



YOUR LOCAL ASSET MANAGEMENT COMMUNITY OF PRACTICE IN BC.

Enhancing BC communities through leadership in asset management.

THIRTY-SEVENTH EDITION – FALL 2022

How much should local governments spend each year to reduce the Riparian Deficit?

Kim Stephens and Tim Pringle, Partnership for Water Sustainability in BC. Kim is the Executive Director and Tim Pringle is a Founding Director and Chair, Ecological Accounting Process (EAP) initiative

'If we know how to do a much better job of protecting ecological features and stream systems in our communities and on our landscape, then why aren't we doing a better job? Why are streams still degrading? Why do we still see practices that exacerbate the situation? Why is understanding lacking? How do we change that?'

Sustainable Drainage Service Delivery

In BC, local governments need to include stream systems in strategies, plans and budgets for Asset Management. The community uses these natural assets for municipal drainage, habitat, features in parks and enhancement of properties. Maintenance and management (M&M) concerns and issues arise around stream systems.

A challenge for local governments is, how to move from stopgap fixes to long-term solutions for effective M&M of streams?



EAP, the Ecological Accounting Process, is a pillar for a pragmatic approach. With its focus on the Drainage Service, the Riparian Deficit is the number local governments need. It is the environmental equivalent of the Infrastructure Funding Gap.

The graphic below distils five key ideas that underpin EAP. These cascading concepts create a mind-map.



EAP uses real numbers for financial valuation: In June 2022, the Partnership for Water Sustainability released the 4th in the Beyond the Guidebook Series. Titled *Synthesis Report on EAP, the Ecological Accounting Process, a BC Strategy for Community Investment in Stream Systems*, it showcases collaboration in action.

EAP methodology and metrics allow local governments to make a convincing financial case for annual investment in stream systems to reduce the Riparian Deficit

The essence of EAP is to discover the **Natural Commons Asset** (NCA) financial value of the stream. Defined in the Riparian Area Protection Regulation Act, the NCA is the stream channel plus the 30m setback zone on each side.

The NCA financial value can be readily quantified and is expressed as **\$ per km of stream**. The annual budget for maintenance and management (M&M) of a stream is **1% of the NCA value**. The concept of the **Riparian Deficit** interprets what the NCA number means.

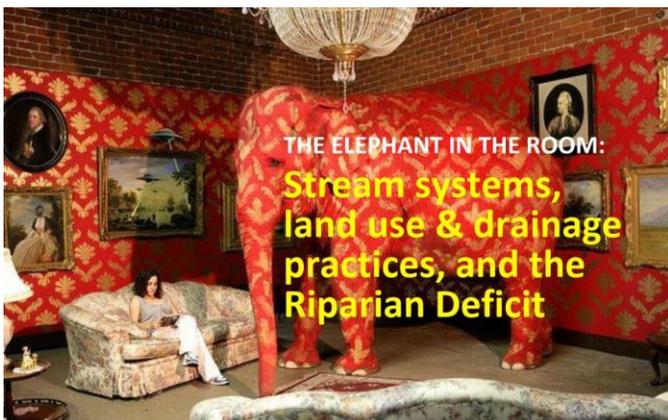
WHAT is the Issue?

When one thinks about asset management, it is often in the context of municipal infrastructure and how this provides the “water service” or the “sanitary sewer service”, and so on. The Drainage Service is the neglected service, and the cost of neglect grows over time.

Why is this? There are several reasons. First, there is the failure to recognize that constructed infrastructure and the stream system are interconnected. Secondly, the science behind stream system integrity is **not well understood by practitioners** nor is it applied effectively.

So, what is the consequence of neglect? The **Riparian Deficit** grows as streams continue to degrade! This is a water balance issue.

Recognize there is an elephant in the room: In the 1990s, seminal research at the University of Washington on the science of land use changes produced a road map for protection of stream system integrity.



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For the past generation of practice, then, communities and practitioners **should have known** what they ought to be doing. And some have made progress. But, in the big picture, the last two decades have been characterized by an inability to act on the science. The consequence is a growing Riparian Deficit which is an unfunded liability.

Land use realities (master drainage planning, integrated stormwater planning, development pressures, etc.) push local government to pay lip-service to the role of the streamside protection zone. There is scant understanding of a stream system context, the value of water balance pathways, the condition of native vegetation and woodlands cover, and the need for restoration.

Why aren't these factors considered and given equal weight to engineering considerations?

An elephant in the room is the hollowing out of government capacity at all levels and the reliance on outside service providers. The question is, how does one create a situation where the environmental perspective is on an equal footing with the engineering and accounting perspectives?

Only then can there be a balanced and productive conversation about annual budgets for maintenance and management (M&M) of assets, whether those are constructed assets or the natural component of the Drainage Service.

The growing cost due to neglect of the Drainage Service, combined with the urgency of the drainage liability issue, is the driver for linking municipal infrastructure asset management and stream health as "cause-and-effect".

So WHAT can be done?

The "EAP story" is about a journey, one that began circa 1990 for pioneers working on parallel stream protection and restoration initiatives in British Columbia and Washington State. Three decades later, these parallel tracks have converged in the form of EAP.

It has been a building blocks process requiring commitment, patience, and perseverance by many.

