signed statements that a motorized trail would harm their (continued on pg. 8)

Aerial view of one section of Paradise



“They ride on roads and sidewalks, and trespass through the Pre-School and other properties to access the rutted, damaged trail” [Note Paradise Lane, upper left, frequently used by OHV’s who travel along Highway 1, centre, to get to trail, yellow line, through some of these properties]

PAHLS filed legal action, and that process continues. Meanwhile, OHV’s travel through Paradise, close to many homes, as they choose. They ride on roads and sidewalks, and trespass through the pre-school and other properties to access the rutted, damaged trail, within metres of the homes of Paradise. For what purpose did

a whole bureaucracy work to reverse a Ministerial decision made in the best interests of a community? Greenways are a benefit, not a crime. They are a good decision, not a bad one that needs overturning. “ Why is this so hard in Nova Scotia?” PAHLS is asking.



Paradise has recently won the prestigious Lt. Governor’s Community Spirit Award– five community groups, including PAHLS, worked toward this goal.

View from Steeple– rail bed, unseen in this photo, is to the left. Paradise Lane is upper right

Province on the Wrong Track by Don Wellon (published in the Chronicle Herald on May 31, 2012)

Greenways Nova Scotia and the Ecology Action Centre have both called the Department of Natural Resources' new "strategic review" what it is -- a not-very-strategic sham that pretended to consult experts and communities on land use only to ignore them. Greenways reports that despite years of "consultations" like the one just ended, nothing's changed for Nova Scotia's hikers and cyclists: the trail circling the province on the old railbed remains one long ATV and dirt bike racetrack. Recommendations that community trails should be for people, not vehicles, made it to the interim report but vanished from the final, and trailside homeowners are still exposed daily -- and nightly -- to 100 dB noise, fumes, curfew violations, trespassing, vandalism, violence, DWI, drug running, and property devaluation.

So what else is new?

This is: the stunning results of a community survey that showed up recently via a Freedom of Information application made by our homeowners' group. The community? St. Margaret's Bay. The survey? Central to a process established in the late 90s by government itself as a way (government said) for each community to choose whether as the rails came up its section of the railbed would become a greenway or a motorway. Trailside homeowners were to have the final say.

The results, suppressed by government for eleven years? In St. Margaret's a whopping 86% of those homeowners didn't want a motorized trail. Less than a third of respondents in the community overall -- just 31% -- wanted vehicles on their trail. 65% didn't. 90% said they wanted to walk the trail, not drive it. When

asked to anticipate problems, ATV use was number one. Trespassing and violence was second, noise third.

To those of us in St. Margaret's living with house-to-house hostility, spikes on our trail, dirt bikes under our bedroom windows, and ATVs plowing through our backyards, those answers seem prescient now. But one thing's gone unanswered. Following government's own process, St. Margaret's said no to a motorized trail -- and government has known that all along. So why is it here? We asked.

The Natural Resources minister of the day took four months to respond, and then only after a prompt from the premier's office. (Our MLA Denise Peterson-Rafuse, like her colleagues, believes that a rural vote is an ATV vote, and never responded at all.)

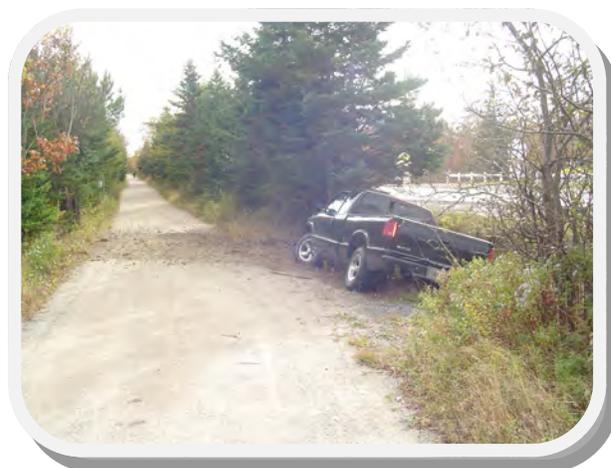
The minister said that another survey, of which he provided no evidence, showed that trailside homeowners would be OK with a motorized trail so long as their concerns were resolved. "The views and wishes of communities can change with time," he said.

