

WESTERN REGION COMMUNITY COUNCIL
MINUTES

NOVEMBER 28, 2011

PRESENT: Councillor Reg Rankin, Chair
 Councillor Peter Lund, Vice Chair
 Councillor Stephen Adams

STAFF: Mr. Martin Ward, Solicitor
 Ms. Sherryl Murphy, Deputy Clerk

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1. CALL TO ORDER

Councillor Adams called the meeting to order at 7:00 p.m. at the Keshen Goodman Library.

ELECTION OF CHAIR AND VICE CHAIR

Sherryl Murphy, Deputy Clerk, called for nominations for the Chair.

MOVED by Councillor Adams, seconded by Councillor Lund that Councillor Rankin be nominated to the position of Chair.

Ms. Murphy called for further nominations, there being none, **the MOTION WAS PUT AND PASSED** and Councillor Rankin was declared Chair.

MOVED by Councillor Rankin, seconded by Councillor Adams that Councillor Lund be nominated to the position of Vice Chair.

Ms. Murphy called for further nominations, there being none, **the MOTION WAS PUT AND PASSED** and Councillor Lund was declared Vice Chair.

Councillor Rankin assumed the Chair.

2. APPROVAL OF MINUTES

MOVED by Councillor Lund, seconded by Councillor Adams that the minutes of the October 24, 2011 meeting of the Western Region Community Council be approved as presented. MOTION PUT AND PASSED.

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

Additions:

12.1 Councillor Rankin: Acknowledgement of Provincial Department of Environment's Contribution, November 3, 2011 meeting in Goodwood

12.2 Correspondence from Halifax Water re Mill Cove Sludge to Herring Cove WWTF

MOVED by Councillor Adams, seconded by Councillor Lund that the agenda, as amended, be approved. MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES

4.1 Status Sheet - NONE

- 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 **Case #17277: Appeal of the Development Officer's Decision to Approve an Application for a Variance – 1574 John Brackett Drive, Herring Cove**

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

Mr. Sean Audas, Development Officer, briefly outlined the application to approve a variance of the front and side yard requirements of the Planning District 5 Land Use By-law to permit the construction of a single unit dwelling as contained in the November 18, 2011 staff report. Mr. Audas indicated that he had approved the variance and subsequently received two appeals. Mr. Audas indicated that staff is recommending the Community Council uphold the decision of the Development Officer

Mr. Audas responded to questions from members of Council regarding the application for the variance.

In response to a question from Councillor Adams, Mr. Audas noted that the issue was that without a variance of the side yard the dwelling would not meet the 20 foot width requirement for a dwelling under HRM's Bylaws. Mr. Audas noted that a reduced width building (not a dwelling) could be built on the lot.

The Chair briefly reviewed the procedures for a Variance hearing and opened the hearing calling for the appellant(s) to come forward to speak.

Heidi Ship, appellant, addressed Community Council indicating that she believed the process was flawed as it pitted neighbours against each other in a small community. She indicated that when she had purchased her home she was assured by her real estate agent that the lot in question could not be developed. She went on to note that, in fact, there were five (5) different variances involved with this proposal: 1. the lot is undersized 2. the lot does not have 75 feet of road frontage 3. the lot does not have a 100 foot setback from the water 4. a variance from 20 to 10 feet of the front yard requirement has been requested and 5. a variance of the side yard requirements from 8 to 4 feet has been requested. Ms. Ship indicated that five exceptions is excessive and suggested that the proposed dwelling should only require a minimum number of changes in order to fit on the lot. She went on to suggest that if this proposal was permitted, then she and all her neighbours should be permitted to build a house in their

front yard. Noting that she understood the concept of infill housing, Ms. Ship suggested that Herring Cove was a unique and special place and did not fit well with infill housing.

John Ross Pelham, appellant and owner of an adjacent property, withdrew his appeal indicating that he had spoken with the applicant for the variance and resolved his concerns.

Mr. Audas clarified that there are certain variances which can be approved by the Development Officer which do not have an appeal. He went on to note that the two which were appealed are the subject of tonight's hearing.

Mr. Peter Pelham addressed the Community Council from the floor. The Chair, noted that Mr. Pelham was not within the 30 meter notification area and, therefore, was ineligible to speak at this hearing. The Chair respectfully ruled that Mr. Pelham's comments be struck from the record.

The Chair called three times for persons having received notification who wished to speak, hearing none, he invited the applicant for the variance to speak.

Mr. Brent Dempsey, applicant for the variance, noted there are provisions for an undersized lot in the Land Use Bylaw. Mr. Dempsey noted that development has occurred in Herring Cove on the water. He went on to outline homes located on water lots and indicated the lot in question was one of two or three lots yet to be developed. Mr. Dempsey noted that this lot has been owned by his family for 40 years. He pointed out that this lot is fully serviced and this indicates that the city anticipated that it would be developed.

Mr. Dempsey indicated that a four (4) foot variance on each side yard had been requested to provide flexibility and noted that it is very likely that the full variance will not be needed. Although a 10 foot variance has been requested, based upon the shape of the lot, only one small piece of the lot would not meet the 20 ft. requirement. He went on to advise that he intended to build a small, energy efficient home which would be in keeping with the neighbourhood. Mr. Dempsey cited a home built four years ago at 1594 John Brackett Drive as a precedent, noting that a side yard variance of 4.5 feet had been granted in that case.

