SUPPLEMENTARY AGENDA

It was moved by Councillor DeRoche, seconded by Councillor Gaetz:

"THAT the Supplementary Agenda be received."
Motion Carried.

Water Utility Rate Study

Contained in the Supplementary Agenda was a report relative to the Water Utility Rate Study, which read:

"The Board of Commissioners of Public Utilities has requested that the County Water Utility review its rate structure on an annual basis and if an increase is necessary, the Utility is to apply for rate increases on a regular basis. The Water Utility was granted a rate increase on February 1, 1982, and January 1, 1983. The increase generated a $91,000 surplus for the year 1982 and forecasts a break-even point for 1983. Due to increasing costs, an increase in rates is necessary for 1984 and 1985, to enable the Water Utility to have a surplus for each of those years. A small surplus is necessary every year in order to reduce the accumulated deficits on the Water Utility of approximately $500,000 at December 31, 1982. A copy of the Rate Study was forwarded to the Town of Bedford because they represent about 35% of the customers of the Utility. ....the Town of Bedford will be reviewing this at their Council Meeting November 14, 1983. It is intended that the Urban Services Committee will meet jointly with Bedford representatives to review the details of the application.

I (Mr. Wilson) have arranged for a tentative date of a hearing before the Public Utilities Board of December 15, 1983, pending approval by the Halifax County Council.

There are few, if any, alternatives, other than the County Council authorizing the deficits to be paid from the County General tax rate. As the users of the service are only in the Bedford, Sackville, Waverley and Lakeside areas, it does not seem to be a feasible alternative.

Although the Rate Study shows an increase of 19.8%, would be necessary for an average residential customer of January 1, 1984, and would be sufficient for two years, it may be adviseable to have the increase spread over two years. This was suggested to the Public Utilities Board and they would consider this in their hearing.

We recommend that Council grant approval to make application for the water rate increases to the P.U.B."

Mr. Meech also advised it was Staff's intention to meet with Urban Services prior to going to the P.U.B. in order to review in detail the application in terms of the projected rate increases.

It was moved by Councillor McInroy, seconded by Councillor DeRoche:

"THAT Council approve that Staff make application for a water rate increase to the Public Utilities Board."
Motion Carried.

The above motion was carried subsequent to discussion in Council, during which Councillor MacKay indicated his understanding that the water utility could not be operated at a loss, which is why it is necessary to go to the P.U.B. for an increase. However, Councillor MacKay felt that the matter should go to Urban Services before Council gives its approval in order that all the facts and figures would be known by Council.

Mr. Meech advised that the reason this issue was placed on this evening's Council Agenda was for the purposes of timing. He advised that in order to make application to the P.U.B. in time to levy the increased rate in January, 1984, it had to be endorsed by Council this evening. He also advised that all that was being requested was the authorization to make the application to the P.U.B. and the Urban Services Committee would be addressing the details of the application prior to its actual submission.

Solicitor Cragg also advised that the Municipality has tentatively secured a date of December 15th to appear before the Board. He advised that if Council gives its approval tonight, the Board will require that tommorrow the Municipality place at least three advertisements in the local newspaper. He advised that if it is not approved tonight, that the Municipality will not be able to advertise sufficiently to proceed on December 15th and the Municipality will then have to wait until next year to appear before the Board and would be requesting the Board for a retroactive increase which is not a desireable position.

Subsequent to further discussion, the question was called on the motion.

It was moved by Councillor McInroy, seconded by Councillor DeRoche:

"As written previously."
Motion Carried.

SUPPLEMENTARY MANAGEMENT COMMITTEE REPORT

This item had been received with the Supplementary Agenda.

Guarantee Resolution

Mr. Kelly outlined this item from the Supplementary Management Committee Report, which advised:

"The Management Committee received for approval, a Metropolitan Authority Guarantee Resolution in the amount of $829,008. This funding covers the purchase of twelve new transit buses which have already been acquired. The purchase of the buses was approved by the Metropolitan Transit Commission and the Metropolitan Authority in the 1983 Capital and Operating Budget of the Metropolitan Transit Commission. The Management Committee recommend to Council for approval the Metropolitan Authority Guarantee Resolution in the amount of $829,008.

Councillor DeRoche advised that another Guarantee Resolution for buses was considered by Council in the not too distant past. He questioned whether this was the same resolution with a reduced figure or if it was a totally separate resolution.

Mr. Meech advised that the recent resolution was the formal resolution to deal with the bus purchase of the previous year, which was done quite some time after their purchase and had, in fact, become an issue. He advised that this Guarantee Resolution was for a new purchase for 1983.

Councillor DeRoche indicated his understanding that the Resolution so recently dealt with was for buses recently purchased and not for ones purchased over a year ago.

However, subsequent to the above clarification of Mr. Meech,
It was moved by Councillor Mont, seconded by Councillor McInroy:

> "THAT Council approve the Metropolitan Authority Guarantee Resolution in the amount of $820,008 for the purchase of twelve new buses for Metro Transit."
> Motion Carried.

Public Sector Compensation Board Order

Mr. Kelly also outlined this item from the Supplementary Management Committee Report which read:

"The Management Committee received a Compensation Board Order respecting Councillor's salaries. (Copy attached to Agenda) The Order provides for an increase in Councillor's salaries and per diem of 6% effective July 6, 1983. The Management Committee recommend to Council for approval, amendments to the Council By-Law and the Committees and Boards By-Law in accordance with the terms of the Order."

It was moved by Councillor Gaetz, seconded by Councillor McInroy:

> "THAT Council approve the increase in Councillor's salaries and per diem of 6%, effective July 6, 1983 in accordance with the terms of the Public Sector Compensation Board Order."
> (See Motion to Amend).

Councillor MacKay advised that what was approved by Council last year was a 6% increase on Councillor's salaries only; he advised that the Compensation Board Order provides for an increase to the per diem as well, which he was opposed to. He felt that the Board order was in conflict with Council's recommendation.

Mr. Meech advised that what Council officially endorsed in May of 1983, as a result of a recommendation of the Management Committee, included 6% of the gross amount that had been paid in 1982 for both the salary and the per diem. He advised that this had been one of two alternatives provided by the Management Committee. What the Management Committee had done was take 6% of the total amount of remuneration for both salary and per diem, and apply it only to the salary.

The Minister, however, was not able to approve the amendment as requested because prior to the passage of that resolution by Council, the Government had introduced legislation relative to Public Sector compensation. In that legislation there is a clause which is different than the guidelines which the Municipality had operated under prior to the official legislation being tabled in the legislature and that is that no one individual can receive a greater increase than 6%.

Under the proposal put forward by Council in May, technically, if there was the same number of meetings in 1983 as there was in 1982, then some Councillors may have received a higher increase than 6%. Therefore, the Department determined that it was not in accord with the legislation and as a result of that there is an official order from the Board that the salary and the per diem fee be increased by 6%, effective July 6, 1983 to July 5, 1984.

This issue was discussed at length resulting in the following:

It was amended by Councillor MacKay, seconded by Councillor Eisenhauer:

> "THAT the 6% increase apply only to the salary component of Council."
> Amendment Defeated.

Subsequent to the above, the question was called on the original motion.

It was moved by Councillor Gaetz, seconded by Councillor McInroy:

> "As previously written."
> Motion Carried.

