

Councillor Boutilier informed that it was his understanding it is the responsibility of the School Board to build such roads, and he suggested that this correspondence be referred to the School Board with endorsement from Halifax County Council. Councillor Bates agreed that the matter should be referred to the School Board.

Councillor Reid informed that the School Board has considered this request a number of times over the past years, and the response of the School Board has been that they do not provide the turning point, and they never have; they have always been built by the Department of Transportation or some other means through the District Councillor. He advised that the School Board has never built a turning road, although they are willing to travel one if such exists.

Warden Lichter clarified that the School Board is willing to extend this route to include Leslie Road if a turning point is constructed. Councillor Reid felt this is correct because the children walk more than 8/10 of a mile to get to the school bus stop.

Warden Lichter commented that he is surprised the Hon. Tom McInnis did not use his power of office to convince the Department of Transportation to do this job; however, this correspondence was not even copied to the Department.

Councillor Randall advised that he is in receipt of a letter to the School Board from the Minister of Transportation advising that it is not the policy of the Department of Transportation to provide school bus turning points; it is the normal procedure for the School Board or the municipal unit to construct such roads to Department of Transportation specifications.

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

"THAT the matter of construction of a school bus turning point for Leslie Road be referred to the School Board for a definite answer."

Councillor Randall inquired about a source of funding within the municipality to pay for the construction of such a road. Warden Lichter suggested district capital funds may have been used in the past, although he was not sure. He stated if the School Board will provide the services of the bus to the turning point, the Department of Transportation should be responsible for providing the turning point.

Councillor Randall expressed difficulty with using district capital funds for this purpose because it is not the intended use for such funds; he also expressed concern about the precedence of using these funds for such a project. He added that several children on Leslie Road have certified medical problems, which is cause for the School Board to travel Leslie Road to pick them up.

There was a brief discussion about referring this matter to the School Board. It was felt that it would be better referred to the Department of Transportation.

Councillor Baker and Councillor Randall agreed to withdraw the motion.

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

"THAT a letter be written to the Minister of Transportation advising that it is their responsibility to construct a school bus turning point and requesting them to do so at Leslie Road, Lawrencetown."

MOTION CARRIED

MICHAEL - Journal Published by the Institute of Political Action, Pilgrims of Saint Michael

Warden Lichter reviewed this item of correspondence, advising that he does not agree with their resolution, as it will only result in instructions to the Bank of Canada to keep printing money, which will only cause more and more inflation.

Councillor Morgan agreed with Warden Lichter, stating inflation in Canada cannot be promoted to the stage it is in other countries. However, he felt that the Governor General should be asked to lower interest rates, as discussed at a previous Council Session.

It was moved by Councillor Sutherland, seconded by Councillor Richards:

"THAT this item of correspondence be received."

MOTION CARRIED

URGENT AGENDA ITEMS

Councillor Reid - Sewage Disposal and Treatment System for the Musquodoboit Valley Memorial Hospital and the Proposed Home for Special Care, Middle Musquodoboit

Members of Council unanimously agreed to deal with this matter at this time in order to accommodate Mr. Wdowiak.

Mr. Wdowiak informed that the Musquodoboit Valley Memorial Hospital and the proposed Homes for Special Care, Middle Musquodoboit are contemplating connecting to the new sewer system in the village. The Hospital Board met to discuss the proposed terms and conditions of the agreement to hook into this system, and the Municipal Solicitor was directed to draft the legal agreement accordingly. He informed that the hospital is outside of the serviceable boundary, and approval of the agreement will mean an amendment to the boundary. He outlined the area in question on a map.

Mr. Wdowiak informed that the initial agreement was unacceptable to the Hospital Board whereby there is a \$50,000 capital contribution required, and the limitation clause of 6,000 gallons per day. The Board has requested that item 2(d) of the agreement be omitted and that Sections 1(a) and 2(f) be

revised as outlined in the attached letter from Mrs. Shirley Dickey, Chairman of the Board of Governors for the Musquodoboit Valley Memorial Hospital and the Musquodoboit Valley Home for Special Care.

Mr. Wdowiak advised that there is a definite capacity in the treatment plant for these facility, but if the 6,000 gallon per day limit is exceeded it will prevent Halifax County from treating the sewage as required by the joint authorities; they will approach the Municipality in this regard, as opposed to the Hospital or the Home for Special Care.

Mr. Wdowiak continued that the sewage treatment plant cost \$477,000, and a flow of 6,000 gallons per day would utilize 25 percent of the present anticipated flow from the area. Total capacity is 27,900 gallons per day, and the anticipated use is 18,000 gallons per day from the village and 6,000 gallons per day from the hospital and Home for Special Care, for a total of 24,000 gallons per day. He added that additional filtration systems can be added for increased capacity to the plant at an additional cost of \$10,000 to \$12,000.

Mr. Wdowiak informed that a \$50,000 capital contribution for this use of the plant is not inordinate; the flow will be equal to that of 30 homes which would provide a capital contribution of approximately \$130,000. He concluded that it is desirable to treat this sewage in the new system at Middle Musquodoboit if for no other reason, liability.

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

"THAT the proposed agreement between Halifax County Municipality, the Musquodoboit Valley Memorial Hospital, and the Musquodoboit Valley Home for Special Care be ratified by Halifax County Council as presented."

Councillor Reid clarified that the motion is to approve the agreement without any amendment. He advised that the Hospital Board had concerns about the limitation of 6,000 gallons per day because they feared being cut from the system when they reach this capacity. However, this is not the intent of the agreement. He referred to Section 2(f) whereby it indicates once the 6,000 gallon per day limit is reached, the situation will be dealt with; they will be permitted to exceed 6,000 gallons per day if the entire system is not affected. He suggested that the Engineering & Works Department write a letter to the Hospital Board clarifying this, which will address the concerns of the Hospital Board.

With regard to the \$50,000 capital contribution, Councillor Reid informed that he has already requested an additional \$60,000 to \$100,000 for the water system in the village, and the Hospital Board is requesting a deletion of a total of \$172,000 from expected revenue for additional lots to this system, and while he would like to support the Hospital Board in this regard, he stated he cannot because he made this commitment two years ago. He asked that Council support the agreement.

