

NORTH WEST COMMUNITY COUNCIL
MINUTES

January 20, 2014

PRESENT: Councillor Steve Craig, Chair
Councillor Matt Whitman, Vice-Chair
Councillor Barry Dalrymple
Councillor Brad Johns
Councillor Tim Outhit

STAFF: Ms. Kirby Grant, Solicitor
Ms. Jillian Maclellan, Planner
Mr. Andrew Bone, Planner
Mr. Quentin Hill, Legislative Assistant

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1. CALL TO ORDER

Councillor Craig called the meeting to order at 7:03 p.m. at the George P Vanier School, 1410 Fall River Road, Fall River.

2. APPROVAL OF MINUTES – December 16, 2013

MOVED by Councillor Johns, seconded by Councillor Dalrymple that the minutes of December 16, 2013 be approved as presented. MOTION PUT AND PASSED.

3. APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS

Additions: None

MOVED by Councillor Johns, seconded by Councillor Whitman that the agenda be approved as presented. MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES - NONE

5. STATUS ITEMS - NONE

6. MOTIONS OF RECONSIDERATION/ RESCISSION – NONE

7. CONSIDERATION OF DEFERRED BUSINESS

7.1 Case 17760 Development Agreement – 644 Bedford Highway, Halifax

A supplementary report dated December 6, 2013 was before Council.

Ms. Kirby Grant, Solicitor advised that Case 17760 had been deferred from the November 18, 2013 meeting of North West Community Council for supplementary information. The public presentation portion was completed at the November 2013 meeting. She advised Council that any information received after the public hearing date could not be used for deliberation.

Councillor Johns advised that he had not been at the November 18, 2013 Council meeting and could not participate in the matter and removed himself from the discussion.

Councillor Outhit stated that he had accepted staffs position on most of the information in the supplementary report. He added that the developer had agreed to build a sidewalk on the stretch of road as suggested by Council. He further commented his disappointment that the Traffic and Right of Way services did not recommend the addition of traffic lights at the intersection of the development; nor did they recommend

the turning lanes on Bedford Highway near the development. Councillor Outhit explained that Council cannot force Traffic Services to put up traffic lights, stop signs or crosswalks. He assured residents that he would be pushing for updated traffic counts to continue in the area. He requested staff to clarify the calculation of density under Land Use Bylaw (LUB) and Development Agreements (DA).

Ms. Jillian Maclellan, Planner advised that based on the photograph provided by the developer, Bedford Basin would remain visible from 79 and 94 Bedros Lane. She clarified that density is calculated under the LUB is based on habitable room, based on the design of the actual unit. She noted that under a DA there is not the ability to be specific on the actual design on the room and therefor unable to use the same calculation. She added that there is nothing unusual about the application and it's been calculated the same as other developments around the municipality.

MOVED by Councillor Outhit, seconded by Councillor Whitman, that North West Community Council:

- 1. Approve the proposed development agreement, presented as Attachment A to the supplementary report dated December 6, 2013.**
- 2. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise the this approval will be void and obligations arising hereunder shall be at an end.**

Discussion ensued.

MOTION PUT AND PASSED.

8. PUBLIC HEARINGS

8.1 Case 17736: Open Space Design Development Agreement – Brookhill Drive, Grand Lake

A staff report dated December 3, 2013 was before Community Council.

Mr. Andrew Bone, Planner advised Council, that an error had occurred in the online advertisement of the Public Hearing. The online advertisement had listed the incorrect location of the hearing. He further advised that additional staff had been posted to direct anyone who went there to the correct location. He further added that the mail out to residents adjacent to the proposed development and the advertisement placed in the newspaper had the correct location listed for the public hearing.

The Solicitor advised that there is some risk with proceeding due to the incorrect ad on the website. She noted that the application could be appealed if a resident was denied participation in the public hearing based on an incorrect advertisement.

Mr. Bone provided the presentation to Council. The application was submitted by Sunrose Land Use Consulting on behalf of property owner Caliber Consulting. The application was to develop a parcel of land to the north of Brookhill Drive, Grand Lake. The applicant is proposing to develop a Hybrid Open Space design and includes the following:

- 19 detached single unit dwellings.
- Extension of one public street and a new cul-de-sac.
- Privately owned lots.
- Services for each lot will be through onsite septic and well.
- 80% of land retained for open space is to be used for private conservation and passive recreation uses.