Mr. Kelly then advised that resolutions of Council were required in order to make the proper amendments to the Council By-Law and the Committees and Boards By-Law.

It was moved by Councillor DeRoche, seconded by Deputy Warden Adams:

> "THAT the Council By-Law be amended to reflect the Public Sector Compensation Board Order relative to the 6% increase to Councillor's Salaries and per diems rates."
> Motion Carried.

It was moved by Councillor DeRoche, seconded by Councillor Gaetz:

> "THAT the Committees and Boards By-law be amended to reflect the Public Sector Compensation Board Order relative to the 6% increase in Councillor's Salaries and Per diem rates."
> Motion Carried.

Musquodoboit Valley High School

Mr. Kelly read the following from the Supplementary Management Committee Report:

"With respect to the Musquodoboit High School Addition, which is presently underway, the Management Committee approved the following:

That the Management Committee recommend to Council that Government Services be requested to cease construction on the Musquodoboit Valley High School immediately and further that the Minister of Government Services arrange for representatives to meet at the Musquodoboit Valley High School with representatives of the Halifax County District School Board and Management Committee for a site visit on Thursday, November 17, 1983 at 10:00 A.M."

Councillor Reid expanded on the reasoning behind the above recommendation of the Management Committee. He advised Council that several examples of the construction indicated that there was little consideration put into planning in the school. As well, there were examples of wasted funds, instead of practicing restraint measures. Therefore, he had requested at the Management Committee that the construction be halted until a site visit could be held with Government Services, the School Board and the Management Committee. At this time, he also requested that a representative from the Architectural Firm involved be added to this list.

Subsequent to discussion:

It was moved by Councillor Reid, seconded by Councillor Bayers:

> "THAT Government Services be requested to cease construction on the Musquodoboit Valley High School immediately and further the Minister of Government Services arrange for representatives to meet at the Musquodoboit Valley High School with representatives of the Halifax County-Bedford District School Board, the Management Committee and a representative from the Architectural Firm which drew up the plans, for a site visit on Thursday, November 17, 1983 at 10:00 A.M."
> Motion Carried.

Warden MacKenzie advised that, in response to the request of the Management Committee, he had attempted to contact the Minister, November 14th; he had been unable to contact the Minister but did speak with the Deputy Minister who had indicated that there would be a Mr. Blenchorne of Government Services and a Mr. Nauss from the Department of Education at the site visit.

Councillor Reid also advised that the School Board would be appointing representatives to attend the site meeting.

Seminar, The Budgetary Process

Mr. Kelly advised that the Management Committee had been informed of a Seminar entitled "The Budgetary Process" to be held in Moncton, November 29th and 30th. Subsequent to discussion, it was the recommendation of the Management Committee that two Council Members attend the Seminar.

Mr. Kelly requested that Council appoint two Council members to attend this seminar.

It was moved by Councillor Eisenhauer, seconded by Councillor Larsen:

> "THAT Councillor McInroy be nominated to attend the Seminar entitled "The Budgetary Process", in Moncton, November 29th and 30th."

It was moved by Deputy Warden Adams, seconded by Councillor Gaetz:

> "THAT Councillor DeRoche be nominated to attend the Seminar, entitled "The Budgetary Process, in Moncton, November 29th and 30th."

It was moved by Councillor Deveaux, seconded by Councillor Larsen:

> "THAT Nominations Cease."
> Motion Carried.

Therefore, Councillors McInroy and DeRoche were selected as the Councillors to attend the Seminar, entitled "The Budgetary Process."

METROPOLITAN AUTHORITY REPORT

Warden MacKenzie requested that Councillor Mont present the Metropolitan Authority Report to Council.

Councillor Mont advised that, unfortunately, he had been unable to attend the last meeting of the Metropolitan Authority and questioned whether the Warden would be able to bring Council up to date on the Metropolitan Authority meeting.

Warden MacKenzie advised that the last meeting had centred around the additional transfer station on the Dartmouth side of the Harbour. He advised that a report had been brought to the Management Committee, relative to this item and had been tabled with the Committee.

Councillor MacKay referred the Warden to the resolution passed in Council some time ago, which directed the Warden to contact the Mayors of the Cities of Halifax and Dartmouth relative to the By-Law with respect to the cost-sharing agreement for the operation of the Transit Commission of the Metropolitan Authority. He questioned what has transpired todate.

Warden MacKenzie advised that he had attempted to contact the Mayors on several occassions but because of time restraints on all three parties he had been unable to find a time to get together which was convenient to all. He advised that MAPC will be meeting tomorrow a.m. and it was his hope that this particular item will be discussed with them as well as two other items; EMO and Natal Day.

Councillor MacKay questioned the Warden as to what the Metropolitan Authority is doing relative to drafting of their 1984 Budget.

Warden MacKenzie advised that they are in the process, at the Staff level, but nothing has come to the Metropolitan Authority at this point.

Councillor MacKay questioned whether, at the staff level, they are drawing up the budget under the existing agreement or the proposed agreement, which everyone had agreed to and one Municipality had subsequently reneged on.

Warden MacKenzie referred the Councillor to a memorandum circulated from Mr. Ken Wilson, Director of Finance, to members of the Urban Services Committee, which advised that Mr. Wilson had met with the other Municipal Finance Officers and discussion had taken place pertaining to the revised method of allocating cost and revenues, where the City of Halifax indicated that they would not consider it for 1984 but may consider it for 1985.

Mr. Meech advised that the Municipality was now in possession of the preliminary budget from MTC and Mr. Wilson has had an opportunity to review it collectively with the other finance officers and it is to be tabled this Thursday evening with the Urban Services Committee. He also indicated his understanding that the budget is being based on the formula that is presently in place and not the amended formula.

Councillor MacKay referred to the Agreement between the municipal units that the Transit formula was contingent upon the agreement of the computer system. He therefore, suggested that the costs relative to the computer system be made available at Urban Services Committee Meeting, at which time the Municipality could renege its commitment to the computer system issue.

Councillor DeRoche recalled from minutes circulated from the Metropolitan Authority and the Metropolitan Transit Commission, that there has been agreement reached on Transinfo but that the City of Halifax has reneged on adoption of the resolution with respect to the methodology. He questioned whether this was correct and was advised that it was correct.

Councillor DeRoche questioned how the Municipality could renege if agreement had already been reached on Transinfo. Many Councillors were concerned over this issue as well, with respect to the advantages being afforded to the City of Halifax.

Councillor Mont advised that Transinfo was a contract being entered into by the Metropolitan Authority through the Metropolitan Transit Commission and the City of Halifax to purchase the Transinfo service and it was a contract which would not require the consent of the Municipalities.

Councillors Larsen and Eisenhauer excused themselves from the Council Chambers, at this point, as the discussion would represent a conflict of interest.

Councillor Mont then resumed discussion, advising that a contract for Transinfo could be entered into, once it was passed by Metropolitan Authority. He advised that, unfortunately, the methodology requires a change in the Metropolitan Authority's By-Laws which did require unanimous and identical resolutions being passed by the three municipalities and the City of Halifax is now reneging.

