

# HALIFAX REGIONAL MUNICIPALITY

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## MARINE DRIVE, VALLEY AND CANAL COMMUNITY COUNCIL MINUTES

March 30, 2011

PRESENT: Councillor David Hendsbee, Chair  
Councillor Barry Dalrymple, Vice Chair  
Councillor Steve Streach

STAFF: Mr. Randolph Kinghorne, Municipal Solicitor  
Ms. Krista Tidgwell, Legislative Assistant

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**1. CALL TO ORDER**

The meeting was called to order at 7:05 p.m. in the Multi-purpose Room #2 of the East Preston Recreation Centre, 24 Brooks Drive, East Preston.

**2. APPROVAL OF THE MINUTES – December 16, 2010, January 25, 2011  
(special meeting) & March 8, 2011 (joint special meeting)**

**MOVED by Councillor Streach, seconded by Councillor Hendsbee, that the minutes of December 16, 2010 and the special meeting minutes of January 25<sup>th</sup> and March 8, 2011 be approved, as presented. MOTION PUT AND PASSED.**

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

Addition:

12.1 Case 16577: Telecommunication Tower – 265 Holland Road, Fletchers Lake

The Community Council agreed to discuss Item 12.1 following Item 9.3.1.

**MOVED by Councillor Streach, seconded by Councillor Hendsbee, that the Order of Business be approved, as amended. MOTION PUT AND PASSED.**

**4. BUSINESS ARISING OUT OF THE MINUTES**

**4.1 STATUS SHEET REVIEW**

A copy of the Status Sheet was before the Community Council for review.

**4.1.1 Case 01278 – Application to amend Planning Districts 8 & 9 MPS & LUB**

No update. Item to remain on the Status Sheet.

**4.1.2 Wetland Restoration Project near Bennett Park, Hwy #107, Exit 18**

No update. Item to remain on the Status Sheet.

**4.1.3 Community Transit**

No update. Item to remain on the Status Sheet.

#### **4.1.4 River Road**

Councillor Hendsbee indicated that there will be a meeting between himself, residents and HRM staff respecting road improvement issues; an update will be provided for the next meeting.

Item to remain on the Status Sheet.

#### **4.1.5 Civic Addressing**

No update. Item to remain on the Status Sheet.

#### **4.1.6 Willie's Walk**

No update. Item to remain on the Status Sheet.

#### **5. MOTIONS OF RECONSIDERATION – NONE**

#### **6. MOTIONS OF RESCISSION – NONE**

#### **7. CONSIDERATION OF DEFERRED BUSINESS – NONE**

#### **8. HEARINGS – NONE**

#### **9. CORRESPONDENCE, PETITIONS AND DELEGATIONS**

##### **9.1 Correspondence – None**

##### **9.2 Petitions – None**

##### **9.3 Presentations**

##### **9.3.1 Holly Woodill, Chair of Halifax Regional Trails Association (HRTA) & Cole Harbour Parks and Trails Association (CHPTA) re: Active Transportation and HRM Trails**

Background information respecting Ms. Woodill's presentation entitled Active Transportation and HRM Trails was before the Community Council.

Ms. Woodill delivered a presentation to the Community Council.

The Community Council entered into a brief discussion with Ms. Woodill respecting HRTA and CHPTA's concerns regarding the lack of funding for HRM's trails.

Councillor Hendsbee requested that Ms. Woodill provide the Community Council with a copy of the Halifax Regional Trails Association's priority trails list for 2011-2012 prior to the commencement of Regional Council's budget debate.

Item 12.1 was discussed at this time.

## **12.1 Case 16577: Telecommunication Tower – 265 Holland Road, Fletchers Lake**

A staff report dated February 18, 2011 was before the Community Council.

Ms. Jaqueline Belisle, Planner, Community Development, delivered a presentation to the Community Council.

Councillor Dalrymple entered the meeting at 7:38 p.m.

During the Community Council's discussion, Councillor Hendsbee provided an overview of the leasing arrangements that would be in place between EastLink and property owners should the tower application is accepted. He noted that the lease must be filed with the Registry of Deeds, as it would be considered as an income property.

