

PENINSULA COMMUNITY COUNCIL  
MINUTES

June 13, 2011

PRESENT: Councillor Dawn Sloane, Chair  
Councillor Jennifer Watts, Vice Chair  
Councillor Jerry Blumenthal  
Councillor Sue Uteck

STAFF: Mr. Joshua Judah, Solicitor, Legal Services  
Ms. Sheilagh Edmonds, Legislative Assistant

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**1. CALL TO ORDER**

The Chair called the meeting to order at 7:02 p.m.

**2. APPROVAL OF MINUTES – May 9, 2011**

**MOVED by Councillor Blumenthal, seconded by Councillor Uteck that the minutes of May 9, 2011 be approved. MOTION PUT AND PASSED.**

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

Deferral:

10.2.1 District 12 Planning Advisory Committee – Case 15775: Halifax Peninsula – Laying Hens

A report dated May 20, 2011 was submitted from Beverly Miller, Vice Chair, District 12 Planning Advisory Committee, with an attached staff report dated February 7, 2011.

Councillor Watts requested deferral of this matter to the September 12, 2011 meeting so that staff could prepare a supplementary report, including draft wording of the bylaw, in the event Community Council decides they wish to proceed as per the recommendation of the District 12 Planning Advisory Committee, **to which it was agreed.**

Councillor Sloane noted that at the District 12 Planning Advisory Committee meeting, there was discussion about Best Practices across the country in this regard, and she asked the supplementary report also address this aspect.

Addition:

12.1 Amendment to the Charter – Pilot Projects – Councillor Watts

**MOVED by Councillor Blumenthal, seconded by Councillor Uteck that the agenda, as amended, be approved. MOTION PUT AND PASSED.**

**4. BUSINESS ARISING OUT OF THE MINUTES None**

**4.1 Business Arising: None**

**4.2 Status Sheet: No updates provided**

**5. MOTIONS OF RECONSIDERATION – NONE**

**6. MOTIONS OF RESCISSION – NONE**

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

**8. HEARINGS**

**8.1 Public Hearings: None**

**8.2 Variance Appeal Hearings**

**8.2.1 Variance 16878: Lot 3, Russell Street, Halifax**

A staff report date June 6, 2011 was submitted.

Ms. Shilo Gempton, Development Technician presented the report outlining the reasons the Development Officer approved the variance request at Lot 3 Russell Street to permit a two unit dwelling. In her presentation, Ms. Gempton advised that the applicant had wanted to construct a two unit dwelling on a vacant lot but the requirements for lot frontage and lot area in the R-2 Zone could not be met. She noted that the frontage requirement is 50 feet but the lot has only 41 feet of frontage, and the required area for a two unit dwelling is 5,000 sq. ft. but that the lot has only 4100 square feet.

In reviewing the criteria by which the Development Officer based his decision, Ms. Gempton advised that the variance does not violate the intent of the land use bylaw because the lot is of similar area and frontage as lots developed with two unit dwellings in the area and the by-law a permits such lots to be developed. She also advised that the difficulty experienced with this property is not experienced by neighbouring properties, noting that the neighbourhood has no consistency with respect to use or lot sizes and other properties in the area have successfully converted to two unit dwellings using the conversion clause. Mr. Gempton noted that there has been no intentional disregard from the requirements of the land use bylaw.

The Chair reviewed the Rules of Procedure for variance appeal hearings and opened the hearing.

Mr. David Pothier, the appellant addressed Community Council and advised that he lived adjacent to the property in question. In his remarks, Mr. Pothier expressed concern about the impact the proposed dwelling would have on his privacy. He noted that dwelling has twelve windows which will overlook his backyard. Mr. Pothier referred to the Land Use Bylaw and suggested that the variance process was intended to allow for slight changes and that the proposed lot area and frontage meets only 80 percent of the requirement, therefore, only a single unit dwelling should go on the lot.