What the City of Halifax is saying is that they agreed to be tied into Transinfo, not when Transinfo was passed but when it was actually into operation; in other words they feel that for the methodology to be fair and work properly it was their intention that they would have this new information on ridership that would be generated by the Traninfo system and that until they have that, they had never intended to go along with the methodology.

Councillor Mont advised that this is not what they had stated previously but is the position they put forward most recently when they were pressed as to when they were going to pass their By-Law.

Councillor MacKay advised that there were expenditures to be made when the system comes on-stream; therefore, it was unfair for the City of Halifax to hold out until it comes on-stream, before they approve the methodology.

The above completed the discussion relative to the Transinfo.

Councillor Margeson advised that he had met with former Councillor Archie Fader, at a Fire Hall function, who had advised that he was going to attend a recycling of trash seminar in Toronto this weekend. He, therefore, proposed the following motion:

It was moved by Councillor Margeson, seconded by Councillor Snow:

> "THAT whereas Trash Disposal is a costly item in the Municipality that Mr. Fader be requested to attend Council at a mutually convenient time and bring Council up to date on the recycling of trash."
> Motion Carried.

Prior to the passing of the above motion, Councillor MacKay advised that Suburban Waste and Disposal, one of the Municipality's Garbage Contractors had been active in this field for a number of years. He advised that Mr. Baisley of this firm could also attend the Council Meeting, if Councillor Margeson would agree to extending the invitation to him in his motion.

However, Councillor Margeson indicated his intention to expedite this matter and get the information to the Metropolitan Authority. Therefore, he did not want to include Mr. Baisley in the motion at this time, but advised that he would be pleased to have him attend Council at some future date to provide Council with the benefit of his experience in this field.

RESOLUTION OF COUNCIL - SIDEWALK MAINTENANCE AGREEMENT

Mr. Kelly outlined this item advising:

"At a Committee of the Whole Meeting held on October 25, 1983 the matter of a Sidewalk Maintenance Agreement between the Department of Transportation and the Municipality of Halifax County, was considered for approval. Under the Agreement, the Municipality assumes responsibility for sidewalk maintenance.

The Municipal Council, is requested by resolution to approve the Sidewalk Maintenance Agreement between the Department of Transportation and the Municipality and further that the Warden and Municipal Clerk be authorized to sign the agreement on behalf of the Municipality."

It was moved by Councillor MacKay, seconded by Councillor DeRoche:

> "THAT Council approve the Sidewalk Maintenance Agreement between the Department of Transportation and the Municipality and further that the Warden and Municipal Clerk be authorized to sign the agreement on behalf of the Municipality."
> Motion Carried.

EMERGENCY ITEMS

The following were items which Council members had requested be added to this evening's agenda as emergency items:

1. Curfew By-Law - Councillor Wiseman

Councillor Wiseman advised that at the second Council Session of October, the Curfew By-Law had been discussed and at that time, she had requested that it be referred to the School Board for their information. She advised that she would now like Council to approve this By-Law.

It was moved by Councillor Wiseman, seconded by Councillor MacKay:

> "THAT the Curfew By-Law be approved by Municipal Council."
> (See Motion to Defer)

Solicitor Cragg advised that, by accident, the By-Law which had been sent to the School Board for perusal was not the final By-Law which had been approved by the Minister of Municipal Affairs.

He advised that the Solicitor of the School Board now had the final Curfew By-Law, which has been approved by the Department of Municipal Affairs. He indicated his opinion that the Solicitor of the School Board is in agreement with this copy; however, it will be going to the School Board in the very near future and he felt it should be deferred again.

Council was concerned with whether the copy the School Board Solicitor now has, is the same as the copy which was reviewed by Council. Solicitor Cragg indicated his understanding that it was the one approved by Council but deferred to the School Board for their information.

It was moved by Councillor Wiseman, seconded by Councillor MacKay:

"THAT the Curfew By-Law be deferred until the next Council Session."
Motion Carried.

2. Door to Door Postal Service - Councillor Baker

It was moved by Councillor Baker, seconded by Councillor Eisenhauer:

"THAT a letter be directed to the Department of Postal Services to extend their door to door mail delivery in Herring Cove to include St. Paul's Avenue and other side streets in the St. Paul's Subdivision."
Motion Carried.

3. Contaminated Wells, Ross Road - Councillor DeRoche

Councillor DeRoche advised that it had been brought to his attention that there are a number of residences on the Ross Road as well as the Ross Road School which have new pollution problems with respect to their wells. He advised that in addition to arsenic, manganese and in some instances iron and bacteria, the wells now have further pollution in the form of hydro carbons. He indicated his understanding that the school is bringing in drinking water and using the wells for the flushing of toilets only.

It was moved by Councillor DeRoche, seconded by Deputy Warden Adams:

"THAT Council request the Department of Environment to provide assistance to the residents of the Ross Road area of District No. 7 in resolving the pollution of wells in that area."
Motion Carried.

4. Magazine Article - Councillor Deveaux

Councillor Deveaux indicated that in his wife's copy of Chateline, a National and International Magazine, there is an article relative to Deputy Warden Adams and his family. He indicated that this article, which included a picture of the Deputy Warden and his family, was a tribute to the Deputy Warden and to his people.

Councillor Deveaux felt that congratulations were in order to the Deputy Warden for such a fine article.

Council congratulated the Deputy Warden on this achievement.

Councillor DeRoche added to the above, that the recent article, referred to by Councillor Deveaux was not the first one written about the Deputy Warden. He advised there had been a previous article written about the Deputy Warden and his family by a Mr. Stephen Kimber in another International Publication.

On behalf of his family, the Deputy Warden thanked Council for their expression of congratulations.

ADDITIONS TO NEXT COUNCIL AGENDA

In response to questioning from Warden MacKenzie, the following items were added to the next Council Session Agenda:

1. Arsenic Filter Unit - Councillor MacKay;
2. Upgrading of Telephone Service, Goff - Councillor Snow;
3. RCMP Protection, Cole Harbour - Councillor Mont;
4. RRAP Up-date - Councillor Deveaux;
5. Wharf Repair, Eastern Passage - Councillor Deveaux;
6. Tourism for Halifax County - Councillor Margeson.

NEW BUSINESS

Councillor Margeson invited all Council Members and the Public to attend a Hazardous Material Seminar being put on at the Beaverbank Villa Fire Hall, November 29, 1983 at 7:00 P.M.

ADJOURNMENT

It was moved by Councillor DeRoche, seconded by Councillor Larsen:

"THAT the Regular Council Session adjourn."
Motion Carried.

Therefore, there being no further business, the Regular Council Session adjourned at 10:10 P.M.

M I N U T E S & R E P O R T S

OF THE

SECOND YEAR MEETINGS

FORTY-FIRST COUNCIL

OF THE

MUNICIPALITY OF THE COUNTY OF HALIFAX

DECEMBER COUNCIL SESSION

TUESDAY, DECEMBER 6 and 20, 1983

&

PUBLIC HEARING

DECEMBER 5, 1983

Dec. 12/83

PUBLIC HEARING

REZONING APPLICATION
WAVERLEY RATEPAYERS ASSOCIATION

DECEMBER 5, 1983

PRESENT WERE: Warden MacKenzie, Chairman
Deputy Warden Adams
Councillor Poirier
Councillor Larsen
Councillor Gaudet
Councillor Baker
Councillor DeRoche
Councillor Gaetz
Councillor Reid
Councillor Lichter
Councillor Snow
Councillor Margeson
Councillor MacKay
Councillor McInroy
Councillor MacDonald
Councillor Wiseman
Councillor Mont

ALSO PRESENT: Mr. K. R. Meech, Chief Administrative Officer
Mr. G. J. Kelly, Municipal Clerk
Mr. Robert Cragg, Municipal Solicitor
Mr. Keith Birch, Chief of Planning & Development

SECRETARY: Bonita Price

OPENING OF PUBLIC HEARING - THE LORD'S PRAYER

Warden MacKenzie brought the Public Hearing to order at 7:10 P.M. with The Lord's Prayer.