Councillor Bayers expressed no difficulty with the agreement, but he questioned where the force mains from the Hospital and the Home for Special Care will lie and how they will affect the Musquodoboit River. Mr. Wdowiak informed that at this point it is not known how the force mains will be laid; they could be suspended under the bridge, although it is not known at this time if they would function properly. He felt the force mains should be buried under the river bed.

Councillor Bayers expressed grave concern, stating the Musquodoboit River is environmentally sensitive serving all of the Musquodoboit Valley, as well as a portion of District 10. He expressed difficulty with approving this agreement without environmental consideration as to how the force mains will be laid, and if there will be capacity at the hospital to hold sewage should the force main break. He agreed that it is good to treat this sewage at the new plant, but he felt the agreement should not be approved until there are more answers from the joint authorities.

Mr. Wdowiak referred to Section 2(b) of the agreement, stating the service connections will have to meet with the approval of the joint authorities.

Councillor Bayers advised that he previously requested on-going testing of the Musquodoboit River, but there has been no access to the results, and the people are calling him with concerns. He stated the Municipality must live up to its commitment to the people in this regard, and the joint authorities should make their recommendation before this agreement is approved. He stated difficulties will not only affect salmon fishing but the people and employment in his district, as well. He asked that Council not support this agreement until there is a recommendation from the joint authorities, including a design for the taking the sewer pipe across the river.

Mr. Wdowiak clarified that the total cost of infrastructure for the Hospital and the Home to connect to the sewer system will be borne by those two parties; the \$50,000 is for the use of the system.

There was further discussion concerning the 6,000 gallon per day limitation clause. Mr. Meech clarified that 6,000 gallons per day is more than adequate to carry the proposed capacity for the Hospital and the Home, but the limitation has been included in the agreement to protect the system in the case of expansion to either the Hospital or the Home. If an expansion were proposed, the Board would have to approach the Municipality about increased capacity.

Councillor Bayers asked if any test results have been made public. Mr. Wdowiak advised that he has not received a response to the request for those test results, but when he does he will forward them to Councillor Bayers. Councillor Bayers responded that there may be a problem all this time they are waiting for test results, and the agreement may be approved without the test results.

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

"THAT the proposed agreement between Halifax County Municipality, the Musquodoboit Valley Memorial Hospital, and the Musquodoboit Valley Home for Special Care be deferred pending approval of the joint authorities and any other government agencies involved."

Councillor Reid advised that the Hospital Board is under some urgency; they are meeting this Friday, at which time they would like to know the cost as soon as possible.

MOTION DEFEATED

Warden Lichter advised that it was Mr. Meech's suggestion that Section 2(b) of the agreement be amended to include Halifax County's approval. He stated this will be the same as deferring the agreement pending test results.

Councillor Reid advised that P. Lane & Associates are doing the monitoring of the Musquodoboit River under the guidelines of Alderney Consultants. He advised that he received all information up to and including March of this year, and he expects to receive the same information for the next three months in the near future. This will include a one month period when the system was operational. He added that the agreement calls for the Hospital Board to meet with all provincial agencies and get their approval before the force main is laid. Councillor Reid added that the existing plant serving the Hospital is malfunctioning very badly; three parts per million of faecal coliform is running into the Musquodoboit River every day, and the best alternative is to hook the Hospital into the new system. He felt confident this will be done in a safe manner.

Councillor Boutilier stated he understands Councillor Bayers concerns, but he felt the agreement contains the necessary safeguards.

Councillor Bates felt the agreement should not be approved to meet the Hospital's deadline. He stated the request for test results is legitimate, and the agreement should not be signed until that information is available.

Councillor Bayers stated he did not support the sewage treatment plant at Musquodoboit, but he had no grave concerns because there was public input, which resulted in the addition of the polishing lagoon to safeguard against any malfunction of the plant. However, he questioned what would happen if the force mains are laid under the bed of the river and they break. He stated the public should have input in this regard, as well, or at least the elected representatives should have access to the test results. He asked that Council not support the motion pending test results and answers to his questions.

There was a brief discussion about the existing malfunctioning system at the Hospital. Councillor Bayers stated something should be done about that immediately.

Councillor Reid and Councillor Bayers agreed to amend the motion as follows:

"THAT the proposed agreement between Halifax County Municipality, the Musquodoboit Valley Memorial Hospital, and the Musquodoboit Valley Home for Special Care be ratified by Halifax County Council with an amendment to Section 2(b) to include Halifax County Municipality."

Councillor Cooper asked if the system is to be owned and operated by the Hospital or the Municipality. Mr. Wdowiak advised that the intent is that the sewer line servicing both the Hospital and the Home for Special Care will be maintained by them, but the Municipality is willing to provide any necessary assistance.

Councillor Cooper expressed difficulty with allowing the Hospital and the Home to maintain their share of the system. He stated the system has been constructed to remedy problems, and 25 percent of it will then be operated privately. He suggested their share be turned over to the Municipality and they pay for their share of the operating cost. He asked if there will be any on-going supervision of the system, and if Halifax County staff will be called after a problem is identified. Mr. Wdowiak informed that the Hospital will be responsible for monitoring the system as they do now with the existing system.

Councillor Boutilier asked if Halifax County will have access to the monitoring of this system once it is operational. Mr. Wdowiak advised that they will, although it is not the intention. He added that the system will be equipped with alarm systems as the Municipality's present systems are.

Councillor Reid concluded that the amended motion means the system will be constructed to Halifax County standards, the same as any other system would. He felt it addresses all concerns.

MOTION CARRIED 14 FOR
 3 AGAINST

SUPPLEMENTARY BUILDING INSPECTOR'S REPORT

Musquodoboit Valley Home for Special Care, Middle Musquodoboit

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

"THAT Council approve a lesser rear year clearance of 0 feet for the Musquodoboit Valley Home for Special Care, Middle Musquodoboit."

MOTION CARRIED

DATE FOR MINOR VARIANCE APPEAL

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

"THAT Council hear a minor variance appeal by Frederick Southern, Gallant Road, Eastern Passage be heard on September 5, 1989 at 7 p.m."