Following publication of *Beyond the Guidebook 2015*, the Partnership embarked on a 6-year program of applied research to evolve and operationalize the EAP methodology and metrics through collaboration with willing local governments. The program involved 9 case studies and 13 local governments and yielded 19 "big ideas" which became foundational concepts.

The EAP methodology defines what a stream is, finds the value of the stream using impartial BC Assessment data, and adds to that a riparian assessment that looks at the 30m zone and a further 200m upland area to evaluate the water balance condition and what is happening to water pathways.

Because local governments need real numbers to deliver outcomes, we landed on the concept of the Riparian Deficit. This expresses three measures of value in a single number. The three are the financial value of the stream corridor as the **Natural Commons Asset (NCA)**, the social and ecological values, and the order of financial magnitude. The NCA financial value is **\$ per km of stream**; and the annual M&M budget is **1% of the NCA value**.



A municipal Drainage Service has two interconnected components – one is the constructed infrastructure and the other is the stream system

Overcome barriers and challenges

Having arrived at the EAP destination, the Riparian Deficit, the Partnership is able to reflect on the two issues which provided context for the journey: first, engineering measures are insufficient for stream and riparian protection; and secondly, the link to municipal asset management has not been clear.

To reach the destination, the Partnership had to address and show how to overcome four challenges: one, a lack of

measurable metrics: two, confusion over **what is an asset versus a service**; three, ignorance about how to quantify the financial value of "natural assets" with real numbers; and four, numerous "one-off" projects that fail to build improved asset management practice.



Unless communities measure the effect of impacts, destabilization of stream channels and degradation of riparian assets and streamside protection areas will continue.

Now WHAT can we do?

EAP is a foundation piece for **Asset Management for Sustainable Drainage Service Delivery**. EAP is outcome oriented – restore and protect stream system integrity.

EAP is remarkable in its simplicity and is pragmatic. Start with an understanding of the parcel because that is how communities regulate and plan land use. It is the parcel level where you get the information that you need to change practice to protect natural assets. That is what everyone must get their heads around.

To build interdepartmental consensus about the need for shared commitment and sustained action, there must be a real number to focus attention on what is at stake. The Riparian Deficit is that metric. It enables local government to pose and answer the question:

What will change when EAP analyses provide financial values for natural assets such as streams?

With the perspective of hindsight, each local government participating in the 6-year program of applied research took a leap of faith that EAP would fit into their strategic directions. Now, with EAP as a foundation piece, these partners in the process have a rationale and a metric to take steps to do business differently.

A decade ago, the Partnership was hopeful that all players would embrace shared responsibility and communities would move from stopgap fixes to long-term restoration of properly functioning streams.

We are not there yet, in large part because of the hollowing out of government capacity at all levels and the reliance on outside service providers.

Re-build internal capacity:

In view of the myriad of realities currently facing all organizations, the task of rebuilding local government understanding and capacity to protect stream system integrity will take time, energy, and long-term commitment.

The asset management task is two-fold in scope.

One, influence current practitioners to adopt EAP into asset management strategies. Two, train the next generation of land use, GIS, and drainage professionals in the use of EAP. This starts in university.

With completion of the current program to mainstream EAP through case studies, the Partnership has set a process in motion to embed EAP in a university setting to support the work of local government practitioners.

Train new leaders and embed knowledge in-house:

“We believe that incorporating students from Vancouver Island University and other universities will support understanding and experience within municipal governments on the importance of EAP, and simply understanding EAP. Fortunately, most of VIU’s Master of Community Planning, and Master GIS students find themselves working within municipal governments,” states Graham Sakaki.

He is the Regional Research Institute Manager for the Mount Arrowsmith Biosphere Region Research Institute (MABRRI) at Vancouver Island University.

Beyond the Guidebook Series

Stormwater Planning: A Guidebook for British Columbia, released in 2002, is the foundation document for the Beyond the Guidebook Series of guidance documents. The titles themselves tell a story about the partnership journey in building on the Guidebook through case studies that showcase and celebrate good work, and advance implementation of science-informed approaches.

Context for Rainwater Management and Green Infrastructure in British Columbia (2007)

Implementing a New Culture for Urban Watershed Protection and Restoration in British Columbia (2010)

Moving Towards “Sustainable Watershed Systems, through Asset Management (2015).

Synthesis Report on the Ecological Accounting Process, a B.C. Strategy for Community Investment in Stream Systems (2022)

The EAP Synthesis Report is written for land use practitioners, asset managers, stream stewards, and local government decision-makers.

DOWNLOAD A COPY: https://waterbucket.ca/gi/wp-content/uploads/sites/4/2022/06/EAP-Synthesis-Report-Beyond-the-Guidebook-2022_Jun-2022.pdf

(Editors note: This article was previously published. However we are pleased to profile again this important information.)

Asset Management - Integration for Resilience

Kim Fowler, MCIP, RPP, Manager, Long Range Planning, Sustainability and Energy, Regional District of Nanaimo



My first introduction to asset management was in 2006 when the Director of Development Services in the City of Port Coquitlam. Our engineering department had prepared a report on the status of asset management, which included a funding gap analysis showing roads were only being maintained to 16 of 20 years of their normal life

cycle. Without fully funded road maintenance, our road surfaces would have to be replaced 4 years earlier.