ROLL CALL

Mr. Kelly then called the Roll. Warden MacKenzie advised that Councillors Deveaux and Bayers had stated they were unable to attend.

APPOINTMENT OF RECORDING SECRETARY

It was moved by Councillor McInroy, seconded by Councillor Baker:

"THAT Bonita Price be appointed Recording Secretary."
Motion Carried.

PUBLIC HEARING

Warden MacKenzie announced the procedure to consider the Waverley Ratepayers Association rezoning application NO. RA-24-19-83-14. He would call first on those in favour of the application to express their opinions, briefly and consisely and speaking only once, and then those speaking against the application. Following this, Council will make its decision.

STAFF REPORT

Mrs. Dorothy Cartledge outlined the existing zoning as of April 1970, referring to wall charts where the various zones were set out in colour. She then indicated the proposed zoning on another chart, which has been in development for some time, with input from Staff and Waverley Ratepayers.

When the Ratepayers requested a zone plan they requested it be integrated into the Municipal Planning Strategy that is underway in Waverley at the moment. However, Mrs. Cartledge emphasised that the proposed zoning is only temporary and it cannot be guaranteed that the Public Participation Committee will go with this type of zoning. The map will be available to them and they can use it as they wish as an expression of the wishes of the majority of residents of the community.

The reason for the R-1 zoning on the map is to try to maintain existing land use. M-R (Mixed Resource) is land that is not really developed, but permits single family dwellings and requires five acre lots. The residents originally requested parks and institutional zoning along the two lakes, Lake Thomas and Lake Williams, to protect them. However, they later withdrew this because it is very restrictive and could be unfair to land owners.

C-1 is probably the most contentious part. Staff in negotiating with residents had to deal with Zoning By-law No. 24, which gives very limited zones appropriate to this area. The main reason for choosing C-1 was to restrict development to basically residential and retail, and any other use would require a Public Hearing. Industrial zoning on the map is the existing quarry of Municipal Spraying and Contracting.

She pointed out the Lake Major Watershed boundary, and also lands owned by the City of Dartmouth, designated as regional parks.

Staff's recommendation for the proposed zoning differs from the map shown only in regard to recommending Industrial Park Zoning instead of C-1 for some of the land. C-1 permits residential use, including apartment buildings and because the adjacent uses are industrial, it was felt encouraging residential would cause land use conflicts. The only other zone that seemed appropriate to existing and proposed land uses was the IP Zone.

Mrs. Cartledge concluded her presentation and asked if there were any questions.

Questions from Council

In answer to a query from the Chairman, Mrs. Cartledge said the Watershed and City of Dartmouth lands will be excluded. A letter was received from Mayor Brownlow requesting this. A designation as Regional Park would in any case control the land use there. She said Staff has no objection to the exclusion of these properties.

Councillor Mackay mentioned a new road running parallel with Highway 118 near the Porto Bellow Road, and wondered if a new development is proposed there. Mrs. Cartledge was not aware of such development. Councillor MacKay also asked about the M-R designation requirng a minimum of five acres. He was told this is only for forestry or agricultural use, and is not a requirement for a single residence. M-R does not permit intensive farming, as there is a maximum of ten animals allowed.

Councillor Snow asked about the possibility of the P.P.C. changing zoning. He suggested the P.P.C. is the people of Waverley and they will work with the committee now formed which has been working on the map for the past two years.

Mrs. Cartledge agreed that interested residents will go to P.P.C. meetings, but said the Zoning By-law will change; so many changes will occur that the zones now on the map may become meaningless.

SPEAKERS IN FAVOUR OF THE RE-ZONING APPLICATION

Bill, Lockhart, Resident of Waverley

Mr. Lockhart advised Councillor MacKay that the road he inquired about is a service road to allow property owners access to their properties after highway 118 had cut them off.

He said he had been involved in the zoning map for the past two years. There has been a lot of input into the map, a lot of conversation with Mrs. Cartledge and the Planning Department, and a great deal of thought has gone into it. The Village has a pretty good idea what it would like to see and the map is as they would like to see it. They do not know what the P.P.C. might do, they did not know By-law 24 inside-out, but it doesn't seem logical to change the whole map if that is what the Village wants and the Planning Department agrees. He said he did not know about the Dartmouth lands. One reason for the map was to find out exactly where Waverley was, and to his knowledge the base line for Waverley was back of Little Soldier Lake gully. It is news to him that Dartmouth owns to within 1000 feet of highway 118. Hopefully this will be solved by the zoning map.

He said one of the reasons the map took so long was waiting for the M.D.P. to come down - they were delayed a couple of times waiting for the M.D.P. to tell them what the area was going to be like and they really don't want to wait any longer. Two years is a long time to wait. It was the wish of the people that the application be submitted a year ago.

On the change recommended by the Planning Staff from C-1 to I-P, they take strong note of that and initially reject the idea. In the area they have designated C-1 they think this zoning is ideal for what they want to see there. They do not want an industrial corridor. They do not want to see a buildup of any other type of industry in the area. He said some of the areas zoned R-1 in Waverley are not really suitable because of the nature of the terrain - some of it is steep, some is swamp. Some of the swamp area has been designated M-R. They originally thought this would be C-1, but the Planning Department felt M-R would be better. The last piece of C-1 which he felt is a good spot for development could be R-1, 2, 3 or 4.

If people want to build by an existing quarry that would be their choice, but if you drop another one down beside them, that takes their rights away. His reading of the By-law would not prevent putting a quarry or heavy industry there in an IP Zone. He has been told it can't be done, but would prefer to be safe. The I-P is too close to industrial for their liking. C-1 is more restrictive and therefore not likely to be exploited as an industrial corridor.

Questions from Council

Councillor Poirier asked who put in the road previously referred to and was told as far as Mr. Lockhart knew the Department of Highways built it to give access to residents. Highway 118 is a limited access road.

Fred, Billard, Resident of Waverley

Mr. Billard reminded Council of recent Public Hearings starting in August in which appropriate land use of the commercially designated areas was discussed. Mr. Pugsley referred to whether or not Metro Aggregates is an appropriate land use for this site. Mr. Birch at these hearings, also said the subject was land use, that Council would be aproving land use. He quoted, "approval tonight...would be to the land use..." Council then rejected the land use. If you now put the land into an Industrial Park you are encouraging industrial use. Council has already ruled it once as not an appropriate land use and to be consistent he hopes they will designate C-1 as in the application. Management Committee does not appear to be as consistent as he hopes Council will be, because they approved it as an industrial use.