MOTION CARRIED

APPOINTMENT OF BY-LAW ENFORCEMENT OFFICERS - ANIMAL CONTROL

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

"THAT the Halifax County Council request the Police Commission to appoint Glen E. Horne; Ken F. Cottrell; and George Mountain, as by-law enforcement officers for the purpose of enforcing the Halifax County Dog By-law as requested."

MOTION CARRIED

SIDEWALK CONSTRUCTION AGREEMENT NO. 1-R, TRUNK 2, FALL RIVER

It was moved by Councillor Boutilier, seconded by Councillor Sutherland:

"THAT Sidewalk Construction Agreement No. 1-R be endorsed on behalf of Halifax County Municipality."

MOTION CARRIED

RESOLUTIONS, UNSM ANNUAL CONFERENCE

Members of Council agreed to ratify the resolutions of the Union of Nova Scotia Municipalities for presentation at the annual conference.

URGENT AGENDA ITEMS

Councillor Reid - Volunteer Use of Schools During Evening Hours

Members of Council unanimously agreed to discuss urgent agenda items added by Councillor Reid and Councillor Richards next.

Councillor Reid advised that this issue has been raised several times at Council, and it has also been discussed at the School Board where a motion was recently passed agreeing to keep several schools open two evenings per week for two hours for the use of volunteer groups until December, 1989 for a further \$2,500 contribution from the Municipality. Councillor Reid listed the schools which are to remain open under this agreement, mostly in the more rural areas.

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

"THAT each Councillor provide \$100 to the School Board from their District Activity fund with the agreement that several schools will remain open two nights per week for two hours for the use of volunteer groups."

Councillor Cooper stated Forest Hills is most affected by the closure of schools to volunteer groups, and it appears there will be no relief provided, and the schools in District 25 were not noted by Councillor Reid.

Councillor Reid advised that School Board staff provided a list of schools affected by the closure of schools to volunteer groups, and in the eastern suburban sub-system only one was affected as a result of these closures. He advised it was his understanding that people in that area are in close proximity to schools that will remain open, and they have the ability to use those larger schools; they only have to request the use of the school for their purposes.

Councillor Eisenhauer noted that the list referred to by Councillor Reid did not include the Hammonds Plains School. He also expressed concern that making this agreement will be precedent setting, as enhanced policing has been.

Councillor Deveaux stated he cannot support the motion because he, too, is concerned about the precedence and the affect on schools that will not benefit from this agreement. He also questioned if this funding will have to be approved by the Joint Council (Halifax County and Bedford) because the Province will be providing \$3 for every additional \$1, as is done for supplementary funding.

It was Warden Lichter's opinion that the Town of Bedford should be involved in making this decision if these dollars are to be considered supplementary funds. He stated he supports community programs, but he cannot support this motion because it is not fair to those areas not affected by the agreement; it would be more equitable for each Councillor affected to pay his share.

Councillor Richards questioned why the School Board will not allow Halifax County to decide how School Board dollars will be spent at budget time, but they now give this opportunity when additional dollars might be given. He also questioned the list of schools that will remain open; he felt several others should be included, and he felt a complete list should be circulated before a decision is made in this regard.

Councillor MacDonald noted that the total cost of keeping these schools open during the evening is \$10,000. The County is requested to contribute \$2,500, and the balance will be picked up by the Department of Education.

Councillor Reid clarified that he asked School Board staff to determine from the Department of Education if this funding would be a legitimate contribution for provincial cost-sharing, and the response to date has been that it is.

Mr. Cragg felt this funding will not have to go before Bedford Town Council, also. There was a brief discussion concerning supplementary funding and the involvement of Bedford Town Council.

Councillor Boutilier advised that he investigated this matter through the School Board office, and it appears that the schools affected by this agreement are in rural areas which do not have other places for volunteer and community

groups to meet. He added that Halifax County should be permitted to give additional dollars to the School Board if they so please without consulting with the Town of Bedford. He concluded that he will support the motion; the list provided to him by the School Board corresponds with that referred to by Councillor Reid.

Warden Lichter questioned if Councillor Boutilier has a conflict of interest in this regard. Councillor Boutilier stated he does not; this matter concerns a contribution from each district fund for community groups, and he supports the purpose.

Councillor Ball expressed no difficulty with the motion, but he felt a list of the schools affected should be provided.

Councillor Morgan expressed no difficulty with the intent of the motion, but he was concerned that Council can take dollars from any district account. He stated he would support the motion if there is another source of funds, as opposed to the district accounts.

Councillor Fralick stated District Activity funds are for community programs and organizations, which is the purpose of giving additional funds to the School Board. He stated he would also like to see a final list of the school affected by this agreement, but there is no time.

Councillor Meade expressed difficulty that Boutilier's Point is not included in the list of schools to remain open.

Warden Lichter stated he cannot support the motion because of the potential affect on the 1990 School Board budget. He expressed difficulty with the manner in which cuts are made to the School Board budget and how money can be found for certain purposes but not others.

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

"THAT the matter of additional funding to the School Board with the agreement that certain schools will remain open during the evening for the use of community and volunteer groups be deferred to the next Session of Council when a complete list of schools affected by this agreement will be available;

ALSO THAT Halifax County staff consider an alternative source of funds for this purpose, as opposed to the District Activity funds."

MOTION CARRIED

Member of Council agreed to recess for five minutes. The meeting was recalled to order at 8:15 p.m.

Councillor Richards - Drainage System, Donohoe Drive, Inishowen Subdivision

Councillor Richards advised that the City of Dartmouth has a right-of-way for a storm drainage system in the County through Donohoe Drive to Morris Lake. There is a steel pipe which lies above the ground on the County side, which has

proven to be very dangerous in the past. He advised that he has been attempting to have this resolved since last fall, to no avail. Heavy rainfall causes the pipe to become a river of water, and children have been hurt there in the past, although the City takes no action to remedy this situation.

It was moved by Councillor Richards, seconded by Councillor Bates:

"THAT a letter be written to the City of Dartmouth requesting its Council to give immediate attention to the problem of the dangerous storm drainage pipe at Donohoe Drive, Inishowen Subdivision and to take the necessary steps to correct this problem before a more serious accident occurs."

MOTION CARRIED

Councillor Richards - RCMP Service

Councillor Richards noted that the City of Dartmouth is facing a potential police strike, and the public has been informed that the RCMP will be asked to provide police protection in the event of a strike. He expressed concern that RCMP service in the County will be affected by a police strike in the City of Dartmouth.

