

June 10, 2019: Mayor John Higham's remarks to Sackville Town Council regarding the background to the Lorne Street flood mitigation project:

I just want to remind people that the topic of fresh water flooding has been around for some time and as I understand it, it really came to light to council when we received in 2014 a letter from CN threatening legal action due to fresh water flooding on the CN Rail both its facility and the railway roads. And, as you may not recall, the event in 2014 because it was not a significant event, it was simply the right combination of duration and intensity and timing of the tidal cycles that caused all that to happen.

But that did bring some attention to the question of what the legal responsibility of the town was particularly as it relates to the railway crossing. There are other elements that have to be protected, other infrastructure that had to be protected, but the one that I believe has been a focus of concern has been the CN Rail. They did withdraw that letter at that point because there was a lot of discussion between the town and CN at that point. However, it then led to some discussion over what the data was, what the statistics were and what the implications were of that occurring or happening again.

And CN has made it clear that they're very litigious on this topic and that if something stops a train that is somebody else's responsibility, they believe the courts will find that responsible party responsible for [all of it]. And where we sit, any train that's stalled here, affects basically a supply line that goes across North America. So, if we're lucky and it's only for an hour or two, that's significant, but it does delay a whole variety of other trains for an hour or two. So, if it's going to be a day or two, recall this is going to be tens of millions of dollars of potential liability. Tens of millions of dollars. So, that combination of looking at what the liability would be, talking to our insurance people about "Well, you'll cover that, right?" "Well, you have to meet regular standards. What are your standards?" which then led to discussion over climate change data, what the watershed looks like, how much water's going to come down and [an] industrial standard for insurance is one-in-one-hundred years --- a one-in-one-hundred-year event that we were presented with would produce 11 square metres of water a second around the railway track from that scenario. That would require a small bridge, perhaps even a medium-size bridge, under the railway for that to not happen. The reality of the insurance industry is if you do not build to what is a one-in-one-hundred-year event that you're aware of and know of, then your insurance doesn't apply because you consciously chose not to build to the acceptable standard of the day.

So, all of that is the scenario in which there has been some longstanding activity to try to address this. I just wanted to remind [council] of where that all came from to this point in time. We'll get into more detail about what's happened in the last little while, but that is the background to the motion that the deputy mayor is about to read.