As to the recommendation of an Industrial Park, he has the idea that Staff want all of Halfax County be an industrial park. There is one in Sackville, one in Bedford, one in Burnside, why do they want to zone this land, which is next to existing residential? The whole county will be one big industrial park. His definition of an industrial park is one with a controlled, orderly plan for development, so industry is not in residential areas. As to zoning as Industrial Park so not to encourage residential use, in his mind if Industrial, commercial and then residential, acts as a buffer to permit people to develop as they want without the fear of industrial uses encroaching on them. This is why he is in favor of this proposal and not the recommendation of going to I-P, and he hopes Council will be consistent with past decisions made.

Questions From Council

Councillor Lichter referred to public hearings about Metro Aggregates and the Cobequid Industrial Park. The applicant for Cobequid Industrial Park applied for a PUD for an industrial park. Opponents said this was not a good site for an industrial park, but stated the Metro Aggregates site would be ideal for industrial. He asked Mr. Billard if consistency exists here.

Mr. Billard said he did not attend the Cobequid Industrial Park hearings. He did not think anyone at the Metro Aggregates public hearings designated the land as industrial, other than the proponents and their friends. He cannot answer for the Cobequid hearings group. He said he could ask Council for consistency because they are making both decisions.

Councillor Lichter agreed it would be hard for Mr. Billard to answer the question, and he realized there were two groups involved. He thought his question might be better answered by Mr. Miller, who represented both groups.

Councillor Gaetz asked Mr. Billard why he is against an Industrial Park. Surely it would be an asset in giving employment to people in the area. In Councillor Gaetz' area about 50 people can now work in an industrial park who previously had to drive to Halifax or Dartmouth.

Mr. Billard thought there are too many industrial parks, and if too many are zoned it defeats the purpose.

Matthew Morgan, Resident of Waverley

Mr. Morgan said he felt what the citizens of Waverley are doing is right; they shouldn't have to worry about a rock crusher in Waverley. Council has the power to end this ordeal, to see that Waverley has no more crushers. There is a lot of money involved but there is more to it than money. He concluded by saying - let's fight this thing together, and let's zone this section commercial. Let's ensure that the people of Waverley are the ones with the power to decide their future; let's ensure our lakes and environment remain clean; let's ensure that our most valuable resource, human lives, is not carelessly endangered.

Questions from Council

Councillor MacKay said it is his understanding that whether the land is zoned C-1 or I-P, neither would permit a rock crusher. If Metro Aggregates go ahead with a rock crusher it is because they have the appropriate permits and are considered to be an existing business at the present time. So whatever zone is applied they would be able to continue with a non-conforming use.

Mr. Morgan thought Metro Aggregates have not received all of their permits and that a I-P zone doesn't need to much change to get the crusher in, but a commercial zone would make it more difficult.

Councillor MacKay said a Public Hearing would still be needed. Mr. Morgan felt there would be more safety involved. With support for the Ratepayers, from Council and from the Planning Committee Metro Aggregates would not have much chance.

Councillor MacKay argued that by law, if they have had permits issued they would be deemed to be an existing business and would be able to continue as a legal non-conforming use. He referred his point to Mr. Cragg. Mr. Cragg said Section 83 (2)(b) of the Planning Act does provide that if the permits are in place they are deemed to be a non-conforming use and can carry on.

Mr. Morgan hoped it was not so, that whatever happened they would not get the crusher.

Gary Sirota

Mr. Sirota said he understood they were just talking zoning tonight but the crusher has been mentioned several times. He has been involved in environmental research, mainly of lakes and water systems for about ten years, and when Mrs. Cartledge mentioned the possible loss of the protective area around the lakes, he felt there would be more impact from an industrial use on a water system than from a commercial or a residential use. There would be less impact on the lakes and on the whole Shubie system down to the Bay of Fundy, from a commercial use, and this is one thing stressed the previous three nights.

In terms of a rock crusher, they are not just looking at Metro Aggregates but at the whole area of land, and they don't think it should be zoned I-P because of an existing crusher or existing industrial development which is a small strip along the edge of the land. The question is zoning what is now green area, and the development that would be most amenable to the surroundings and the fragility of the lake, would be a commercial use.

He felt there is more of a tax base from a residential zone than from a crusher - more jobs from a light commercial type development or in apartment buildings, than in a large industrial complex.

Questions from Council

Councillor MacKay said he thought some of the green area mentioned has an industrial zone on it now which is 2000 feet deep. Mr. Sirota thought it was 1000 feet, and the development on the strip goes back only about 200 feet.

Councillor MacKay mentioned the possibility of Residential zoning. The land is not serviced at the present time by sewer or water. Water services can probably be extended but a developer would probably be very reluctant to put in residential housing because it would be a very expensive proposition to put in roads and sewer. Without services capabilities for Residential would be extremely limited. Therefore, light industrial service industries would be attractive there. He felt industry per square foot pays a lot more taxes than residential and is less drain on the public purse.

Mr. Sirota said the Ratepayers welcome light commercial development in the area, and are actively looking at that type of development. He thinks he will see Burnside coming over the hill in a few years, and he doesn't think that is bad. That type of development they would like to see as a tax base. But they think C-1 is a better zoning for it than Industrial.

Paul Miller - Solicitor for the Waverley Ratepayers Association

Mr. Miller wanted to comment on the non-conforming use status of Metro Aggregates. He felt Mr. Cragg's interpretation of Section 83 of the Planning Act was dead on, but what was not mentioned is another Section, he thinks 84, which said that if Council rezones a portion of lands and development has not commenced on those lands, Council at its discretion can revoke the building permits. So Council does have the option if it decides to rezone these lands, to revoke the building permits that have been issued and the attitude expressed, that the matter is out of Council's hands, is erroneous. Council still has some options if they want to be consistent with the decision reached several months ago at a Public Hearing on a rock crusher quarry operation.

He said he has done a fair bit of research and cannot say definitively that an I-P Zone excludes quarries and crushers. He said Mr. Birch is of the opinion that it does, and he would be interested if the Municipal Solicitor would say whether it does. If it doesn't there may be an I-P zoning which possibly might allow a quarry crusher.

With reference to the land use, commercial vs. industrial, Mr. Miller echoed comments already made. There is a surplus of industrial park lands in the Municipality and unfortunately not enough industries to locate there. This was brought home very strongly by the Municipality in a Brief to the Public Untilities Board on the annexation of Watershed lands by Halifax City. The Solicitor for the County Council argued that there was too much surplus; at that time there was four years of lands developed, based on current trends, and about twenty years of lands already designated Industrial that could be brought on stream. He has heard nothing to contradict these statements. He doesn't think every community in the Municipality has to have Industrial, Commercial and Residential lands to give the Municipality itself a good mix. Certain areas are better suited to Industrial, certain to Commercial and certain to Residential. All three are not needed in each individual community. Nobody would argue that it is beneficial to the Municipality to have a better tax base.

With reference to the I-P designation in Zoning By-law 24, it is one of the broadest definitions of Industrial he has seen. It appears to allow any type of industrial use - it doesn't distinguish between light industrial and heavy industrial. Some heavy industrial uses could be just as detrimental to Waverley and to the Watershed and to the environment as quarry and crusher operations. That's another conern under the I-P Zoning, it doesn't make the distinction between light and heavy industrial uses.