Warden Lichter stated the strike should have no affect on police protection in Halifax County what-so-ever because the enhanced police protection, for which the Municipality pays, will have to remain in place. Mr. Meech agreed.

It was moved by Councillor Richards, seconded by Councillor MacDonald:

"THAT a letter be written to the Solicitor General informing that RCMP protection in Halifax County must not be affected by strike action in the City of Dartmouth."

Councillor MacDonald noted that a police strike in the City of Halifax in the past did not have any impact on services in the County because regularly scheduled police officers were not assigned to cover for the strike action.

Councillor Cooper suggested a copy of the proposed letter should be sent to the MLA, David Nantes. Councillor Richards and Councillor MacDonald agreed to amend the motion to read:

"THAT a letter be written to the Solicitor General informing that RCMP protection in Halifax County must not be affected by strike action in the City of Dartmouth;

ALSO THAT a copy of this letter be forwarded to the MLA for the area, David Nantes."

MOTION CARRIED

COUNCILLOR DEVEAUX - TEXACO REFINERY

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

"SUBJECT to the establishment of a tribunal for the review of the sale of the Texaco plant that a letter be sent to the tribunal expressing Halifax County's concern about Competition Bureau's recommendations and request that the tribunal reverse said recommendations and allow Imperial Oil to keep the Texaco Plan and operate it as an oil refinery, and should that prove feasible, that said tribunal carry out a thorough investigation of the bidders for the Texaco Refinery to ensure that it will be kept operating on a continuous basis."

MOTION CARRIED

COUNCILLOR BAKER - PAVING, LITTLE'S ROAD, TERENCE BAY

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

"THAT a letter be written to the Department of Transportation requesting that Little's Road, Terence Bay be paved and advising that this road was listed prior to 1974."

MOTION CARRIED

COUNCILLOR RANDALL - SCHOOL BUS, LESLIE ROAD

Councillor Randall advised that this matter was dealt with earlier, but he requested that additional information be included in the letter to the Department of Transportation.

It was moved by Councillor Randall, seconded by Councillor Bates:

"THAT the aforementioned letter to the Department of Transportation concerning a school bus turning point on Leslie Road include the fact that Leslie Road runs along the ocean, causing many problems for young children getting to the school bus stop; also that several of the children have medical problems which are adversely affected by weather conditions."

MOTION CARRIED

URGENT AGENDA ITEMSCouncillor Randall - Access to Abandoned Rail Line

Councillor Randall advised that the abandoned rail line has been turned over to the Department of Lands & Forests for all practical purposes, although the official documents have not yet been turned over.

It was moved by Councillor Randall, seconded by Councillor Bates:

"THAT a letter be written to the Minister of Lands & Forests asking that the abandoned rail line be surveyed to determine areas that are becoming garbage dumps and access ways for vehicles, and that something be done to prevent this as soon as possible;

ALSO THAT the Department be requested to look at a bridge on a private road off the back road at Seaforth, which is in much need of repair, to determine if it is their responsibility to make these repairs;

FURTHER THAT a copy of this letter be forwarded to the area MLA, the Honourable Tom McInnis."
MOTION CARRIED

Councillor Randall - Odour, Grand Desert Inlet

Councillor Randall advised that there is erosion of the dyke at the Head of Grand Desert, and after heavy rains and flooding there is danger to the adjacent residents. Drainage removes much of the water which then causes plant life to decay causing a bad odour to permeate the entire village of Grand Desert. He advised that he and the Department of the Environment have both received a number of complaints in this regard.

It was moved by Councillor Randall, seconded by Councillor Bates:

"THAT a letter be written to the Federal Department of Fisheries and Oceans requesting them to investigate the problems of a foul odour at Grand Desert Inlet to determine the cause and a possible solution;

ALSO THAT a copy of this letter be forwarded to the Provincial Minister of Transportation and the area MLA, the Honourable Tom McInnis."
MOTION CARRIED

Councillor Sutherland - Street Paving

There was a brief discussion concerning the involvement of developers in the paving of a subdivision. It was noted that street paving is not a requirement of the Subdivision By-law, and once the subdivision is developed, the developers are only responsible for the share of land they continue to hold.

Councillor Sutherland requested that clarification of this matter with regard to Sunnyvale Subdivision be made through Mr. Bill Newman's office.

Councillor Sutherland - School Bus Service, Sunnysvale Subdivision

Councillor Sutherland advised that since the new Millwood Elementary School was constructed, children from Sunnysvale Subdivision are no longer bussed to school. However, it is dangerous for them to walk to the new school due to dangerous traffic conditions and the lack of sidewalks. He advised that he has received many calls concerning this situation.

It was moved by Councillor Sutherland, seconded by Councillor MacDonald:

"THAT a letter be written to the Halifax County-Bedford District School Board requesting them to investigate a means of transportation for elementary school children from Sunnysvale Subdivision and Century Park Mobile Home Park due to hazardous walking conditions there."

MOTION CARRIED

Councillor Baker - District 4 Fire Departments

Councillor Baker advised that at the second Council Session in May, a motion was passed to defer the hiring of four fire fighters in District 4 until the matter of consolidation of the fire department and the plebiscite is settled. He advised that since then, the fire departments have decided not to consolidate their operations; thus, the plebiscite has been deferred pending the outcome of the Fire Advisory Board study of the situation.

Councillor Baker advised that while this matter has been deferred, there is a need for paid fire fighters in the community, and he recommended that two fire fighters be hired for the Terence Bay Fire Department and two fire fighters for the Hatchett Lake Fire Department. He informed that funds are available for their salaries, and agreement of the communities has been obtained at a public meeting.

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

"THAT Halifax County Council approve the hiring of two career fire fighters for the Hatchett Lake Fire Department and two career fire fighters for the Terence Bay Fire Department, these positions to be regarded as Halifax County employees."

Warden Lichter expressed concern about Halifax County getting involved in giving fire departments the authority to hire career fire fighters. He stated this authority is given by Council when the area rate is approved, and he expressed concern about the affect of this approval on other departments with career fire fighters.

Councillor Baker indicated that in this situation he would be more comfortable with Council's involvement and direction.