Mr. Brian Levangie, the applicant addressed Community Council advised that he owned two other buildings in the north end that are duplexes and are on lots that are 41 x 100 square feet. He noted that, in the appellant's letter, he suggested that he could take two lots and combine them and put a four unit building on it. Mr. Levangie advised that in

his view this would not meet intent of the bylaw. He added that his intent with his proposal was to increase the value of property and make this a better neighbourhood. Mr. Levangie made reference to the appellant's comment regarding the amount of windows which would be overlooking his property and advised that there would be no more than six windows overlooking his property. Mr. Levangie referred to the third point in the appellant's letter in regard to proposed development agreement on a property on the opposite side of Gottingen Street and pointed out that this does not have any impact or effect on what he is doing on a smaller scale a block away.

In response to a question from Councillor Watts, Mr. Levangie advised that in regard to the trees between his property and the Gottingen Street property, he would retain everything that he possibly could. He added that he was concerned that there could be some damage to tree roots in digging a foundation, but he would do what he could to try and save trees.

In response to a further question from Councillor Uteck concerning landscaping, Mr. Levangie advised that he has not engaged an architect at this point, adding that he was advised by staff that the line drawings he has presented was sufficient for this stage of the process.

Councillor Blumenthal noted that the Development Officer had approved the variance and he requested staff to explain the decision

Ms. Gempton indicated that the decision was based on the character of the neighbourhood, which is very much mixed in terms of multi-unit, church, community centre, special care home, single and two units. She added that if the neighbourhood were consistently single units in an established neighbourhood, the application would have likely been refused.

**MOVED by Councillor Blumenthal, seconded by Councillor Uteck that the decision of the Development Officer be upheld and the variance be granted.  
MOTION PUT AND PASSED.**

### **8.2.2 Variance 16923: 6456 Edgewood Avenue, Halifax**

A staff report dated June 6, 2011 was submitted.

Ms. Connie Sexton, Development Technician, outlined the reasons why the Development Officer refused a variance application for 6456 Edgewood Avenue to legalize a two unit dwelling. She explained that it was refused based on:

- the second unit would violate the intent of the land use bylaw because it did not meet the minimum requirements for frontage, lot area and sideyard;
- the difficulty experienced is general to the properties in the area as most lots in the area meeting requirements for a single unit dwelling and the

size and configuration of the lot is consistent with other properties in the area.

Ms. Sexton advised that intentional disregard for the land use bylaw was not a consideration for refusing the variance because the current owner purchased the property unaware of the illegal units and entered the variance process in good faith to legalize the second unit.

In response to a question, Ms. Sexton advised that staff became aware of the situation when the owner applied for a zoning confirmation letter. Through this process, staff also found out that in 1988 it was refused an application to convert the existing building to two dwelling units. In response to a further question, Ms. Sexton advised that there have been no complaints from neighbours.

The Chair reviewed the Rules of Procedure for Variance appeals and opened the hearing.

Mr. Patrick Pottie, the property owner, addressed Community Council and advised that he purchased the property ten years ago and at that time, he was verbally informed by the property owners that it was a two unit building. He added that he always assumed it was two units because his tax bill for the past ten years showed it was for 'dwellings' (a copy was submitted for the official file).

Mr. Pottie noted that the footprint of his property has not changed in over 65 years, and 23 years ago, a second storey was added and was built on the existing footprint. He explained that the density has not changed as the original building which was a storey and a half, had four bedrooms –two upstairs and two downstairs—but today it has one bedroom on the lower unit and a two bedroom in the upper unit. In reference to the staff comment that there are four properties in the notification area that are two units and the rest being single units, Mr. Pottie stated that the notification area was about fifteen units and four of those properties, which would be approximately 30 percent, were actually two units. In addition, he noted that in the streets immediately around his property there are a total of 34 two-units, and one street away there is a development of 10 row houses with 24ft. of frontage.