Mr. Bone advised that the applicant had originally requested the ability to include secondary apartments in some of the 19 lots. After public comment the developer indicated that since there was significant opposition to the secondary apartments they withdrew the request. Staff felt the additional units should be permitted as they provide for alternative housing needs in the community. Mr. Bone stated that part of the development is subject to provincial regulations related to the Bennery Lake Watershed Protection Area. He noted that the application was required to conduct a hydrogeological assessment to ensure adequacy of groundwater to service the proposed site.

Mr. Bone concluded the presentation by stating that staff believes that the development meets the requirements of Policy S-15 of the Regional Plan and recommends Council approve the proposed development agreement.

The Chair thanked Mr. Bone for his presentation and asked members of Community Council if they had questions of clarification. There being none, he read the rules of procedure and invited the applicant to speak to the applications.

Ms. Jennifer Tsang, speaking on behalf of the applicant, had no comment.

The Chair invited residents for or against the application to the microphone.

Ms. Denise Derosier stated that she had talked with Halifax Water and they stated there would only be 3 ½ lots for the development on Sullivan's Lake and wanted clarification as the staff report indicates there is 6 lots.

Mr. Bone clarified that Halifax Water would have the same information as presented and the proposal of six lots had not changed.

Mr. Garland Carmichael, felt that the plan did not properly address many of the environmental issues. He advised that there are a couple varieties of lady slipper in the area and they are on the endangered and protected species list. He raised concern that there is only one road in and out of the subdivision. He also asked who would be responsible if the development caused water problems in the area.

Mr. John Rutledge stated that the road is in poor condition and could not handle extra traffic on it from the development.

Mr. Gaetan Paquin, Brookhill Drive asked how many of the proposed buildings were going to include in-law suites. He stated he was not in favour of having in law suites in the neighbourhood.

Mr. Darren Wheaton, wanted some reassurances put in place that the existing wells in the neighbourhood would not be affected by this new development.

Mr. Owen Evans, Grand Lake stated he was disappointed to see the amount of silt coming down from the Tannery Brook into the lake. It turns the whole lake brown, and it happens even though Provincial Regulations are in place. He requested that if development does go forward that extra caution be used to protect the lake.

Mr. Steve Givens, raised concern about the condition of Brookhill Drive. He also raised concern about the runoff coming from the proposed development. He noted that the ditch had not been cleaned out for many years and causing water to be diverted which is undercutting the hill.

Mr. Kevin McNamara, Brookhill Estates, also raised concern about the condition of Brookhill Drive. He added that he would like to see the addition of parkland in the area and would like to see HRM use any cash towards the building of a park.

The Chair called three times for any other speakers to come forward. Hearing none it was **MOVED by Councillor Johns, seconded by Councillor Outhit to close the public hearing. MOTION PUT AND PASSED.**

The Chair called for the proponent to come forward and address the comments made during the public hearing.

Ms. Jennifer Tsang, Planner with Sunrose Land Consulting presented on behalf of Mr. Roger Burns whom had recently passed away. She stated that HRM had added new procedures and policies to ensure that the quality and quantity of water would be unaffected through new developments. Their proposal had already gone under lots of scrutiny and they had provided staff and the Department of Environment with all data that was requested. She also noted that the proposed developments density is very low at one unit per hectare. In terms of the parkland, the request was decided to be cash in lieu of parkland as there was already some parkland in the area. Ms. Tsang stated that because of the outcry from the community, they would not be putting in any in law suites

in the area, but would request that a non-substantial amendment be included to allow three of them if requested by individual homeowners.

In response to Councillor Johns, Ms. Tsang noted that the in-law suites would not be assigned to a particular building; however, the first homeowners to build would be the first to be offered the option. She added that they would have to go to HRM and make the request and it would be decided by Council.

Mr. Bone advised that cash in lieu of parkland is calculated at ten percent of value per lot. He was unsure of the value of each lot but noted that the valuation would be determined by Property Valuation Services. Mr. Bone explained that before an application goes before the public it must go through a stage one open space application. He further added that this step is an environmental screening of the proposal. He explained that there are two types of lady slippers which are protected but were not found in the area for the proposed development. He noted that the one access point was noted and a concern for staff, but the number of units for this subdivision did not trigger the need for a second access point. Due to the fact that the parkland was off the development site, staff was unable to include the provision of parkland in the development agreement and thus the reason for cash in lieu. Mr. Bone explained that the environmental screening there was two hydrogeological studies carried out to determine if there would be any possibility of issues with the well water.

Mr. Bone stated that staff is in favour of the inclusion of in-law suites as it does allow for a housing choice and could be valuable in the community. He advised that the homeowner would have to apply for a non-substantive amendment but it would not require a public hearing process. He stated that the silt from Tannery Brook is under the regulations of the Nova Scotia Department of Environment. Stormwater management plans would need to be in place during construction of the subdivision.