MOTION CARRIED

ADDITION OF ITEMS TO THE AGENDA FOR SEPTEMBER 5, 1989

Councillor Ball - Roads, District 5
Councillor MacDonald - Street Paving
Councillor Boutilier - Nova Scotia Power Corporation

ADJOURNMENT

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

"THAT this Session of Council adjourn."
MOTION CARRIED

The meeting adjourned at 8:45 p.m.

PUBLIC HEARING MINUTES

MONDAY, AUGUST 21, 1989

THOSE PRESENT: Warden Lichter
Councillor Meade
Councillor Poirier
Councillor Fralick
Councillor Baker
Councillor Ball
Councillor Bates
Councillor Adams
Councillor Randall
Councillor Bayers
Councillor Smiley
Councillor Reid
Councillor Horne
Councillor Merrigan
Councillor Morgan
Councillor Snow
Councillor Eisenhauer
Councillor Boutilier
Councillor MacKay
Councillor Sutherland
Councillor Richards
Deputy Warden McInroy
Councillor Cooper

ALSO PRESENT: Mr. G. J. Kelly, Municipal Clerk
Mr. R. G. Cragg, Municipal Solicitor
Mr. Rick Spanik, Senior Planner, Policy Division
Mr. John Bain, Planner, Policy Division
Mr. Paul Morgan, Planner, Policy Division

ACTING
SECRETARY: Gail Foisy

Warden Lichter called the public hearings to order at 7:00 p.m. with the Lord's Prayer. Mr. Kelly called the roll. Warden Lichter then reviewed the procedure for the public hearings.

It was moved by Councillor Adams, seconded by Councillor Fralick:

THAT GAIL FOISY BE APPOINTED AS RECORDING SECRETARY.

Motion carried.

APPLICATION NO. RA-TLB-05-89-02

John Bain reviewed the staff report.

Mr. Bain advised that the application by Wallace DeGiobbi is for a rezoning in the Timberlea Lakeside/Beechville area from R-1 (Single Unit Dwelling) Zone to R-2 (Two Unit Dwelling) Zone. It is staff's recommendation that the request for rezoning be approved. He then showed some slides of the site and surrounding area.

Mr. Bain indicated that the existing dwelling unit is a two storey building. The residences along the street differ in construction from each other, being built at different times.

Mr. Bain advised that the property is located within the Residential A Designation of the plan area. That designation was established to preserve the existing single unit dwelling environment of the plan area. At the same time, the residential designation acknowledges the need for an eventual broader housing mix. The base zone set out in the Residential A Designation is R-1. Policy P-26 of the municipal planning strategy allows Council to consider rezoning to a R-2 zone and in consideration of Policy P-89 of the plan. Policy P-89 directs Council to consider such general planning concerns as conformity with the intent of the plan, adequacy of services, adequacy of control to reduce conflict, and the suitability of the site. With regard to those policy provisions, it was not anticipated that a second dwelling unit attached onto the back of the structure would pose any significant concern to schooling and other community services. The Department of Engineering & Works says that the sewerage system is not a problem. Also, existing parking can be accommodated on the lot.

Mr. Bain indicated that the lot was created before the land use by-law came into effect and because of that, has a frontage that is slightly less than the required 60'. However, the lot exceeds the standards for the depth. He noted that Map No. 3 shows the other lots in the immediate area that share this reduced front yardage, and pointed out that this lot is not unique in having a reduced lot frontage. Also, the neighbourhood was not considered to be an area which would be detrimentally affected by the introduction of R-2. It is categorically a mix of land uses and a two-unit dwelling would not be out of character with this area.

Mr. Bain concluded that it is staff's recommendation that the rezoning from R-1 (Single Unit Dwelling) Zone to R-2 (Two Unit Dwelling) Zone be approved.

Questions from Council

Councillor MacKay pointed out that it was said the frontage is undersized as per the existing standards and was in existence before the plan was adopted. He asked if on that basis the lot could be subdivided if they were physically able to create a semi-detached home rather than a duplex.

Mr. Bain responded that the lot would not be able to be subdivided, and pointed out that the structure as proposed is shown in Figures 1 and 2.

Councillor MacKay asked what minimum frontage is required under the municipal planning strategy in order to subdivide a lot in the case of a semi-detached home, to which Mr. Bain responded 60'.

Councillor MacKay asked if there was a provision in the land use by-law that would allow subdivision of an undersized lot in existence on the date of adoption of the plan.

Mr. Bain referred Councillor MacKay to Sections 4.8 and 4.9 of the land use by-law dealing with the provisions for subdivision of existing lots.

Councillor MacKay noted that it was his interpretation that 54' would be required in order to subdivide, to which John Bain agreed.

Councillor Cooper asked how many units are in the apartment building at the corner of the street, and how long the building was there.

Mr. Bain responded that he did not know, but that it appears the building is three storeys high.

Speakers in Favour of this Application

Wallace DeGiobbi

Mr. DeGiobbi advised that the apartment building has been there for two - three years and that there are twelve apartments in the building.

Mr. DeGiobbi pointed out that there are different types of dwellings along the street. He indicated that he and his wife decided to apply for the rezoning because the house requires a substantial amount of repair work, and felt that it would be more feasible to apply for a rezoning which would help pay for a mortgage. He advised that they approached the immediate neighbours along the street and had positive remarks from all adjacent to the proposed zone change.

Questions from Council

Deputy Warden McInroy noted that the property is owned by Ms. Gouchie, and asked Mr. DeGiobbi what his involvement was with the property.

Mr. DeGiobbi advised that Ms. Gouchie has said she has no objection to their plans. He said that it would be a total renovation of the property, and felt that it would enhance the property and the surrounding area. He indicated that they planned on living in the back of the duplex if the rezoning application is approved.

Speakers in Opposition to this Application

None.

It was moved by Councillor Poirier, seconded by Councillor Poirier:

THAT THE APPLICATION TO REZONE THE PROPERTY AT 17 GREEN ROAD IN LAKESIDE FROM R-1 (SINGLE UNIT DWELLING) ZONE TO R-2 (TWO UNIT DWELLING) ZONE BE APPROVED.

Motion carried unanimously.

APPLICATION NO. RA-24-20-88-04

Paul Morgan presented the staff report.