Councillor Hendsbee questioned whether EastLink would be responsible to provide power line easements as part of the lease agreements. Ms. Belisle clarified that power line easements are not part of the planning application. Councillor Hendsbee commented that identification as to how the towers will be supplied electricity for their operations needs to be included as part of the application process.

**MOVED by Councillor Dalrymple, seconded by Councillor Streach, that the Marine Drive, Valley and Canal Community Council forward a positive recommendation to Industry Canada supporting the proposal by EastLink for the construction of a new 75 metre (246 foot) self support telecommunication tower and associated equipment cabinet at 265 Holland Road (PID# 00528166), Fletcher's Lake, as shown on Map 1 and Attachment B of the staff report dated February 18, 2011.**

**MOTION PUT AND PASSED.**

## **10. REPORTS**

### **10.1 STAFF REPORTS**

#### **10.1.1 Fence Permit Application #102842 – 91 Glasgow Road**

The following was before the Community Council:

- A staff report dated January 24, 2011.
- Email submissions between C. Brian Mintus, Councillor Hendsbee and HRM staff, dated July 28, 2009, January 21, 2011 and March 29, 2011, including photographs of activity around the fence.
- Submissions from Chris Smith:
  - a letter from Brockman Engineering Inc. to Mr. Smith dated March 24, 2011, with attached photographs of the fence;
  - a letter from Gary and Cindy Compagnon dated April 4, 2010; and

- a letter from Mr. Smith dated March 30, 2011 with an attached survey of Lots 1-10 and photographs of the fence
- A copy of the Provincial Fences and Impounding of Animals Act.

Mr. Richard MacMillan, Supervisor, Permits & Inspections, Community Development, provided an overview of the January 24<sup>th</sup> staff report to the Community Council, noting that there was a delay in the fence permit application process due to the file being misplaced. It was further noted that the fence was constructed without a permit.

Councillor Hendsbee reviewed the rules and procedure, calling for the applicant and any adjacent property owners to come forward at this time to speak for or against the application.

**Mr. C. Brian Mintus, applicant**, presented a video he had taken of his fence and the surrounding property. He indicated that he built the fence in 2009 to create privacy. Further points noted by Mr. Minuts:

- the fence was built with eight inch lumber he had on hand
- an engineer's report was completed that indicates that the fence is structurally sound
- to prevent the fence from swaying, he overstressed the fence using knuckle bolt wiring cables to hold the fence from the eastern and western widths
- concerned with his neighbour using boulders to impede water passage, which resulted in a \$17,000 re-modification of drainage (trench) on his property
- the affects of the fence are limited to himself and his neighbour at 103 Glasgow Road

**Mr. Christopher Smith, resident of 103 Glasgow Road**, noted the following points:

- the fence sits approximately two (2) feet onto his property line; there is no indication as to who removed the property marker; he will be hiring a surveyor to confirm that the fence sits on his property
- when a permit is requested, is it not the responsibility of HRM to ensure the fence meets requirements of property lines, as the building structure must be ten (10) feet away
- the engineer's report he had prepared indicates that the fence is structurally unsafe; over the past two years the fence has weakened and leaned over twice; support posts were installed in 2011
- the fence is unsightly and depreciates the value of his property
- he is not opposed to the size of the fence and would not disagree with a properly constructed fence designed by an engineer and approved by HRM
- concerned with the drainage ditch on his neighbour's property as water is being directed onto his property
- Mr. Mintus should have obtained a permit for the fence two years ago before building his fence

The Community Council entered into discussion. The following points and concerns were raised:

- concerned with the conflicting engineers' reports; possibility of a third engineer's review
- concern with evidence provided by Mr. Smith respecting erosion and shifting of the concrete piers; it appears that there has been some structural issues with the fence
- evidence indicates within the photographs, that Mr. Mintus did tear up his paved driveway to rebuild a drainage ditch to assist with offsetting some of the movement of the fence walls and stabilize the fence foundation on his side of the property
- typically setbacks to property lines are applied to sheds and houses rather than fences; fences can be built up to a foot or even on the property line

Staff clarified that during the permitting application process, HRM requires the applicant to ensure the fence is being constructed on their property. Should concerns arise during the application process, additional information such as a survey can be requested.