Councillor Whitman expressed concern that the funds in lieu of parkland need to be used in the area where the development is proposed.

Councillor Dalrymple advised that he has been in contact with the local MLA to address some of the infrastructure issues related to the road in Brookhill Estates. He felt there is progress being made and HRM staff have indicated they have brought up the issue to Department of Nova Scotia Infrastructure Renewal (NSTIR).

Councillor Johns requested clarification of how many lots would be permitted on Sullivans Lake.

Mr. Bone noted that there are six lots proposed on Sullivan's Lake. He also advised that Community Council would not be able to allocate the funds towards park land as that was a decision that would have to be made by Regional Council.

Councillor Johns requested clarification from the Solicitor if Community Council had the ability to change the Development Agreement to have a park put in place of the allocation of funds, since the funds are unknown and currently do not exist.

Ms. Grant stated that she did not feel that Community Council had the ability to change that part of the development agreement. She advised that Community Council does not have the ability to expend funds. She added that if Community Council attempted to pass something they have no jurisdiction over it could jeopardize the entire project. She suggested that Council consider deferring the matter until she could provide better information.

Further discussion ensued.

Councillor Dalrymple noted that he had conversations with staff about dedicating parkland in the area. His preference was to have a strip of land donated to help join some of the existing trails in the area. He stated that he was told by staff that there was not the option to obtain the land and cash would be given instead. He then requested that the cash be used for the park in the area closest to the development but was told that decision would have to be made at Regional Council.

Councillor Outhit wondered if it was possible to support the proposal if the developer would agree to build a playground. He stated that the road construction should be fixed after the development occurs. He felt that the addition of in-law suites should be included as a possibility.

In response to questions from Councillor Johns, Mr. Bone noted there is no parkland or playground in the proposed development. The existing parcel of parkland was likely from the old County of Halifax.

Councillor Dalrymple questioned if the in-law suites was only mentioned in section 6.1(c) and wondered if Community Council could remove 6.1c from the development agreement and make the addition of in-law suites a substantive amendment.

Mr. Bone confirmed that Community Council had the ability to remove section 6.1c; however he noted that it would allow anyone under the development agreement to come forward and make application for in – law suites.

MOVED by Councillor Dalrymple, seconded by Councillor Johns that North West Community Council:

- 1. Approve the development agreement contained in Attachment A of the December 3, 2013 staff report to allow for a Hybrid Open Space Design development agreement at Brookhill Drive, Grand Lake.**
- 2. Delete section 6.1 c from the development agreement.**

- 3. Require that the development agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval of said agreement by Council and any other bodies as necessary, whichever is later, including applicable appeal periods; otherwise this approval shall be void and any obligations arising hereunder shall be at an end.**

Councillor Dalrymple stated that the community has been very consistent in their comments of not wanting in-law suites included in the development. He applauded the developer for listening to the community and removing that request. The proposal has gone through a number of hurdles including hydrogeological testing, Halifax Watershed Advisory Board, environmental testing and would continue to get the proper approvals before the lots would be completed. He noted that the request for 19 lots is far from what could have been accepted for the area with 80 percent of the land not being developed. Councillor Dalrymple acknowledged the need for parkland in the area noting there is no connectivity to the other parks in the area. He advised that he continues to speak with the local MLA and hoped to find a solution to some of the road and drainage issues in the area.

Councillor Johns felt that there is merit in having a process in place to have the inclusion of in-law suites. He questioned if Council should put forward an amendment to direct staff to look for the inclusion of parkland instead of cash and what would happen to that motion if it is deemed out of order. Councillor Johns expressed frustration that there was not the ability of Community Council to amend the development agreement to swap the cash for consideration of parkland. He added that he felt the majority of the application was fine but could not support it based on no parkland being considered.

Ms. Grant reiterated her comments that passing a motion with no authority could jeopardize the decision. She suggested that Council consider deferring the matter until she had the opportunity to properly research the questions raised by Councillor Johns.

MOVED by Councillor Outhit, seconded by Councillor Dalrymple that North West Community Council defers Case 17736 until receipt of supplementary legal advice.

MOTION PUT AND PASSED.

8.2 Case 18517: Rezoning 6757 Highway No. 2 Enfield

A staff report dated October 29, 2013 was before Community Council.

Mr. Andrew Bone, Planner again advised Council, that an error had occurred in the online advertisement of the Public Hearing. The online advertisement had listed the incorrect location of the hearing. He further advised that additional staff had been posted to advise anyone who went there of the correct location. He further added that

the mail out to residents adjacent to the development and advertisement placed in the newspaper had the correct location listed for the public hearing.