In summary, Mr. Pottie advised that his house was the same sized footprint as 90 percent of houses in the area; the house is two stories which is similar to most of the homes in the area; all the homeowners he spoke with in the notification area have no issues with the home.

The Chair called three times for anyone else wishing to speak; there being none, it was **MOVED by Councillor Watts, seconded by Councillor Blumenthal that the appeal hearing close. MOTION PUT AND PASSED.**

**MOVED by Councillor Blumenthal, second by Councillor Uteck that the decision of the Development Officer be overturned and the variance be granted.**

Councillor Uteck advised that, in supporting this variance, she was hopeful that in future there will be a mechanism that will require the real estate industry to have a certificate of disclosure on properties because the vast majority of cases Community Council hears, are to legalize properties that have been operating in the wrong use.

**MOTION PUT AND PASSED.**

### **8.2.3 Variance 16876: 1616 Edward Street**

A staff report dated June 6, 2011 was submitted.

Mr. Dave Hanna, Development Technician outlined the application for variance from the gross floor area ratio requirements of the Halifax Peninsula Land Use By-law to permit renovations to the basement of a single unit dwelling at 1616 Edward Street. He advised that the Development Officer approved the variance, but it has been appealed by the owner of 1630 Edward Street.

Mr. Hanna and Mr. Trevor Creaser, Development Officer responded to questions from Community Council.

In response to a question from Councillor Uteck if staff inspected the property to see if it was a multi-unit dwelling, Mr. Hanna advised that staff did a 'walk-through' of the building and confirmed it is a single family home with five bedrooms.

In response to a question by Councillor Watts, Mr. Creaser advised that if the dwelling were intended to be used for something more than a single family house, the property owner would require another variance application for lot setbacks.

The Chair opened the variance hearing.

Mr. Rob Green advised that he's been a resident of the area since 2005. He added that every day he walks by this house and that it is one of five rental units in a row. He also pointed out that there was an occupant in the basement for the last year. Mr. Green noted that since he moved to the block, three properties that were single unit dwellings have been converted to multi-unit houses and there is a huge problem on Edward Street as a result of students moving in and occupying these multi-units. He explained there have been issues of violence, pointing out that he was attacked twice, and that the police have been called many times. In addition he noted that with the five rental units there has been broken glass and beer bottles littering out front of the properties. Mr. Green advised that he opposed the variance because it is bad for the neighbourhood, and it is against the bylaw passed in 2005. He added that he felt to approve the additional square feet, it will result in more students living there and he was worried that it would be the tipping point of putting the street into a student ghetto. Mr. Green requested that Community Council oppose the variance.

Ms. Christa Schaffhauser, Brookside, advised that she was the property owner. She explained that the variance application was made in regard to foundation work required

on the house because of severe leaking and damage. She noted that she took ownership of the house last August and the basement was not liveable space. She added that she and her husband bought the single family home with the intent to eventually move in, so that she could be closer to her mother-in-law who lives on Walnut Street and requires a caregiver. Ms. Schaffhauser advised that when they were going through the process, they were advised that it would be more cost efficient to apply for the variance so that they could get a return on the money they have to invest for the repairs. She noted that recently they determined there is 275 feet under the basement stairs that they does not have to be dug up, therefore, their request is actually for 434 square feet. Ms. Schaffhauser advised that they had to take out a loan for the repairs and it has been a huge financial strain, and they would like to get some of those funds back in the future. She stressed that it is her intention to move into the house, and that it is not a multi-unit property. In closing, Ms. Schaffhauser pointed out that she is not increasing the footprint; that she has never had a noise complaint when they did have tenants, and she apologized for the construction bin out front of the property on the sidewalk, and noted that she has a permit for the bin.

Councillor Uteck questioned Ms. Schaffhauser if it was her intention to move into the neighbourhood, pointing out that the concern of the neighbourhood is that if Community Council grants the variance, it will increase students living there.