Commercial on the other hand, and the Commercial zonings under By-law 24, C-1 and C-2, while they leave something to be desired, afford some protection to the nature of the types of businesses that can locate there. And although the by-law doesn't specifically exclude Residential, in practice it would be unlikely that people would build residences on the land next to an existing quarry. For commercial on the other hand it might be attractive, if the existing quarry can clean up its act.

At the Cobequid Hearings, it was finally acknowledged by the proponents they weren't talking about an Industrial Park but about a commercial park, or a business park, and they stressed this the last night of the Hearing. The type of commercial and business enterprises they were talking about were probably not excluded under C-1 zoning and certainly not under C-2 zoning. You don't need Industrial zoning under that circumstance. The I-P zoning will allow the light warehousing type of business and the businesses that are office depots or whatever, and will allow a much broader use as well. It doesn't, by Mr. Miller's reading, eliminate the heavy industrial uses. The C zonings, C-1 and C-2, on the other hand, do eliminate these uses, although C-2 is a much less restrictive zoning than C-1. On that bases, to protect the character of the village, and to give effect to what the people said they wanted, then Commercial zoning of this land is reasonable.

Mr. Miller said further, that Waverley Ratepayers haven't given up their inquiries about the Lake William Marsh, which topic came before Council during the Metro Aggregates hearing. Two letters came to him today, one from the Provincial Department of the Environment saying they referred the whole matter of the impact on the Lake William Marsh to the Federal Environment Department for their comments and further study, because they are concerned as to what might or might not impact on the marsh, the bass spawning grounds and the waterfowl habitat. The other letter was from Andrew MacInnes, a Wildlife Biologist with the Deapartment of Lands and Forests, who was one of the individuals who gave an okay to Metro Aggregates in their initial PUB studies, and he again has acknowledged the designation of the marsh as a protection area and indicated there might be some impacts that require further study.

Mr. Miller suggested the impacts from an I-P zoning and resulting uncontrolled industrial use could have a more negative impact on the marsh ecology than the uses allowed under a C-1 zoning which would be light commercial, possibly residential. Given the lake ecology situation and the broadness of the definition of Industrial Park zoning, the best way to protect is a Commercial Zoning.

Questions from Council

Councillor Lichter said that at a previous hearing he remarked, as a result of a question from Mr. Miller that the land could be better zoned industrial only because it was better from a terrain point of view than the lands that the Cobequid Industrial Park proponents were suggesting. He was making a comparison of the two sites from a topographical point of view and the comment wasn't intended to suggest that should be the use.

Councillor Lichter claimed Mr. Miller said that area would be a lot more suitable to industrial than the Cobequid lands that were being applied for. Mr. Miller referred to page 31 of the Public Hearing of August 15 on Metro Aggregates. In the fourth paragraph he said "...that the land would be best suited, in his own opinion, to light commercial use..."

Councillor MacKay asked Mr. Cragg if he would comment on Mr. Miller's issue about Council revoking permits under Section 84 of the Planning Act.

Mr. Cragg said he and Mr. Miller did not agree on Section 84. This says Council can only cancel a permit where construction or use has not been commenced. If use has commenced, Section 84 is of no benefit to Council.

Councillor MacKay mentioned Mr. Miller's point about an I-P zone allowing crushers. He did not believe that a crusher would be allowed in an I-P zone.

Mr. Cragg said there are two ways to draft a zoning by-law, and in particular the I-P portion. The first would be to say that in an I-P zone you are allowed to do everything except the folowing. The second would be to say, you are only allowed to do the following. The present by-law states, in the I-P zone you are allowed to do by the following. There is no mention of quarry operation. Therefore, by implication you are only allowed to undertake in that zone that which is spelled out, and accessory uses. If it doesn't say quarry, you cannot quarry in an I-P zone.

Councillor Mont asked if Council did take back a permit under the provisions of Section 84, would they have some liability to pay permit holders for expenses they had incurred in developing the property. Mr. Cragg agreed this was the case.

Councillor Margeson asked a question about a person who owned land in a residential zone but did not live there. He wanted to sell the land to someone who wanted to use it for industry and was told he could not do this. The land would have to be rezoned and the residents would not agree. The owner asked the residents if they would be willing to buy his land in that case. Councillor Margeson asked Mr. Miller for his views.

Mr. Miller said this entails the philosophy of zoning, land use control and giving up the rights of some to protect the rights of the majority. This is government and he believes in government.

Councillor Margeson asked further questions about how the owner could get his money back, about the idea of the other residents buying the land, about the reimbursement of the owner in general if he cannot sell his land. Mr. Miller suggested an alternate use could be found for the land. He said if the zoning is so restrictive that a reasonable use of the land is impossible, then probably there should be compensation.

Councillor McInroy said he understood that the Municipal Spraying quarry has been accommodated under the zoning and would not be non-conforming use, and therefore only CIL and Metro Aggregates would be adversely affected. Mr. Miller said this is correct to his knowledge, but other people would be better equipped to speak on that. Councillor McInroy asked him if he was familiar with a letter from the lawyers for CIL. He was not.

Councillor McInroy asked him to comment on what he thought the effect would be of having a 1500 foot I-P zone along Rocky Lake Drive, if in fact such a zone wouldn't permit quarry operation. Mr. Miller said presuming it wouldn't permit, and he knows of no case law to either support or contradict this, he thinks the industrial uses permitted under an I-P zone and the lack of definition in distinguishing between heavy and light industrial, could, if heavy industry went in there, have a detrimental impact not only on the village, but on the ecology and environment of the area. He thinks the I-P zoning is too broad and allows too varied a type of industry.

Councillor McInroy asked about CIL's existing use. Mr. Miller did not see how the zoning would interfere with this, and does not know of any CIL plans for future use. He feels the less restrictive the zoning is the more flexibiity there is for use of the land, so corporate landowners would prefer the broader zoning.

SPEAKERS IN OPPOSITION TO THE ZONING BY-LAW

Peter MacKeigan, Lawyer Representing Municipal Spraying & Contracting
Gary Widmeyer, Controller for Municipal Spraying & Contracting

Mr. MacKeigan said the land they are talking about is not that zoned I-1, but the piece that runs to the back. Municipal Spraying has approximately 1200 acres of land, of which approximately 118 acres are in the City of Dartmouth. Dartmouth has designated this area for future expansion of Burnside Industrial Park. The land in question is zone G, and since they cannot ask that it be zoned I-1 tonight, they ask that it be withdrawn from the application, to be considered in future in the full Municipal Development Plan hearings. The land is quite well located in terms of industrial core, industrial activity in Dartmouth, road access and a railway line.

Mr. Widmeyer said Municipal Spraying and its associated companies are engaged in manufacturing aggragates and asphalt from this quarry in the Rocky Lake area of the county. They are engaged in road, bridge, sewer and water and heavy construction throughout the province but much of their activity is located in Halifax County. They employ almost 400 people in the summer, and other people benefit from their business.

They opened up their quarry originally in the '30's. Starting in the '40's and into the '60's they acquired 1200 acres of land stretching on the other side of Rocky Lake Drive to Dartmouth. They intended this for further expansion of quarry activities and it was well removed from Waverley and Bedford.