The Solicitor noted there is some risk with proceeding due to the incorrect ad. She added that the application could be appealed if a resident was denied participation in the public hearing based on an incorrect advertisement.

Mr. Bone provided the presentation to Council. He advised that the subject area was purchased by Irving to be used as an entrance/exit to the existing property. He noted that the proposed entrance is not permitted under the existing R-1B zoning. The application could be considered under the Community Commercial (C-2) zone by North West Community Council. Mr. Bone advised that the addition of this entrance/exit would make access safer. He also informed Council that there is another planning application for the main site but those would be addressed at Community Council at a later date.

The Chair thanked Mr. Bone for his presentation and asked members of Community Council if they had questions of clarification. There being none, he read the rules of procedure and invited the applicant to speak to the applications.

Ms. Christina Townsend, speaking on behalf of the applicant, had no comment.

The Chair invited residents for or against the application to the microphone.

Mr. Tom Mills, Highway No. 2 advised that he did not get a copy of the report that was provided at the beginning of the meeting and suggested that more copies be made available at the start of the Community Council meetings. He raised concern that there were safety issues for pedestrians with the creation of the driveway. He noted that the proposed new driveway the shoulder of the road has been compromised and there is an 8 – 10 foot ditch. On a good day there can be up to 50 people trying to make their way to the property. He recommended that something be added to accommodate the pedestrians in the area so they do not have to walk on the roadway.

The Chair called three times for any other speakers to come forward. Hearing none it was **MOVED by Councillor Johns, seconded by Councillor Whitman to close the public hearing. MOTION PUT AND PASSED.**

The Chair called for the proponent to come forward and address the comments made during the public hearing.

Ms. Christina Townsend, explained to Council that this application was part of a larger Big Stop which is already zoned commercial. She added that Department of Transportation requested that they look at adding the driveway. She added that in the other application they will be extending the pathway along the entire edge of the north of the property. The pathway will be made with crusher dust.

MOVED by Councillor Dalrymple, seconded by Councillor Johns, that North West Community Council approve the proposed rezoning of a portion of 6757 Highway No. 2 Enfield, from the R1-B (Suburban residential) to the C-2 (Community Commercial) Zone, as contained in Attachment A of the October 29, 2013 staff report.

Councillor Dalrymple recognized the following: Mr. Walter Regan, Sackville Rivers Association, Ms Anna McCarron, and Mr. Tom Mills of the Shubenacadie Watershed Environment Protection Society for being in attendance for the public hearing on this matter. The Councillor noted that this is one phase of a larger three phase redevelopment of the Enfield Big Stop. He noted that the pedestrian issue was noted at the public information meeting and was pleased to see the developer including infrastructure for pedestrians. He added that this proposal was a request from the Department of Transportation and would make the area safer.

MOTION PUT AND PASSED.

9. CORRESPONDENCE, PETITIONS & DELEGATIONS

9.1 Correspondence - None

9.2 Petitions -None

9.3 Presentation

9.3.1 Mr. Greg Burke – Blockage of Waterways and Marshlands

Mr. Burke was not in attendance at the meeting.

10. REPORTS -NONE

11. MOTIONS - NONE

12. ADDED ITEMS -NONE

13. NOTICES OF MOTION -NONE

14. PUBLIC PARTICIPATION

Mr. Walter Regan expressed disappointment in HRM in cancelling the water quality monitoring program. He felt it should be reinstated and expanded to look at water courses throughout HRM. Mr. Regan also requested that Council consider supporting an increase of funding for Active Transportation. Mr. Regan suggested HRM consider putting in 11 million dollars towards AT initiatives. Mr. Regan's final comment was for Council to consider increasing the buffer zones between land and waterways from 20 meters to 30 meters.

MOVED by Councillor Johns, seconded by Councillor Whitman that North West Community Council recommends to Regional Council that they consider reinstating the Water Quality Monitoring Program through its upcoming budget process.

Councillors unanimously supported the motion and indicated that due to the amount of people who swim and drink from the water supply, it is very important that the water quality monitoring program be reinstated.

The motion is ruled **OUT OF ORDER**. Administrative Order One, Section 48 states that “no motion can arise out of presentation or an item added to the agenda.”

14.1 Budget Consultation Public Input

Mr. Walter Regan requested Council consider increasing property taxes to lower the debt adding that the increase should be put directly toward the debt.

15. NEXT MEETING DATE – February 17, 2014

16. ADJOURNMENT

The meeting was adjourned at 9:45 p.m.

Quentin Hill
Legislative Assistant

INFORMATION ITEMS