There being no further speakers, the public hearing was closed.

In response to questions from Councillor Lund regarding the regulatory environment, Mr. Audas indicated that he was constrained to consider a variance under the provisions of the HRM Charter and the Land Use Bylaw.

A brief discussion ensued regarding a deferral of the matter with a view to Community Council obtaining a better understanding of the lot and regulatory environment.

Mr. Ward, Municipal Solicitor, indicated that Community Council could defer their decision if they believed their decision would have an impact on more than the involved properties. He further indicated that should Community Council not uphold the Development Officers decision, they should give one or more reasons for not doing so.

Councillor Adams expressed concern that the matter not be deferred noting that he was prepared to put forward a motion. He went on to note that any decision made by Western Region Community Council with regard to this matter will impact the future of Herring Cove. The Councillor pointed out that development of waterfront properties would not have been possible two years ago. Councillor Adams indicated that his concern was that the applicant would be unable to build a dwelling on the lot without the variance. He noted variances usually involve the addition of a deck, fence or shed. Councillor Adams indicated that he would not support the application as the variances are necessary to allow a home to be built on the lot and this is not, in his opinion, in keeping with the Land Use By-law.

MOVED by Councillor Adams, seconded by Councillor Lund that Western Region Community Council overturn the Development Officer's decision to approve the variance. MOTION PUT AND PASSED.

9. CORRESPONDENCE, PETITIONS & DELEGATIONS

9.1 Correspondence

9.1.1 Letter dated October 28, 2011 from Halifax Water re Transport of External Sewage Sludge to the Herring Cove Sewage Treatment Plant

Correspondence dated October 28, 2011 from Carl Yates, General Manager, Halifax Water, was before Community Council.

This matter was deal with under Item 12.2

9.2 Petitions- Councillor Adams

Councillor Adams submitted a petition on behalf of 105 concerned residents urging Community Council to decline the location of the 61 meter communication tower proposed within Williamswood residential and rural wilderness areas and located off the Old Sambro Road and Acres Road.

Councillor Adams requested that the petition also be submitted to Halifax Regional Council on December 6, 2011.

9.3 Delegations - NONE

10. REPORTS

10.1 Staff

10.1.1 2012 Proposed Meeting Schedule

A proposed meeting schedule for the Western Region Community Council was before Community Council.

MOVED by Councillor Adams, seconded by Councillor Lund that Western Region Community Council approve the 2012 Proposed Meeting Schedule, as presented.

In response to a question from Councillor Lund, the Chair noted that Community Council could consider alternate locations at which to hold meetings.

MOTION PUT AND PASSED.

11. MOTIONS – NONE

12. ADDED ITEMS

12.1 Councillor Rankin: Acknowledgement of Provincial Department of Environment's Contribution, November 3, 2011 meeting in Goodwood

A document entitled "Goodwood Steering Committee Update" which provided a brief update of environmental studies being undertaken in the Goodwood area and invited members of the Community to attend a meeting on November 3, 2011 was before Community Council.

Councillor Rankin provided a brief overview of the document and **MOVED, seconded by Councillor Adams that the Western Region Community Council**

- 1. Write to Minister Belliveau, Minister of Environment, formerly expressing appreciation for his support of the environmental studies undertaken in the Goodwood community and, as well, the continued monitoring of wells in that community, with special thanks to Darlene Fenton, Department of Environment and Mr. Chris Moir, Department of Transportation and Infrastructure Renewal, and further that a copy of the letter be provided to Mayor Peter Kelly and members of Halifax Regional Council.**
- 2. Request an update from HRM staff regarding the status of negotiations relative to a land swap or acquisition of the Drysdale lands.**

MOTION PUT AND PASSED.

12.2 Correspondence from Halifax Water re Mill Cove Sludge to Herring Cove WWTF

Correspondence dated November 25, 2011 from Carl Yates, General Manager, Halifax Water, was before Community Council.

Councillor Adams requested that this correspondence and the October 28, 2011 correspondence from Mr. Yates be forwarded to the Herring Cove Advisory Steering Committee. The Chair noted that Mr. Yates would provide regular updates in regard to this matter.

13. NOTICES OF MOTION - None

14. PUBLIC PARTICIPATION

Ms. Katherine Pelrine, Timberlea, addressed Community Council with regard to concerns she had with a dead tree situated on the main road in her community. Ms. Pelrine noted that she called the call centre on June 5, 2011 to report this problem and since that time has called many times and was always reassured that the tree would be replaced by November 1, 2011.

Ms. Pelrine went on to advise that after November 1, 2011 she had contacted Councillor Rankin who had attempted to have the matter resolved. Ms. Pelrine noted that since then she has contacted two senior members of staff with no action being taken. Ms. Pelrine pointed out that it has been six months since her original complaint and she would like a resolution to the matter (i.e. an assurance that the tree will be replaced next spring)

Councillor Rankin apologized to Ms. Pelrine for the lack of service provided and requested that a communication be forwarded to staff on behalf of the Community Council requesting a response be made to Ms. Pelrine on this matter, **to which Community Council agreed.**

Referring to snow removal during the recent storm, Ms. Pelrine indicated that service had been atrocious.

There were no further speakers.

15. NEXT MEETING DATE - January 23, 2012

16. ADJOURNMENT

The meeting was adjourned at 8:25 p.m.

Sherrill Murphy
Deputy Clerk

INFORMATION ITEMS - NONE