Ms. Schaffhauser responded that it was their initial intention to move in when they purchased the property, but at this point, given the costs being incurred to fix the basement, she was not sure at this point.

Councillor Uteck noted that this was a difficult decision, but for her as the area Councillor the decision comes down to a risk point for the street as whether the applicants will or will not move in. She added that GFAR was put in place to limit the number of habitable rooms and this house is already at risk because it has five bedrooms with the potential to be rented out, and the possibility of one more in the basement if the variance is approved. Councillor Uteck indicated that she wasn't willing to put the neighbourhood at this risk and was prepared to overturn the decision of the development officer

**MOVED by Councillor Uteck, seconded by Councillor Watts that the decision of the Development Officer be overturned and the variance be refused. MOTION PUT AND PASSED.**

**Community Council recessed at 8:16 p.m.**

**The meeting reconvened 8:23 p.m.**

**9. CORRESPONDENCE, PETITIONS & DELEGATIONS**

**9.1 Correspondence: None**



**9.2 Petitions: None**

**9.3 Presentations:**

**9.3.1 Irish Association of Nova Scotia – Recognition of Irishtown**

Mr. Tony O'Carroll and Mr. Troy Doyle representing An Cumann, The Irish Association of Nova Scotia provided a presentation in regard to their efforts to commemorate the settlement of Irishtown in Halifax. Specifically, they requested bilingual (English/Irish-Gaelic) or distinctive historic neighbourhood signage in the general area that was known as Irishtown (below Barrington Street to the harbour from Prince Street south to the end of Hollis street). Examples of such signage in other cities across Canada were illustrated and Community Council was advised that this would be a relatively low cost endeavour and would not involve any renaming or changes to street names.

**MOVED by Councillor Uteck, seconded by Councillor Blumenthal that the presentation be forwarded to staff for report back on the feasibility of implementing the request for bilingual signage (English/Irish-Gaelic) or distinctive historic neighbourhood signage in the general area that was known as Irishtown. MOTION PUT AND PASSED.**

**9.3.2 Ujamaa**

Mr. Rocky Jones, Chair, Ujamaa Council 2011 addressed Community Council and gave a presentation on Ujamma. He explained that it was a collaborative Initiative supported by Nova Scotia's influential leaders from the African Nova Scotia community, the Greater Halifax Partnership to empower the African Nova Scotia community to reach its full potential.

**10. REPORTS**

**10.1 Staff**

**10.1.1 Business Improvement District for Agricola, Hydrostone, Gottingen**

A staff report dated May 18, 2011 was submitted.

Ms. Peta Jane Temple, Regional Coordinator, Grants provided an overview of the staff report. In her remarks she noted that of the 265 ballots sent out, the result was 65.9 percent were in favour of the formation of a new Business Improvement District in this area. She advised that staff were recommending the formation of a new BID and that Peninsula Community Council advance this to Regional Council for formal approval.

Ms. Temple responded to questions from Community Council.

Councillor Blumenthal advised that he would like Mr. Bernard Smith to provide his remarks to Community Council.

Mr. Bernard Smith addressed Community Council advising that he had been working with the North End and Central districts for a number of months to facilitate this outcome. He explained that through conversations he has had with property owners and business owners throughout this process, he sees that this is a commitment to extend membership to business owners and not for profit businesses once the body has been formally created.

Councillor Uteck pointed out that she had a concern about what benefits the membership is expecting to receive as a result of the creation of the BID. She pointed out that HRM has not been able to properly assist other BID's in regard to funding, and that it could be a number of years before they would see any improvements .

In response, Mr. Smith advised that no one was anticipating major projects to result, and that, instead, there will be more awareness of the needs of business in terms of parking enforcement and regulation; bringing maintenance needs to the attention, e.g. lighting and catch basins. He added that the real purpose is to work together to provide a face to Council as to what is available in the North End, and work to generate more business. He also noted that there were some major developments in the north end that will increase the residential densification of the area

The Chair noted that Michelle Strum was in the public gallery and advised that she has been working on this matter for 11 years. With Community Council's agreement, the Chair asked Ms. Strum to provide her comments.