This was puzzling because like most taxpayers, I assumed my local government was managing its assets to their full life cycle and had put away reserves over time to replace them. Borrowing money for large or special projects was acceptable practice, but why throw money away? Not a good use of taxpayer dollars. I went downstairs late one afternoon to ask our manager of engineering why his maintenance budget wasn’t fully funded. **He advised that was normal and after 10 years of requesting adequate funds for maintenance budgets, he had given up.**

Who kept refusing to adequately fund his maintenance budgets? The Public Works Committee. Who sits on that Committee? Four council members. So this was my introduction to the difference between funding the boring, essential assets that taxpayers assume are being fully funded, and the new, flashy capital projects with their big announcements and ribbon cutting.

Further competition comes from operating budgets with a usual need for more staff due to growing populations. In 2007, I started writing about **the need for asset management to be a fundamental, integrated function in local government.**

In 2008, while a consultant in downtown Vancouver, the president of the Planning Institute of BC phoned me to ask if I would sit on a new committee being formed called Asset Management BC (AMBC). I asked why she would ask me and she advised I was one of the few planners who was knowledgeable about asset management! Appointed to a sub-committee, we developed a model AM policy for local governments. AMBC is likely best known for developing the Framework for Sustainable Service Delivery,

nicknamed The Wheel, given its cyclical or continual process of improvement.

In 2010, AMBC surveyed local governments to determine the status of asset management in BC. With the advent of PSAB 3150 in 2009, local governments now had to account for on their tangible capital assets. The survey results identified the crux of the asset management dilemma:

Long-term planning initiatives such as asset management must compete with short-term priorities. Currently, Councils and Boards are in office for a short time, which can make it challenging for local governments to prioritize long-term initiatives. Furthermore, many of a community's assets are not visible (e.g., water and wastewater pipes). As a result, asset management may not be a top priority in many communities.

Fast forward over a decade to 2022 and what has changed?

Many best practices exist, including the City of Courtenay's AM bylaw (done by the two Davids!), Town of Gibsons leading the way (yea, Mani!) on how to integrate natural assets into asset management and financial planning, and the District of Oak Bay fully managing its 100+ year old infrastructure. These, along with several other leading local governments, however, are still the exceptions. A very Canadian sorry, but this is not good enough.

How does any local government prepare and adopt a financial plan without an asset management plan? Really!!

Without one, you are staggering around in the dark stubbing your toe on insufficient maintenance funds, barking your shin on the replacement cost, and banging your head into climate change. And you've lost the opportunity to extend life cycles and have valuable discussions with Boards, councils and the community about levels of service.

It's not only silly but dangerous.

Risks are increasing with climate change, pandemics, materials & labour force shortages, increasing debts and interest rates, and an impending recession. You can't prepare a financial plan without an asset management plan.

Ask a citizen in a public place if they expect their local government to fully maintain its assets to the end of their useful life and then replace them. They'll look at you, like duh, of course! The public expects this level of service. Our professions should require it. Financial audits should mandate it. The risks are too high, the consequences too

dire and the practice too fundamental to continue with voluntary compliance.

While we could wait until the provincial government has to play its paternal role by changing the legislative requirements on annual financial plans to report on replacement costs and funding gaps but is that necessary? Should professional associations require the integration of asset management planning into financial planning with new sets of mandatory standards of practice? It appears so with no more time to procrastinate.

And the planning profession has to step up to their responsibilities here, too. While often not directly responsible for capital assets or a financial plan, land use planning determines the majority of what type, extent and cost of capital assets are acquired and managed by local governments through land use plans, subdivision regulations and design standards. **More compact design and higher density save local governments \$100 millions in asset management over life cycles** as shown by the Community Life Infrastructure Costing Tool developed by the (the) Ministry of Community, Sport & Cultural Development over 8 years ago (and it's free sourced). This tool provides the very information needed by planners to substantiate planning policy but is rarely used. As any good engineer or finance person will advise you, numbers trump policy! Every development application going on a board or council meeting agenda should have a section analyzing the future impact on the asset management plan with comparative options.

Integrating asset management and financial planning is no longer optional. It should be a professional standard and mandated component of an annual financial report (or the audit is flunked). Local governments manage 60% of the physical assets in Canada on 8 cents of the tax dollar. These assets, like roads, civic buildings, and potable water, storm & sanitary sewer systems (dare we say, bike lanes?!) comprise the economic backbone of our communities – they are essential – and so should their management. While all local governments do asset management and financial planning, the integration needs to enable discussions with our community about level of service, required maintenance and the cost of replacement. As professionals, we owe our communities those discussions. **The resilience of our communities increasingly relies on the integration and the discussions will break the poor practices through awareness.**

(Editors note: Kim is a professional planner who was recently awarded the Innovation and Advocacy individual award from the Planning Institute of BC. She is the author of Docksides Green: The Story of the Most Sustainable Development in the World.)

Case Study:

Beyond the Basics - Future Proofing Fleet Asset Management at the District of Saanich

Jacqueline Weston, P.Eng., PMP, Asset Management Program Manager, District of Saanich, and Steven Wiebe, P.Eng., PMP, Managing Director, innotech Fleet Strategies



Saanich City Hall

Our Asset Management Journey

Saanich has made significant progress in our asset management (AM) journey over the last 15 years, and we are now in the process of formalizing our AM Program based on the AMBC Framework Asset Management for Sustainable Service Delivery.