So there you have it. Those of you who don't want ATVs in your face will get them anyway. Once we all behave ourselves, we'll grow to like them.

The minister also said the trail couldn't be barricaded -- as it is at either end of urban Halifax, for instance -- because scofflaws will outwit barriers. But it all seemed all right, he thought, because there was going to be a strategic review.

"When asked to anticipate problems, ATV use was number one. Trespassing and violence was second, noise third."...

But not all problems can be anticipated. Trucks on wide OHV trails have contributed to vandalism and theft problems. No one knows how this truck got on the SMB trail.



Who Are We Anyway?

News about our directors

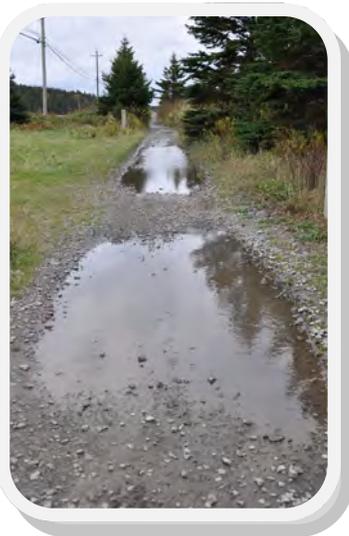
Greenways Nova Scotia has a diverse and active Board of Directors. Each is dedicated to the mandate of promoting Active Transportation trails in our communities, to the health and well-being of Nova Scotians, and to the care and protection of our environment. Take Chris Milburn, for example. Born and raised in Sydney, Chris returned in his 30's and works as an ER physician. His interests are broad. He has had a long interest in running/cycling/swimming/triathlon, has been a running coach, head of master's swim team, president of Cape Breton Roadrunners, and on the executive of Velo Cape Breton.

He is passionate about preventative health measures, and the need for healthy eating and physical activity. Chris says, "Although sport is important, it has a limited reach in the population. By far the most effective investments governments can make to promote physical activity over a wide demographic are those that make everyday physical activity natural, normal, and accessible to those in a community. And the most direct and effective way of doing this is by creating wonderful, irresistible places for people to walk and cycle."

As well, Chris is an advocate for a greener, kinder, smarter way to use our planet. Did we tell you he also has

background in Engineering/Physics/Math and almost went into solar energy research as a career, and has stayed abreast of developments in energy and house technology? We are featuring him in this issue after hearing his interviews on CBC about his "Green" house. On 4 acres of land just outside of Sydney, it is large and spectacular, yet it will use about 25 % of the heating energy of a typical house of this size. Every aspect of the house is designed to consider the use of energy: the house points due south for max sun, with 75-80% of the windows facing south, offset stud framing avoids thermal bridging, spray foam insulation everywhere - much more efficient, no settling, no air infiltration, ultra high efficiency windows (Polytech and Advanced Glazings), a completely insulated foundation on the outside acting as a thermal mass, solar electric panels and solar hot water preheat, geothermal heat pump, woodstove, mostly LED lighting (or CFL), and sustainable/recyclable building materials. Taking the time to get it right is a good thing.

Chris finds Greenways Nova Scotia a great fit for his personal and professional values, and has been an invaluable contributor. He says he is "absolutely thrilled" to be part of the Greenways movement in Nova Scotia.



*....Mired In
Past Mistakes*

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homes, health, and environment. Typically, about 85% of landowners when asked directly do not want a motorized trail, preferring one they can fully and safely use for walking and cycling.

The "Kiddie ATV scandal" shocked many. Perhaps the true scandal is millions spent to promote, build, and defend a type of trail mired in past mistakes. Instead of a green, healthy trail system planned for the health and economic benefit of all, we are saddled with a conflict management problem fuelled by OHV industry dollars.

The "Shared Use" policy blocking Greenways is essentially a decree. It has never been debated in the Legislature. It violates the Trails Act, and Rails to Trails policy does not support it. Its legislative justification seems to be the Minister's "discretion" over Crown lands, whether or not policy is contravened, sound advice and factual evidence disregarded, and unfair procedures followed. If this is so, Nova Scotia has a problem that goes beyond trails.

**Robert Connell, Chair
Greenways Nova Scotia**

We're on the web! Join our movement:
<http://greenwaysnovascotia.ca/>