Ms. Michelle Strum addressed Community Council and advised that Gottingen Street had an ad hoc merchants association for 10 years, and that there was an association in the Hydrostone and Agricola area but there was not sustainability in these. She added that the BID will have them working collectively and it will be sustainable.

Mr. Ross Cantwell addressed Community Council advised that he has been involved in the development of Gottingen Street for the past decade, noting that he was a partner in the Brickyard Condominiums, and is the founding President of the Housing Trust of Nova Scotia. He pointed out that he has purchase two properties on Gottingen Street for \$3 million and is looking at building 250 units of housing (50 percent affordable and 50 percent market rate). Mr. Cantwell advised that Gottingen Street was a dynamic and diverse place, but the issue he sees is that no one seems to be managing some of these neighbourhoods, and it is time to be proactive and this will be the role of a BID.

**MOVED by Councillor Watts, seconded by Councillor Uteck that Peninsula Community Council recommend Halifax Regional Council:**

1. **Endorse the establishment of a Business Improvement District for the Agricola, Gottingen, Hydrostone area, in accordance with the Boundary contained in Attachment 1 of the May 18, 2011 staff report**
2. **Approve the proposed area rate levy of \$0.18 per \$100.00 of assessed value for commercial assessment to be applied within the Business Improvement District effective in the 2011-12 fiscal year with a minimum of \$50 and a maximum of \$2,500 per property; and**
3. **Authorize the Mayor and Municipal Clerk to execute the Business Improvement Districts Service Agreement as set out in Attachment 4 of the May 18, 2011 staff report for one year, effective June 8, 2011.**
4. **Defer BID eligibility for HRM discretionary contributions funding until the 2012-2013 fiscal year.**

**MOTION PUT AND PASSED.**

**10.2 Committee Reports:**

**10.2.1 District 12 Planning Advisory Committee – Case 15775: Halifax Peninsula – Laying Hens**

This matter was dealt with earlier in the meeting. See page 3.

**10.3 Member of Peninsula Community Council: None**

**11. MOTIONS: None**

**12. ADDED ITEMS:**

**12.1 Amendment to the Charter – Pilot Projects – Councillor Watts**

**MOVED by Councillor Watts, seconded by Councillor Blumenthal that Peninsula Community Council recommend Halifax Regional Council request a staff report with regard to pursuing amendments to the HRM Charter to enable Pilot Projects.  
MOTION PUT AND PASSED.**

**13. NOTICES OF MOTION: None**

**14. PUBLIC PARTICIPATION**

Mr. Larry Haiven, representing the Friends of Schmidville addressed Community Council regarding their application to have Schmidville designated as a Heritage Conservation District. Mr. Haiven noted that he has met with staff and discussed the application and was dismayed to learn that the process could take upwards of five years

before it is dealt with by Council. He added that his concern was that, in the interim, the area would continue to be encroached upon by development that was not in keeping with the heritage of the area, and he was before Community Council this evening to seek support in expediting their application.

**MOVED by Councillor Uteck, seconded by Councillor Watts that staff, in consultation with Legal Services, provide a report outlining development controls that could be immediately put in place in the historic area of Schmidville until such time that it is slated for review as a heritage conservation district. MOTION PUT AND PASSED.**

**15. NEXT MEETING DATE - September 12, 2011**

**16. ADJOURNMENT**

Councillor Uteck noted that it was getting late and suggested that the Annual General Meeting that was scheduled to take place after this meeting, be deferred to the September meeting.

**MOVED by Councillor Uteck, seconded by Councillor Watts that the Annual General Meeting be deferred to the September meeting. MOTION PUT AND PASSED.**

The meeting adjourned at 9:22 p.m.

Sheilagh Edmonds  
Legislative Assistant