They feel they have proven ability to operate a quarry and leave something behind. An industrial corridor was mentioned previously - Dartmouth has now zoned that area of their property as a continuation of Burnside Industrial Park; the Municipal Development Plan of Bedford has recognized both the Bedford Industrial Park and future industrial expansion; there is a Sackville Industrial Park. An expressway will hopefully soon access all of these areas.

The County is striving to maintain a balanced tax base and it is hoped this developing industrial corridor will provide that.

Municipal Spraying asked for the withdrawal of the C-1 designation which they understand is under consideration for the Municipal Development Plan within the community of Waverley. The temporary C-1 zoning does not help the company in terms of its considerable investment in the area. They appreciate Waverley was trying to come up with a proper plan, but they have never been approached for input in any planning process and they have 1200 acres in the area.

Mr. MacKeigan referred to the Staff report which states zoning is only temporary and intended as an interim measure. Staff does not recommend approval of the C-1 designation. He said the Staff report is unusual in that it tends to be cautionary; it says the residents of Waverley shouldn't presume that the proposed zoning would be there forever; it will be reviewed shortly. Municipal Spraying has been in the area for forty years and under the G zoning are allowed the type of activity they are proposing in the future. A quarry operation cannot relocate to another site. It needs the industrial zone, but not the industrial park. It needs a vast tract of land, which is what the company has. After forty years they have rights - they are talking about orderly planning development. If they are zoned C-1 now that may be a signal to the residents they will be C-1 in the future. If the application with respect to this land is withdrawn and it is left as General, then the residents or the planning process is not hurt, and the company can come forward in future Public Hearings to put forward a case for I-1.

Mr. MacKeigan mentioned a Staff report which states that 15% is the industrial base in the County while the ideal is 40%. It is apparent that the County doesn't have a great deal of industrial activity. The area in question is industrial at present and consideration is being given to removing it. Municipal Spraying has been in the plans for many years and everybody knows about it.

He alluded to the comments of Messrs. Cragg and Miller on Section 84 of the Planning Act and said this does raise concerns. By leaving the land in the G zone the company would be permitted in future to do quarrying in the area; by redesignating C-1 the question is raised whether their non-conforming status would apply or not. These questions are important in Council's considerations.

Mr. MacKeigan re-emphasised one point, that Municipal Spraying has been in the area for many years, has had a planned strategy of land development and land acquisition for purposes of expanding the quarry operation and has made no secret of it. The zoning that has permitted the company to do this has been in place for forty years and the obligation on the county, unless there is compelling strong reason, which has not been evident here, is to leave it as it is.

Questions from Council

Councillor MacDonald asked how much of the area is being worked now and was told 200 acres in the actual quarry area, and there are another two levels before it is at a grade with the existing Waverley Road.

Mr. Widmeyer was asked what they pay yearly in taxes and he said it is about $40,000 between Bedford and the County. In reply to another question he said the land between the company's southern boundary and the Bedford township is owned by the Jesuit Fathers of Upper Canada.

Councillor Snow asked if rumours that Municipal Spraying are about to sell 1200 acres of land are true? This is not true. He asked if they plan to go towards Dartmouth? This is correct. He asked if they will leave the same mess they left at Bedford? He was told this is a matter of opinion, that they spend a certain amount of money on rehabilitation every year. Councillor Snow said he hasn't seen any improvement and believes nothing has been done since 1981. He asked if Municipal Spraying is aware they are polluting the waterways. The replied they don't think they are.

Councillor Margeson said he was interested in the growth, development and planning of the company's operations. He sat on the highway this summer watching their operations and there was a tremendous amount of dust. During the hearings this past summer, Council learned about dynamite blasts, their frequency and heavy and light charges. He said he visited the Municipal Spraying plant and was well treated and there was a tremendous pile of gravel there. He mentioned that previous Councillors made representations to the company to do some cleanup work, and some work was done. He asked about their plans for environmental control.

Mr. MacKeigan said former Councillors Benjamin and Cosman did visit their operations and they spent a lot of money sodding and generally cleaning up. They haven't done much in the past year. They set aside so much money every year for rehabilitation and filtering of water; a considerable amount has been spent on filtering systems. They are not always successful, but they have made a very considerable effort. They think they are good corporate citizens and they invite Councillor Snow to visit them.

Councillor Snow thanked Mr. Widemeyer for the invitation to visit, but said the last time he went to Municipal Spraying he wan't allowed in. It was ascertained that Councillor Snow and his party had not identified themselves and that the company was blasting. Mr. Widemeyer said if he made an appointment with him, he would be happy to show him around.

Councillor MacDonald asked if the original quarry was in process of being developed and was told it has been quarried out and is now the area known as the Bedford Industrial Park, purchased by the Province. Councillor MacDonald asked about blasting and was told the firm of Maritime Explosives are employed to do the blasting and another firm monitors all blasts, both for air and ground vibration. They blast one to one and a half times per week.

Robert Grant, Lawyer with Stewart, MacKeen and Covert
Robert Bayard, General Manager for Tidewater Construction Co. Ltd. as well as Metro Aggregates Limited

Mr. Grant said they are appearing in opposition to the proposed re-zoning, and in particular to the re-zoning of the site owned by Metro Aggregates Limited. He pointed out on the map the site with existing zoning I-1. The remaining portion of the property is zoned General. The Waverley Ratepayers want to zone as C-1, Staff are proposing I-P. It is the contention of Metro Aggregates that zoning should remain at I-1 for the front portion and General for the back portion. The lot is 410 acres in dimension and it is very rugged terrain. Metro Aggregates and Tidewater have spent a great deal of time, money and effort to get all the necessary approvals to develop this site, including the application before Council for a Planned Unit Development which was rejected. Subsequently an application was made under a different proposal by Tidewater, involving the use of the site for a quarry and aggregate operation solely for the purposes of Tidewater Construction, to meet its own needs and the principals of the company feel that proceeding with that proposal is essential to the economic survival of the company. Nothwithstanding the fact that the new proposal involves reduced use of the site for quarry and aggragate operation, all of the same pollution controls, all of the same infrastructure, which was proposed in the initial proposal, will remain.

Pursuant to the application by Tidewater, the Municipality has issued a building permit to them and has advised that other permit applications have been processed. The company has or very shortly will receive permits to allow for top soil removal, blasting and quarrying at this site. The effect of all these permits is that Tidewater will be able to proceed to develop the site as intended for a quarry and aggragate manufacturing. The proposed re-zoning of the lands by the Waverley Ratepayers Association will not affect the ability of Metro Aggregates to proceed to develop the quarry, it will merely change the use from a use which in all respects complies with all necessary regulations, into one which becomes a legal non-conforming use.

There are certain implications about proceeding as a legal non-conforming use, and none of these are desirable. The most widely known implication is that if the legal non-conforming use ceases for any reason for a six month period, it is lost, and they can no longer proceed as an aggragate or quarry operation on the site. The other aspect of proceeding as a legal non-conforming use was mentioned by Mr. Miller when he referred to Section 84 of the Planning Act, which allows Council to cancel permits where the construction or use has not commenced. One Councillor pointed out that this provision of the Planning Act may only be invoked where Council pays to the person on whose behalf the permit was obtained, such reasonable expenses for the preparation of plans and development as may be agreed upon by the parties, or failing agreement, by arbitration. Mr. Grant suggested to Council that the payment of Metro Aggregates costs of developing this site would be a financial proposition that would not be desirable.