Mr. Morgan advised that Mr. Alvin MacDonald has made application to rezone Lot 104B, as illustrated by a plan of subdivision of the lands of A.L. and J.E. MacDonald, from R-2 (Two Unit Dwelling) Zone to C-1 (Local Business) Zone.

Mr. Morgan pointed out that in the first notice of public hearing which appeared in the newspaper on July 28, 1989, it incorrectly indicated that an application for rezoning to C-2 had been made. Subsequently, two accurate notices went in the newspaper on August 4, 1989, and August 11, 1989. He indicated that for the purposes of the Planning Act, the advertising met all the statutory requirements.

Mr. Morgan indicated that the property to be rezoned is 2.7 acres, and is located just south of the Prospect Road and Brookside Road intersection. He noted that Mr. MacDonald has been operating a trucking and excavation business from the rear portion of the property in conjunction with his residence. Lot 104B is the consolidation of three lots. Lot 104 was originally approved in 1970. Mr. MacDonald purchased his residence in 1974. In 1984, Parcel 104A was consolidated with Parcel 104 and then in 1985, Parcel HL-B was consolidated with the other two parcels.

Mr. Morgan advised that most of the commercial operation is located on Parcel 104A, but also extends partially onto Parcel HL-B. The use of the property is primarily storage and repair of vehicles and construction equipment, and storage of septic tanks and related materials, as well as excavation of fill.

Mr. Morgan noted that District 4 is presently regulated by Zoning By-law No. 24. Last year, the Building Division received a complaint from a neighbour that Mr. MacDonald's operation was in contravention of the by-law. The Municipality's Building Inspector contacted Mr. MacDonald and informed him that the business did not comply with the zoning requirements. Subsequently, Mr. MacDonald applied to rezone the property. Records of Council minutes indicate that R-2 zoning in the Brookside area was approved by Council in 1974. It extends in a southerly direction from the Prospect Road, encompassing lands on both sides of the Brookside Road, to the vicinity of Moosehorn and Loon Lakes.

Mr. Morgan showed some slides of the location and the surrounding area.

Mr. Morgan indicated that in reviewing the application, it is recognized that the municipality has not yet adopted any land use policies for this district and it remains governed by By-law No. 24. However, in looking at this application, staff looked at the orderly development of the community and the compatibility of surrounding land uses. One of the things reviewed was why the R-2 zone was approved in 1974. In reviewing the records, the intention was to promote residential development. At the time, there were a number of residential subdivisions along the road including the George Yeadon Subdivision. It is staff's feeling that given this and the subdivision patterns that have emerged since that time in that there has been continued residential development in that vicinity, any change of land use should be compatible with existing development patterns. In this regard, staff feel that a trucking and excavation operation at this site is not compatible with the surrounding land uses. He noted that there are a large number of abutting residential properties that are in very close proximity and that it raises concern about compatibility of such an operation which deals with outdoor storage of vehicles and equipment. It is recognized that the operation is not visible from the highway. He said that for the abutting properties he felt there is an issue of fairness in that they were there first, as was the R-2 zone.

Mr. Morgan indicated that the Department of Transportation has advised that the existing driveway meets sight stopping distances for commercial. Staff were concerned that it is the only possible access to the rear portion of the lot and is in very close proximity to the abutting houses.

Mr. Morgan noted that some consideration was given by staff to the possibility of expansion to the operation. It appears that since he first started operating off the property in 1979, the operation has grown. What was initially a dump truck stored in Mr. MacDonald's driveway has expanded. At the present time, a single axle and a tandem dump truck, a dozer, a flat bed trailer and two backhoes are stored on site. Mr. MacDonald has said he might consider building a larger repair shed in addition to the one there.

Mr. Morgan commented that the pit somewhat exasperates the situation. Steep and deep embankments have been created along the rear property lines of abutting residences. The Department of Engineering & Works has advised that there are no municipal regulations in effect to control grate alterations in this district. The Department of the Environment has advised that the pit operation is in violation to their regulations. It has also stated that it does not meet the pit and quarry guidelines of the regulations, which require a minimum 300 foot separation distance from residential properties, unless every single owner agrees otherwise. A phase-out plan will be requested if Mr. MacDonald does not get approval from his neighbours.

Mr. Morgan indicated that the Department of Health was contacted regarding concerns that the pit would cause some problems on the on-site sewer and water services. Staff of that department inspected the site and said they did not expect any problems.

Mr. Morgan also indicated that the Department of Municipal Affairs has advised that a regional development permit is required under the Halifax-Dartmouth Regional Development Plan. Issuance would be contingent upon approval of the Departments of Health and Environment.

Mr. Morgan summarized that in recommending rejection of the application, the main points are that it is a residential community which is supported by R-2 zoning, the applicant's site borders residential properties, and both by its nature and proximity, it is staff's feeling it is incompatible.

Questions from Council

Councillor MacKay asked for verification that the zoning was approved by Council in June of 1974, to which Mr. Morgan responded yes.

Councillor MacKay noted that Mr. MacDonald purchased his property on August 14, 1974, and asked if at that time there was any type of commercial use. Mr. Morgan indicated that there was none that he was aware of.

Councillor MacKay asked if a permit was applied for excavation. Mr. Morgan responded that he has been in contact with representatives of the Department of the Environment and that he was not aware of an application having been made.

Councillor Sutherland referred to the narrow parcel of land that extends to the west of Prospect Road and asked if it was an easement. Mr. Morgan responded that he thought it might have been a drainage easement at one point.

Speakers in Favour of this Application

Tim Hill, Solicitor for the Applicant

Mr. Hill stated that he felt it was important to understand what is being applied for, which he said was a C-1 use. He indicated that the two things Mr. MacDonald wishes to do is operate his office out of the kitchen and to continue to park his vehicles. He said that Mr. MacDonald does not wish to continue to excavate the pit or to continue with a number of the activities which are currently not allowed under the present by-law, and would not if rezoned to C-1.

Mr. Hill indicated that Mr. MacDonald operates a trucking and excavation business, and assured that Mr. MacDonald would confine his excavation activities to other sites. He advised that Mr. MacDonald employs himself, his

wife, his son and one other person, and felt that that situation has been the same for quite some time. He noted that Mr. MacDonald does have the equipment pointed out by Mr. Morgan.