Guided by our Council approved AM Policy, our AM Program Charter outlines a centre of excellence model: the AM Program Office provides guidance and support to departmental staff, who are responsible for the day-to-day work of managing our assets and delivering services to our community.

Our District-wide AM Program encompasses all of our physical assets within nine service areas: drainage, facilities, information technology, natural assets, park & trail structures, transportation, wastewater, water, and vehicles & equipment. Using AMBC's AssetSMART tool, we have assessed our AM maturity across the organization and identified the fleet component of our vehicles & equipment service area as having the most advanced AM practices that can serve as a model for our other service areas.

Maintaining Organizational Knowledge

In the AMBC Newsletter Winter 2022, the City of Terrace shared their experience with the operationalization of asset management and highlighted the risk of losing critical information when staff retire or leave an organization. We face the same risk, and in the long term, we intend to mitigate this risk by formalizing and documenting our AM practices. However, in the short



term, there may be situations where we need to take more immediate action.

For example, our Manager of Fleet Services, Steven Wiebe, recently left Saanich to start a consulting firm, and we wanted to avoid losing the organization knowledge that he had built during his time here. A diverse group of staff met with Steve before he left to ensure we captured the information and business processes he had established for our fleet service area, as well as his plans and suggestions for future improvement. The result was a smoother transition for the fleet management team, and the opportunity to share lessons learned with others.

Highlighting Our Fleet Asset Management Progress

The Saanich fleet consists of approximately 250 pieces of equipment (not including fire or police). Fleet AM for these pieces of equipment is one of the more mature areas as it is partially regulated by the Commercial Vehicle Safety and Enforcement Branch of the Provincial Ministry of Transportation and Infrastructure. The regulations require Saanich to maintain records and demonstrate a defined and documented preventative maintenance program. While this is a good starting point, we have also been able to build on other aspects of operational AM.

Progress to date and lessons learned include:

- **Asset inventory and maintenance tracking** – All assets are entered into our JD Edwards financial system, which allows for purchase price, fuel costs, labour, parts, and other maintenance costs to be tracked for each asset. While not a perfect system for fleet, it allows for the basic information to be tracked and reported out in an efficient manner for an organization of Saanich's size. Reporting facilitates the identification of increasing maintenance costs, which may be an indicator of inefficient maintenance practices or end-of-life for a vehicle.
- **Sustainable funding model** – For our fleet assets, we have developed a sustainable funding model that includes accurate values for operation, maintenance, and replacement costs. As this model is relatively new and not yet automated, the plan is to update it every five years, using the information entered in JD Edwards. The model helps to set the internal rental rates for each piece of equipment based on actual costs and utilization. It also ensures

that contributions to the replacement reserve are sufficient to allow sustainable funding for future vehicle replacement needs.

- **Annual review of vehicle utilization** – We created a dashboard to facilitate an annual review of vehicle utilization. The review process allows our staff to better understand the usage and operating costs of each asset and identify under-utilized assets that could potentially be disposed of or better utilized as operations expand.
- **Fleet replacement plan and interdisciplinary committee** – We created a vehicle replacement plan and established a review committee including representatives from Sustainability, Finance, Operations and Fleet. The plan results in transparency and accountability of fleet replacement, capital funding needs, and vehicle condition. The committee is helpful to ensure the right vehicles and propulsion technologies are purchased to meet corporate Strategic Plan goals, Climate Plan goals and operational needs.
- **Vehicle replacement process** –
 - *Consider lifecycle costs (or total cost of ownership), instead of simply purchasing a vehicle with a low capital cost. This is critical to ensure the financial burden is not shifted from capital to operating budgets.*
 - *Engage stakeholders to ensure the replacement vehicle specifications meet the operational need. This has the tendency to result in increased efficiency in field operations when the vehicle is in use. It also gives stakeholders a sense of ownership of the vehicle, which results lower maintenance and repair costs.*
 - *Wherever possible, set up multi-year vehicle procurement agreements. This streamlines the vehicle procurement process, reduces workload for procurement and fleet, and allows for quick vehicle replacement in the event of a catastrophic failure of an incumbent vehicle.*
- **Climate Change Mitigation** – Our 2020 Climate Plan: 100% Renewable and Resilient Saanich includes a strategy for transition to an efficient, renewably-powered fleet to reduce greenhouse gas emissions. This transition is underway with the purchase of renewable diesel to replace a portion of our fossil fuel diesel use, the replacement of light-duty internal combustion fleet vehicles to zero-emission vehicles at end of useful life, construction of EV charging stations, and implementation of a pooled electric bike program for work trips. We are also reviewing industry readiness to support medium- and heavy-duty fleet conversion pilot projects.

While there are many benefits to the above processes, there are two key takeaways for today's fleet management environment. The first is the creation of a sustainable funding model and annual vehicle utilization dashboard, which has resulted in approximately a 5% reduction in Saanich's fleet size. This has a positive impact on financial planning, reduction of labour to repair these vehicles as well as a reduction of the emissions associated with the vehicles. The second is the benefit of the sustainable funding model to facilitate the transition towards electrification of our fleet. With increased pressure to transition to electric vehicles, there is a resultant need for increased capital funding due to the higher cost of these vehicles as compared to their traditional gasoline or diesel counterparts. With a sustainable funding model, organizations are much better positioned to manage this transition and reduce greenhouse gas emissions.