The status of proceeding as a legal non-conforming use is not an appealing one to Tidewater, nor is it to other industrial uses in the area, and it is not surprising the Municipal Spraying and Contracting have appeared to object to the changing of their present designation. It is understood also that CIL, which owns the plot adjacent to the Metro Aggregates lot, has placed before the Council its objections to the proposed re-zoning which would in effect convert CIL's legal uses to a legal non-conforming use.

The area affected by the re-zoning is very rugged, and it is hard to imagine it being used for any other purpose than a quarry. It is very valuable as a quarry because the underlying rock is exactly the type for such an operation. The proposed use by Tidewater is consistent with land use in its immediate vicinity. CIL use is an industrial use, as is Municipal Spraying. This was noted in a Staff report where staff did not concur in the Waverley Ratepayers proposed re-zoning for the site, and said as follows -

"The local business zone appears to be inconsistent with the large amount of property it covers in terms of both acreage and location relative to the developed community."

Tidewater interests are now in a position where they can develop the site as a legal non-conforming use. It is surely not the intention of re-zoning applications to convert a legal existing, or about to be existing use into a non-conforming use. This is recognized explicitly by the Waverley Ratepayers in their proposed re-zoning. They have exempted that portion of Municipal Spraying which is presently being used as industrial, from their proposal to re-zone to C-2. It is submitted by Tidewater Construction that there is nothing in effect to distinguish the Tidewater lands from those of Municipal Spraying, and each of them should be exemptd equally from this proposed re-zoning. The failure to treat Metro Aggregates or Tidewater in the same way as Municipal Spraying would amount to discrimination on the part of Council, and would in effect be conveying to the Municipal Spraying interests an unfair business advantage.

Mr. Grant said Mr. Miller made some suggestions as to how the Metro Aggregates property might be developed, but these suggestions have an air of unreality. The land is extremely rugged, has abrupt inclines, the slopes continually change. The only reasonable use for it is as a quarry operation. That they have laid fallow so long is just an indication of the limited use to which they can be put.

Finally, Mr. Grant suggested that for Council to follow the Waverley Ratepayers proposed re-zoning would be unfair to Metro Aggregates, who purchased the land as it is presently zoned, spent a great deal of money to develop it, and is now in a position to proceed in accordance with all the regulations, provincial municipal or federal, that it is required to meet, in the only way appropriate to the site, as a quarry and aggregate operation. He suggested to Council that it is unfair for them to change the rules, and submitted that Metro Aggregate lands ought to be excluded from the re-zoning application so they retain their existing zoning of I-1 and General.

Mr. Bayard said the land which was purchased by Metro Aggregates and the CIL land, were zoned to the present zoning in 1970 to the wishes of the people of Waverley. In 1981 Metro Aggregates drew up a package for this proposal and delivered it first to the Waverley Ratepayers Association. He feels they only got active in changing the lands in question after the proposal was taken to them. He said CIL own some 600 acres of land there and have owned this since around 1890, and they presently store their explosives there to sell to the Nova Scotia market. To the best of his knowledge nobody from any planning committee approached CIL. They zoned somebody else's lands - Metro Aggregates. But Metro Aggregates purchased under the present zoning and he said Mr. Birch in his presentation at the previous publc hearing indicated the land was of little use for anything else in its present state.

Tidewater Construction wishes to operate this business. Mr. Bayard said it concerns him to find that government agencies provide money to bring industry from overseas, and then when a Maritimer wishes to create growth or show entrepreneurship, he is continuously beat over the head. People on Council have a problem - to run the business of the County, find the money, make it expand with the rest of the country and province, and every little hamlet has a small group that doesn't want anything. That problem will have to end in order for the County to grow.

Questions from Council

Councillor Snow said he resented Waverley being called a hamlet. Concerned people there do not desire to be blown halfway into another county or have a lot of mess around. He quoted Mr. Bayard stating the company had to have a quarry for its existence. He thought $190 million is pretty good money in contracts in Nova Scotia since 1960. He asked, if they have all the permits in place to make a crushing operation, why the change in proposal? Why the sudden drop? He said when doing a proposal the best thing is to be truthful. The people of Waverley have worked hard for what they have and it is their desire at this time not to have I-P zoning, but C zoning. Is this not the privilege of a democratic society?

Mr. Bayard replied that the statement of $190 million is incorrect. Councillor Snow said he was reading from Mr. Pugsley, who represents the company. Mr. Bayard said they have been setting off blasts over the Maritimes for a great number of years and have not blown anybody off the map yet, and it is not their desire to do so. He said they changed their planning because of the dislike for another major quarry in the area; they now plan to manufacture for their own needs. Councillor Snow asked who would monitor them. Mr. Bayard said if they have an agreement with the County they would have to live up to it. Mr. Grant asked if Councillor Snow was implying that Metro Aggregates/ Tidewater would not adhere to the conditions and qualifications attached to the blasting permits that were issued? Councillor Snow said yes. Mr. Grant thought the only answer is that throughout its existence the company has been a fine corporate citizen and has not been involved in any sort of contravention of any municipal by-laws.

Correspondence

The Chairman mentioned three letters received with regard to the present hearing as follows -

1) From McInnes, Cooper & Robertson on behalf of CIL, signed by Peter McDonough, and dated December 2, 1983.

   Mr. Meech said this letter should be considered a letter of objection and a request that Council not agree to the proposal of the Waverley Ratepayers, specifically as it relates to CIL. They request that a portion of their lands back 1500 feet continues to be zoned for Industrial, I-1.

2) From Stewart, MacKeen & Covert on behalf of Metro Aggregates/ Tidewater Construction Company, signed by Robert Grant, and dated December 5, 1983.

   This letter represents an objection to the proposed re-zoning.

3) From Mayor Brownlow on behalf of the City of Dartmouth, dated December 5, 1983

   This letter is a request to Council to delete certain portions of the proposed lands under consideration for re-zoning specifically relating to those lands that are within the Lake Major watershed area and certain lands owned by the City of Dartmouth now being designated in the Regional Plan as a Regional park.

This completed the public portion of the Public Hearing.

MOTION AND DISCUSSION OF COUNCIL

It was moved by Councillor Snow, seconded by Councillor McInroy:

"THAT the Waverley application for re-zoning be approved as their proposed map indicates."

Councillor Snow said he believes two years is a long time for the people of Waverley to be waiting, planning and trying to get something done in their community. With a lot of opposition, they have gone through three nights of hideous, hard public hearings, and all the pros and cons have been addressed. Everything indicates they want zoning, and the zoning they want is on the proposed zoning map. He believes Councillors have to look at the concerns of the people. Industry has to have its proper place and he doesn't feel the people of Waverley are trying to stop it - their concern is the water, the dust in the air. Through proper planning and zoning something can be achieved.

Councillor McInroy had no objection to the Village being zoned, or to the residents' opposition to the Metro Aggregates proposal, but did not think it proper to throw a blanket over the surrounding land just to tie up the lands of Metro Aggregates. To make an existing operation such as CIL, which has been in existence for years, into non-conforming use, to take away their privileges, is not right.