Mr. Hill advised that this business has been there for ten years, since June of 1979. Mr. MacDonald has been operating somewhat at the level there now, although admittedly it might have gotten a bit busier in the past couple of years. He said that the business has operated for the past ten years with no complaint, as have many other businesses. This complaint has arisen presumably because of a dispute with a neighbour and the matter has come to a situation where Mr. MacDonald is required to apply for a rezoning.

Mr. Hill said that the purpose of the C-1 application is not to continue to operate that pit. It is simply so that the vehicles can be parked where he and his son live and so that they can use the office in the home. The pit is something that, as Mr. Morgan said, exasperates the problem because it was at one point somewhat unsightly. The pit itself would be regulated by the Department of the Environment. Mr. MacDonald has the responsibility which he now realizes to comply with those regulations and to cease operations there. He noted that should this be rezoned to C-1 that would not change that obligation. He advised that he was at the site and saw the slides. The bottom of the area is level, although there are some quite steep embankments. He pointed out that the slopes have to be stabilized because some erosion is taking place. It is Mr. MacDonald's responsibility to present to the Department of the Environment some type of phase-out showing how he intends to stabilize the erosion and to give some type of time-frame. He noted that that has to be done whether the zoning is R-2 or C-1 because the pit should not be there.

Mr. Hill stated that it was his understanding that a number of people would be concerned about such a rezoning and would be concerned that the excavation area be made safe, and as well would be concerned that no prolonged digging with heavy equipment would take place, and indeed it cannot under existing regulations. Also, they would be concerned that the vehicles be parked in a safe way, which he understood they were.

Mr. Hill advised that there are no toxic materials exposed or anything else of that nature at the site, and noted that it is also Mr. MacDonald's home.

Mr. Hill indicated that if Mr. MacDonald is allowed to continue, there would be no increase in traffic.

Mr. Hill commented that people would want it predictably developed. He noted that if you look at the C-1 zone, you can predict what a person can and cannot do. Also, you can predict that he would not be allowed to carry on any operations which would cause a nuisance.

Mr. Hill advised that Mr. MacDonald has no intention of increasing the size of the garage, and noted that it is just a small garage.

Mr. Hill indicated that he thought when the municipal planning strategy came along in one - two years and deals with this area, any further changes that might be contemplated out of this and the surrounding area would be much more clearly dealt with.

Mr. Hill said that regarding the aesthetics of the area, once the pit area is looked after that will be improved. He noted that at this time you cannot see the pit operation from the road. It appears to be a normal residential area and the change to C-1 will not change that.

Mr. Hill suggested that if Mr. MacDonald is not able to attain the C-1 zoning, he is obviously going to have to move his business or be put out of business. He reiterated that Mr. MacDonald has been carrying on these operations for ten years, and that C-1 would not change the status quo; it would remain as is.

Mr. Hill indicated that it is clear from staff that there is no health hazard in existence because of what is going on. Also, the Department of Transportation says the driveway meets its standards. Also, as indicated, Mr. MacDonald now has to meet the Provincial standards for pits.

Mr. Hill commented that there are a number of small businesses like Mr. MacDonald's where people operate their office in their home and park their trucks at their site, and that it is a way of life in the County. If Mr. MacDonald is prohibited from continuing his business, he questioned who the next person to be prohibited would be.

Mr. Hill asked that Council approve a C-1 commercial activity which has been there for the past ten years.

Mr. Hill indicated that Mr. MacDonald has spoken to many of his neighbours, and that he wished to submit a petition in favour of the rezoning.

Mr. Hill concluded that C-1 zoning does not give Mr. MacDonald "carte blanche" to do what he wants; it will allow him to continue with his business.

Questions from Council

Councillor Cooper asked Mr. Hill if he was given any reason why Mr. MacDonald applied for rezoning of the whole property if it is the intention to carry on the business as presently is and that it is just a matter of parking trucks to the rear of the house.

Mr. Hill advised that he was only just recently consulted. He indicated that it was his understanding that Mr. MacDonald was told by staff that he should make this application, and did not think it occurred to him that he should only apply for rezoning of one portion or another.

Councillor Cooper asked Mr. Hill if he thought it would be a concern to the residents that this fairly large piece of property sitting in the midst of residential property could be C-1 with possibly two exceptions.

Mr. Hill responded that it would be a concern. He said that if he was a neighbour and thought that it would be turned into a huge parking lot he would be concerned. He pointed out, however, that that was not the intention. He indicated that Mr. MacDonald would probably amend the application to include just the area immediately behind his house.

Deputy Warden McInroy noted that Mr. Hill made reference a couple of times to the suggestion that if the rezoning application is not approved it would in effect put him out of business, which he said he took exception to. He advised that in his area there have been a number of businesses that have started up with the kitchen as the office with a half ton truck. When they were forced to move because the use was inappropriate, they did not go out of business. They remained and their parking facilities were moved from a residential neighbourhood to another location. He indicated that Mr. MacDonald has been in business, albeit illegally, for ten years, and said that he would not go out of business because of parking.

Deputy Warden McInroy stated that the fact of the matter is that if the zoning is changed to C-1, it is C-1 whether Mr. MacDonald operates as he currently does or sells his property after the rezoning is approved. He said that Council must consider the current situation and the people affected by the application. Council must also deal with the realities of C-1 in the midst of a residential zone and pointed out that the realities might not be as conveyed by Mr. Hill. He stressed that Council has to deal with the C-1 zone and not what is conveyed as a client's intentions.

Councillor Richards noted that it was said in Mr. Hill's comments that Mr. MacDonald has no intention of expanding his business or building other buildings on the site, while in the staff report it says that Mr. MacDonald has stated in the future he may wish to build a larger repair shed. He expressed concern with the conflicting remarks and asked Mr. Hill for clarification.

Mr. Hill indicated that the shed is a little bit bigger than a single garage. He said that it was his understanding that Mr. MacDonald, in speaking to staff, indicated he would like a bigger garage. He noted that since then he read the C-1 zone which does not say anything about building garages to work on vehicles, so he therefore advised Mr. MacDonald that he could not do it, and therefore has no intention of doing it.