Next steps for our Asset Management Program

Our AM Program Charter includes a high-level implementation plan, including short (1-2 years), medium (3-5 years) and long term (greater than 5 years) actions.

In the short term, our focus is on the development of our AM Strategy, which will use existing information to assess the current state, define the desired future state, and identify gaps. The strategy will include an implementation plan of actions to address the each of the identified gaps, with timelines, lead department, and resources required for each action. The strategy will define how we will measure and report on the progress of our asset management program, and it will provide a template for our nine AM Plans.

As part of our AM Strategy project, we are very excited to be participating in the AMBC Working With Levels of Service training in fall 2022. Our fourteen members AM Working Group will work together as a cohort to define our current levels of service, identify desired outcomes and performance measures, identify strategies to address gaps for inclusion in our implementation plan.

We plan to use our fleet best practices to develop consistent, District-wide AM practices, and to pilot our AM Plan template. The experience and lessons learned in fleet will be invaluable as we progress in operationalizing our asset management practices consistently across all our service areas. In particular, the integration between our operations, finance, and sustainability team members, with the common goal of future proofing our fleet, will serve us well as we work collaboratively towards sustainable service delivery.

UBCM Award District of Oak Bay Asset Management Award of Excellence

At the annual conference in September 2022, the District of Oak Bay was awarded the **Award of Excellence for Asset Management**. Members of Council and the Chief Administrative Officer accepted the award on behalf of the District.



Left to right: Councillors Tara Ney, Andrew Appleton, Hazel Braithwaite, Mayor Kevin Murdoch, UBCM Director, Selina Williams (Chief Administrative Officer)

The UBCM citation reads:

“The District of Oak Bay identified that a significant portion of the District’s water, sanitary sewer, storm, and road assets are past their recommended useful life with many other assets well through their recommended useful life and due for imminent replacement. The District acknowledged that the replacement of these assets is critical but will come at a significant cost. Historic and current funding levels are not sufficient to replace assets at the recommended pace. The District produced its first Sustainable Infrastructure Replacement Plan to address this challenge.



The objectives of the Plan are to:

- Forecast recommended infrastructure spending for the next 50-100 years,

- Recommend funding levels required to support long term infrastructure replacement, and
- Develop different options to address the forecasted funding gap

Council provided the strategic direction to address these issues through the development of an asset management program, increasing funding, and expanding capital programming.”

You asked: What does Asset Management BC do?

When asked, “what does **Asset Management BC** do”, our answer has been easily expressed in one sentence: **“We provide knowledge transfer and information sharing”**. Our primary audience has always been our BC-based local governments and our First nations. That has been our very straightforward explanation of AMBC for several years. Asset Management is maturing and improved information and approaches and understanding continue to develop.

Two years ago, with a new training program offered through AMBC, we introduced the terminology of ‘Operationalizing Asset Management.’ There was a need to move beyond just the Asset Management Plan, which is only one component of the entire AM process. A critical element of this defining the **“4 C’s”, Collaboration, Capacity, Culture and Council**. We would refer you to the rationale and description of these in the article written by David Allen, in his role as Chief Administrative Officer at the City of Courtenay. (See the article in the AMBC Newsletter, Edition #30, Fall 2020 available on the AMBC website assetmanagementbc.ca).

Capacity building in many areas has emerged as an issue for many communities from hiring staff to service delivery. We often hear ‘we just don’t have the time.’ We have proof today that you really cannot afford to NOT do asset management. We also hear, because of capacity, it is not always about money. We have been told by many communities they rarely spend all their capital works budget because they do not have the staff necessary to manage and deliver all the projects. More recently the ‘capacity’ issues have also been external as it has been difficult to get contractors to bid on projects and/ or prices for construction have risen significantly.

So, it made us think about what we do and how we continue to evolve. In future, look for

Asset Management BC

“Capacity Building through Knowledge Transfer and Information Sharing”

AMBC Communications Channel Refresh Project

Thanks for your feedback!

Our website and newsletter will be getting some attention, thanks to the insightful feedback you shared with us! More than 300 comments were received as part of a recent survey to get your input on how we can improve our communication channels, like our website, newsletter, and social media.



Stay tuned!

We are working on the report so we can share what we heard, and what we're doing as a result, at the November annual conference. In the meantime, if you have any comments you'd like to share, simply send us an email at info@assetmanagementbc.ca.

Congratulations!

Congratulations to Zawad Abedin, of the Lheidli T'enneh First Nations, winner of the coveted free registration to our fall conference: November 2 & 3, at the Westin Wall Centre Vancouver Airport in Richmond.

Thanks to all of you for sharing your time and insights and we look forward to seeing you there!

Thank you from the AMBC Team.

MIABC helps Clarify Municipal Responsibilities based on NELSON Case (*City of Nelson v. Marchi, 2021*)

On October 21, 2021, Canada's top court released its decision in **Nelson (City) v. Marchi, 2021 SCC 41**, a snow removal case involving one of our members.

In this important decision, the Supreme Court held that the City's snow removal and clearance decisions that led to the plaintiff's injury were **not "core policy decisions" that are immune from liability under the policy defence.**

As such, the City owed the injured plaintiff a duty of care. The determination on whether (or not), the City fell below the standard of care was sent back to trial. That case will be heard in August of 2022.