The Municipal Solicitor advised that as this is an application by the property owner to build a fence, the Community Council can request that additional information be provided respecting concerns raised related to the property lines. The onus is on the applicant for the permit to provide the additional information, which may include a survey. He noted that it would be a matter of a surveyor re-establishing the property line and where the fence presently lies in relation to the property line. With respect to the cost of the survey, this is a reasonable request for the applicant to provide the necessary information to continue moving forward with the application.

Following further discussion, it was **MOVED by Councillor Dalrymple, seconded by Councillor Streach, that Marine Drive, Valley and Canal Community Council defer Item 10.1.1 – Fence Permit Application #102842 – 91 Glasgow Road for 60 days to allow for the following information to be provided to the Community Council:**

- **a Survey of the property lines at 91 Glasgow Road and 103 Glasgow Road and the position of the fence as it relates to those lines, to be provided by the applicant;**
- **clarification from the Department of Environment respecting the watercourse near the property to address erosion concerns and whether additional structural fill is required, to be provided by HRM staff; and**
- **confirmation as to whether the structural integrity of the fence would be compromised if aesthetics enhancements were made with the use of, or including, additional boarding, to be provided by the applicant.**

It was noted that Mr. Mintus' engineer would have to have review the structural integrity of the fence to ensure there would be no compromise for aesthetic enhancements.



**MOTION PUT AND PASSED.**

**11. MOTIONS – NONE**

**12. ADDED ITEMS**

**12.1 Case 16577: Telecommunication Tower – 265 Holland Road, Fletchers Lake**

This matter was addressed earlier in the meeting, see page 6.

**13. NOTICES OF MOTION – NONE**

**14. PUBLIC PARTICIPATION**

Mr. Spenser Colley, Chair, East Preston Ratepayers Association, expressed concern respecting the activity at 2127 Highway #7, East Preston. The Community Council requested that a letter be sent to the Department of Environment inquiring about the activity on the property, as well as requested HRM staff to confirm the property's zoning.

Mr. Marvin Riley, East Preston, expressed concern respecting the condition of the road at the corner of Highway #7 and Upper Governor Street. The Community Council requested that a letter be sent to the Department of Transportation on behalf of Mr. Riley, asking that consideration be given to filling in the shoulder of road with gravel.

Mr. C. Brian Mintus, resident of 91 Glasgow Road, East Preston, expressed concern respecting unwanted flyers being distributed to his property. He further indicated that flyers were being distributed to houses in East Preston that are presently vacant. Councillor Hendsbee advised that residents could contact Dartmouth's Weekly News, as well as the Chronicle Herald's Weekly News to request a "stop delivery". Mr. Mintus advised that he had made this request; however, there is a new driver and he is still receiving flyers. The Community Council requested that letters be sent to Dartmouth's Weekly News and the Chronicle Herald's Weekly News advising them of Mr. Mintus' concerns.

In response to a question raised by Mr. Mintus respecting Provincial and Municipal voting boundaries, Councillor Hendsbee provided the following information:

- a Municipal boundary review must be completed prior to the 2012 Municipal Election; a report was tabled with the Nova Scotia Utility and Review Board in December 2010; hearings are scheduled to commence in late June; residents can contact the UARB to submit comments or make a request to present
- a Provincial boundary review must be completed prior to the next Provincial Election
- data collected from the 2011 Censuses will assist with determining further Federal boundary reviews

Councillor Hendsbee advised that he would include information on the Municipal boundary review within his June newsletter.

**15. NEXT MEETING DATE**

Following a brief discussion, the Community Council agreed to cancel their April 27, 2011 meeting due to a scheduling conflict and review the possibility of holding two meetings in May.

**16. ADJOURNMENT**

The meeting adjourned at 8:42 p.m.

Krista Tidgwell  
Legislative Assistant

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INFORMATION ITEMS – NONE