In the course of this decision, the Court provided helpful clarity on the long-debated question of what governmental decisions are immune from tort liability under the policy defence. The decision will apply beyond snow removal cases to all negligence and occupiers' liability claims.

Marchi was widely reported in the media and raised many questions amongst local governments. This article addresses five key questions about the *Marchi* case and what it means for the policy defence:

1. What was the *Marchi* case about?
2. What has changed because of *Marchi*?
3. What are some simple steps local governments can take to make sure their policy decisions are immune from liability?
4. What resources can local governments use to review their old policies and adopt new ones?

We conclude with some final thoughts on why written policies are so important to local governments (hint: it has nothing to do with the policy defence).

What is the *Marchi* case about?

Facts: The City of Nelson plowed and sanded streets in line with their snow clearing and removal policies. They cleared snow from angled street parking in the downtown core into a continuous snowbank, separating the parking stalls from the sidewalk. There were no access routes to the sidewalk. This process was not specifically set out in the City's written policy, but the City provided evidence that this was part of their unwritten policy.

Trial Decision: The trial judge dismissed Ms. *Marchi*'s claim. He held that the City's snow removal decisions were core policy decisions and, thus, the City owed the plaintiff no duty of care. Even if there was a duty, the City had not

breached the standard of care and, in any event, Ms. *Marchi* caused her own injuries by choosing to traverse the snowbank.

Court of Appeal Decision: The Court of Appeal set aside the trial decision, holding that the trial judge had not properly assessed the distinction between policy

and operational decisions. The City appealed.

Supreme Court Decision: The Supreme Court found in favour of Ms. *Marchi*, holding that the City had not proved

that its decision to create a continuous snowbank along the sidewalk was a core policy decision. The Supreme Court provided four key pieces of information that forms a new framework in determining whether a decision of a public authority is a **core policy decision**:

- 1. Level and responsibilities of the decision-maker:**
The closer to the decision-maker is to a democratically accountable official, the more likely their decision will be considered a core policy decision.
- 2. Process by which the decision was made:** What is the process? Does it include debate in a public setting? Does it involve different levels of authority? Decisions made by a single employee or a group of employees in relation to a particular event are unlikely to qualify as core policy decisions.
- 3. Nature and extent of budgetary considerations:** A budgetary decision may, but will not always, be a core policy decision. The decisions around complex issues of budgetary allotments among various departments will be classified as core policy. Day-to-day decisions of individual employees will likely not be.
- 4. Extent to which the decision was based on objective criteria:** The more a decision-maker must weigh competing interests and make a value judgement, the more likely it will be a core policy decision. But, if the decision is based on technical standards or general standards of reasonableness, it will not.

The Supreme Court did not decide whether the City was negligent in the way it cleared the snow. Instead, the court sent the case back down to trial to decide that issue and the causation issue.

What's Changed as a Result of *Marchi*?

While it may appear that *Marchi* has drastically changed the law, in reality, much remains the same.

What Remains the Same

- Local governments will still be able to be held liable where their operational decisions are negligent and cause a plaintiff to suffer a loss.
- Local governments can still rely on a policy defence.
- Local governments still have access to other defences to a negligence claim.

What Has Changed

- Courts now have a structured framework for deciding what is and what is not a core policy decision that is immune from tort liability.
- The fact that a decision involved budgetary considerations is no longer a determining factor.
- It is likely that fewer decisions will be considered policy decisions.
- Courts will probably focus more on standard of care.

Our Key Takeaway

The *Marchi* decision does not substantially change the way you should be delivering services to your community. It provides additional guidance on how to ensure certain decisions are characterized as core policy decisions and alters the legal landscape for lawyers defending claims. But, at the end of the day, our members should feel secure in doing what they have always done – providing optimal services specific to their communities and letting us take care of the rest.

What are Some Simple Steps Local Governments Can Take to Ensure their Decisions are Classified as “Core Policy”?

A large portion of local government function falls on the operational side, making it subject to tort liability, and that is okay – as described above, there are many other defences to a negligence claim. And even if those defences do not apply, it is still okay – that is what the MIABC and insurance is here for.

When drafting policy in which you are balancing the competing interests of those in your community, we recommend taking the following three additional steps to ensure you meet the gold standard of defensible policy decisions:

- 1.** Ensure the decision-maker is either your body of elected officials or senior management responsible for balancing the competing priorities and allocating your local government’s finite resources.
- 2.** Build in a consultation and deliberation process. Consult management and frontline staff. Consider canvassing the public, if and where appropriate. Incorporate the feedback into the decision-making process.
- 3.** Document the decision-making process in the form of meeting agendas, minutes, memos, and reports.

Final Thoughts:

The Importance of Policies Has Little to Do with the Policy Defence.

The policy defence may be less available, but there are many additional benefits to adopting a written maintenance and inspection policy, especially when it comes to inspecting and maintain your assets. By implementing a written policy, you can ensure your local government's staff take a unified approach to asset maintenance. Written policies can also help members set reasonable expectations for service standards amongst members of the public. Policies may also help you defend a negligence claim by helping establish that you met the standard of care.

Why Your Team Should Attend the CNAM 2023 Conference in Fredericton

Leanne Brannigan, Chairperson CNAM, Manager, Corporate Asset Management, Region of Peel, ON



The 2022 CNAM Hybrid Conference has come and gone, but that does not mean we cannot start looking ahead in anticipation for next year. We currently live in an ever-changing climate, especially in our industry of asset management. In 2022, we saw

longer travel bans and pandemic related restrictions in our municipalities and organizations that might have made attending the 2022 conference in person or virtually unattainable.

Now is the time in to start thinking about attending CNAM's 17th Annual and 2nd Hybrid Conference in Fredericton, New Brunswick from Monday, May 1st-Thursday, May 4, 2023. Attending a CNAM conference does not simply benefit the individual registered, it will also positively impact the municipality, organization, or company of the attendee.

The real question is "Why Should My Team or Team Member attend the CNAM 2023 Hybrid Conference in Fredericton, New Brunswick":

- **Awareness** – Having a presence at the conference can give positive visibility to your municipality, organization or company and ensure your part of the important industry conversations and have a proverbial "seat at the table".

- **Networking** – With industry leaders from across Canada and beyond. Attending can help you stay relevant, providing vital leads, connections, ideas, and new connections post conference.
- **Education** – Having multiple team members present, is cost-effective, and means that they can divide and conquer to attend different workshops, plenaries, and concurrent sessions to have a pulse on key industry topics, trends, and changes, all of which can be brought back to benefit your municipality, organization or company long term.
- **Growth Opportunity** – It has been a difficult few years. Your team member(s) are ambassadors of your municipality, organization or company, and participation shows them a vote of confidence in the work they are doing and their importance. This will not only provide benefits for the above reasons but give the individual(s) a growth opportunity in the industry. It adds to a positive work relationship and could potentially help in job retention.
- **Lastly, Fredericton is Fantastic** - Fredericton provides the classic Maritime experience delegates know and love, enhanced by a thriving music and cultural scene, an unparalleled cluster of authentic experiences and advanced technology. Add in a close-knit, walkable downtown, kilometers of green space alongside the majestic Wolastoq / Saint John River and you will discover a perfect combination of history, culture, and unique experiences.

Locals are proud of their dynamic community and diversity of the city. All the things that make Fredericton, New Brunswick a great place to live also make it a great place to meet.

Fredericton is rich in history, dynamic culture, and natural beauty. Within a five-block section of the historic downtown you'll find the world-class Beaverbrook Art Gallery, National Historic Sites like the Historic Garrison District, Christ Church Cathedral, the New Brunswick Legislative Assembly, and some of the finest Victorian architecture in the country – along with stunning gardens, an idyllic riverfront trail, live theatre, fine dining, fabulous festivals, excellent evening entertainment, working artisans, and unique shopping.

With Fredericton's central location, the rest of New Brunswick is a travelers' paradise. You can enjoy fabulous and affordable adventures while spending your nights in the capital city. Whether you are a nature lover, adventure seekers, sightseers, history buffs, shoppers or dining aficionados, there is something for you in Fredericton!

Registration will be launching in November 2022 – mark

your calendar now to take advantage of early bird rates! [Click here to sign up to the mailing list](#) to ensure you are the first in the know!

Asset Management BC Annual Conference

..... Just weeks away

Register now through Civic Info (www.civicinfo.ca)

November 2 and 3, 2022 is your chance FINALLY, to attend a power packed event in person at the AAMBC conference at the Westin Wall Centre Vancouver Airport. With Coffee breaks, breakfasts, lunches, and a reception you will have ample opportunity to network with those you have missed to talk in person for two years.

Besides the camaraderie, there is a power packed programs, details of which are on the Asset Management BC website at assetmanagementbc.ca. The theme of the conference is:

**“PEOPLE, PLACES, AND PURPOSE
BUILDING RESILIENT COMMUNITIES
THROUGH SUSTAINABLE SERVICE DELIVERY”**

The conference opens with keynote presentations each day by two previous Chief Administrative Officers. Day one is **Ron Mattiussi**, who was CAO in Kelowna and has a planning background. Day 2 is **Paul Murray**, who was a Chief Administrative Officer in different local government and has a finance background.

Theme of other sessions include:

- Climate Change and Natural Assets
- Community Asset Management Journeys
- Implementing and Operationalizing Asset Management
- Small Community Asset Management

This year, for the first time **Asset Management BC** has an awards program. Find out who the award winners are at the **#OurAssetsMatter Award Ceremony** following lunch on Wednesday.

Register NOW!! See you there!



Pre-Conference Course offered by AMBC on Tuesday November 1, 2022

Asset Management BC is pleased to offer a one day course on “How to write a Long Term financial Plan” The course will be delivered by Christopher Paine who was CFO for Colwood and now the District of Oak Bay.

Course details and registration is on CivicInfo (civicinfo.ca). The one-day workshop will be held at the same hotel as the AMBC conference, The Westin Wall Center, Vancouver airport.

Registration is limited so register now.

AMBC joins BCWWA Community Network



The BC Water & Waste Association is excited to be working with Asset Management BC to elevate and highlight the **BC Small Water Systems Community Network**. Asset management is a vital component of ensuring the sustainability and resilience of small water systems across the province.

Created to support small water systems teams, the **BC Small Water Systems Community Network** is your go-to place for coming together, sharing knowledge, expertise, and accessing valuable resources. The Community Network acts as a hub for addressing the needs of the small water systems community, offering the ability to search through curated information as well as post your own questions and content.

Ultimately, what matters most is ensuring clean safe drinking water is available for all British Columbians and meeting the needs of the community to reach that goal. Prior to the development of the Community Network, focus groups were held and surveys were distributed to both purveyors and supporters to capture all stakeholders involved with small water systems.

Throughout the project, the team kept the needs of the water purveyors at the center of planning, while recognizing the important contributions of supporters. Through this process, we learned that the small water systems community is incredibly diverse in a variety of factors including, demographics, system size, location,

source water, treatment types, and governance structure – no two systems are truly the same.

Recognizing the diversity and the many challenges and concerns that small water purveyors face, the Community Network curates resources, articles, and information that those in the community may find valuable. Although there are many great benefits to exploring the platform, we recognize that everyone is busy. That is why we have our Weekly Digest, which highlights any new activity across the platform and gets sent out on Fridays, so nothing is missed!

We invite anyone in the small water systems community to become a member, whether you are an owner, operator, volunteer, trustee, employee, or if you provide products, services, training, or expertise in the subject matter.

This is a vast and interconnected community, built to support one another to increase the sustainability and resilience of all small water systems across the province.

The Community Network is **free to join** and isn't just a static site; there are many opportunities for all members to participate, ask questions, share information, and submit posts. Members can:

- Explore the Dashboard to find new content from across the platform.
- Search for other Members and Organizations within the Directory and send them a message with our internal messaging system.
- Join the private Owners Lounge conversation if you are a small water system
- Post on the public Technical Discussions for the whole community.
- Find the bulk of resources, articles, and information in our Knowledge Zone – use the convenient Search function to find information from Asset Management BC as well as a variety of other supporter organizations.

Members can also contribute to all areas of the Community News – Wanted/Offering, Opportunities, Upcoming Events - using the convenient Submit a Post feature. If you want to learn more about the Community Network prior to becoming a member for free, visit smallwaternet.org.

We are always excited to hear from the community! If you have an idea, feedback, or any questions about the Community Network please reach out to smallwaternet@bcwwa.org.

Tips and Tactics: Next Steps - Considering the Cost of Climate Resilience in Asset Replacement Forecasts

Bernadette O'Connor, PMP, IAM Dip, CAMA, NZCE(Civil), Asset Management Specialist, WSP



Many organizations have now developed their financial forecast for asset renewals (replacement of existing assets). However, as we experience the effects of climate change in our own region and watch the experience of other organizations across the Country, we should by now appreciate that

not all assets will be replaced “like-for-like”. There is a cost to build climate resilience into our infrastructure to protect our communities. How to determine that cost and who pays are questions on the table now. The FAO (Financial Accountability Office) completed a study last year on costing climate change impacts and adaptation for provincial and municipal public infrastructure in Ontario. The ISC (Indigenous Services Canada) is currently doing a study on cost estimation for resilient community infrastructure on-reserve. Both these initiatives are generating indicative estimates for percent increase in cost (compared to current replacement cost) to build climate resilience into asset replacements.

This is the next step for organizations after they determine current replacement costs, is to consider the additional costs for climate resilience and build this into their work plans and financial forecasting.

Historically many organizations have not concerned themselves about the cost of new assets and increasing the size of existing assets for population growth, believing that most of this cost will be borne by developers. This approach could partially address some of the future climate resilience needs of the community – if – the organization has updated their construction standards to include for climate resilience. However, it will NOT address all climate resilience needs AND it is unwise to rely on sufficient development occurring fast enough to protect your community.

Without a doubt, most of the cost for building climate resilience into your infrastructure will be borne by the community. It is incumbent on all of us to consider what needs to be done for our community and start building this into our financial forecasting and funding strategies.

Upcoming Events

Note: COVID-19

Due to COVID-19 requirements for social distancing, many events have moved to 'virtual' platforms.

Check Association websites to confirm details.



Asset Management BC

November 1, 2022

Pre-conference Workshop - **How To Write an LTFP for Asset Management**

Westin Wall Centre Hotel – Vancouver Airport, Richmond BC

assetmanagementbc.ca

Registration on CivicInfo: civicinfo.bc.ca

Asset Management BC

November 2-3, 2022

Annual Asset Management Conference

Theme: People, Places and Purpose

Westin Wall Centre Hotel – Vancouver Airport, Richmond BC

assetmanagementbc.ca

Registration on CivicInfo: civicinfo.bc.ca

Federation of Canadian Municipalities (FCM)

February 2023

Sustainable Communities Conference

Ottawa, ON

fcm.ca

Canadian Network of Asset Managers (CNAM)

May 1-4, 2023

Annual Conference and Trade (Hybrid)

Fredericton, NB

cnam.ca

BC Water & Waste Association (BCWWA)

May 14–16, 2023

Annual Conference and Trade Show

Penticton, BC

bcwwaconference.org

Federation of Canadian Municipalities (FCM)

May 25–28, 2023

Annual Conference and Trade Show

Toronto, ON

fcm.ca

Government Finance Officers Association of BC (GFOA BC)

May 31 - June 2, 2023

Annual Conference

Whistler BC

gfoabc.ca

Local Government Management Association of BC (LGMA)

June 13-15, 2023

Annual Conference and Trade show

Nanaimo, BC

lgma.ca

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