Councillor Richards commented that Mr. Hill seemed to be quite confident there will be no further expansion in any way on that property while Mr. MacDonald owns it if this application for rezoning to C-1 is approved, and that in fact he will just use it as a parking area.

Mr. Hill responded that he has known Mr. MacDonald to be an honorable man. He said that if Mr. MacDonald does anything else there are remedies for abutting neighbours.

Councillor Richards pointed out that Mr. MacDonald has been in breach of the by-law because of the use ever since he started his business.

Councillor Richards expressed concern with rezoning the huge area, including the pit and beyond, if the intention is only to park vehicles. He suggested that Parcel 104A should be the only lot being referred to.

Mr. Hill responded that it is a point well taken. He suggested that Council should seriously consider whether this entire lot needs to be rezoned. He pointed out that it would be a little bit difficult because it is presently all one big block. He suggested that Parcel HL-B does not need to be rezoned and did not particularly think Mr. MacDonald wanted it to be rezoned.

Councillor MacKay asked that Mr. Hill read out the list of C-1 permitted uses for Council's benefit.

After hearing the list of permitted uses in the C-1 zone, Councillor MacKay commented that there is so much potential for that land, that he could appreciate the concerns of the residents who live in close proximity. He noted that C-1 zoning allows R-4 development and that with a couple of acres of land he would shudder to think of the number of apartments allowed. Service stations is another concern. He said that he could not imagine why someone would put a service station on the Brookside Road but that it could happen. He referred to the statement made about there being small businesses all over the County that might have been overlooked, and said that it was his experience that most of the businesses were in existence prior to zoning. He noted that these businesses are able to continue under the Planning Act as

non-conforming uses and pointed out that there a number of them. He indicated that he would support any person in that position because if there was a legal use before zoning that person has a right to continue to operate that business. He said that it was his impression that the business is an illegal use.

Councillor MacKay asked for clarification on the statement made that Mr. MacDonald was encouraged to make application for C-1 zoning.

Mr. Hill responded that staff suggested that that would be the only way to avoid Mr. MacDonald's problem.

Councillor MacKay indicated that when a person is investigated by staff, staff will tell them what the various alternatives are. To apply for C-1 zoning was one available option, which effectively forestalls any prosecution until the application is dealt with at a public hearing.

Mr. Hill agreed that Mr. MacDonald has no right to carry on a business, and that the person has to seek that right from Council. He indicated that Mr. MacDonald is willing to drop the application to rezone Parcel HL-B.

Councillor Horne asked Mr. MacDonald if the pit has been fixed.

Mr. Hill responded no and said that something would have to be done. He indicated that whether or not it is zoned C-1 will make no difference, as something has to be done under Provincial regulations anyways.

Councillor Horne expressed concern about the size of the lot being applied for rezoning.

Mr. Hill responded that he thought Council could take it to read that Mr. MacDonald is prepared to drop the application for rezoning Parcel HL-B.

Warden Lichter asked Mr. Cragg if he was correct in indicating that Council could reduce the size of the application, to which Mr. Cragg responded yes.

Councillor Baker indicated that it was fourteen - fifteen years ago that the zoning was changed to R-2 and that it took fourteen years before somebody brought it forward. He said that he felt it was unfair to the residents of Brookside and also very unfair to Mr. MacDonald and perhaps others. He stated that if the by-law had been enforced from the beginning, we would not have to be here tonight. He noted that there is a petition with twenty-nine names in support of the application, and that he had one with eighty-one names in opposition. He noted that the latter was taken quite earlier and passed over to the public participation committee, but it stated in very strong words that they want no commercial development in Brookside.

Councillor Baker asked Mr. Hill if Mr. MacDonald knew when he commenced his operation ten years ago that it was not permitted. Mr. Hill responded that he did not know.

Councillor Baker said that he knew Mr. MacDonald makes a good contribution to the community spirit, and that he would feel sorry for him if the application is denied. Also, if the application is approved, that he would feel bad for the homeowners of Brookside, as they have spent a lot of money and effort to make it a beautiful community. He said that the Brookside Community Homeowners Association is a very reputable organization with 400 - 500 members, and that some years ago they came forward to protect the community. He indicated that the people said they did not want commercial development in

and did not mention Mr. MacDonald. He advised that he received a number of phone calls from people who said they could not be present, who were opposed to the application; some live very close by and some not so close. He stated that at this stage he could not vote in favour of Mr. MacDonald receiving C-1 zoning and that he must support the majority.

Speakers in Opposition to this Application

Bill McCarthy, 69 Brookside Road

Mr. McCarthy advised that he had a petition of approximately fifteen names of adjacent landowners who are opposed to the rezoning, as well as a few photographs.

Mr. McCarthy commented that in October of 1988, when the Building Inspector went to see Mr. MacDonald, Mr. MacDonald said that he only wanted to take topsoil and wanted to have a place to park his excavation equipment. On November 28, 1988, Mr. MacDonald requested to appear at a meeting of the public participation committee to tell of his future plans of Parcels 104, 104A and 104B, and his request was to haul fill out of there and to park his equipment when he needed to. At the same meeting it was suggested by the public participation committee that Mr. MacDonald should call a meeting between himself and the twenty-four residents in the immediate vicinity. It was also suggested that Mr. MacDonald should finish with the excavation site for safety reasons. Needless to say, that has not happened.

Mr. MacDonald showed pictures of the steep excavation site which is 22', and pointed out that the banks are adjacent to two back yards of homes where there are small children. He expressed concern with what might be stored at this site in five years time if the zoning is changed to C-1. He also noted that people at the low end have expressed concern because the water runs down the hill.

Mr. MacDonald commented that everything Mr. MacDonald has done has been for himself and not for his neighbours or the community. He felt that Mr. MacDonald does not have too much regard for laws. He indicated that Mr. MacDonald built his garage in his back yard without a permit, and felt that Mr. MacDonald must have known a permit was required because of his many years in the construction business.

Warden Lichter asked that the remark made about the garage being illegally built be disregarded, unless an affidavit was obtained which could be considered as evidence.

Suzanne Drapeau, 75 Brookside Road

Ms. Drapeau advised that she had four pieces of correspondence which she wished to pass along.

First, Ms. Drapeau submitted a letter from David and Christine Crocker, 81 Brookside Road, adjoining landowners to the property of Mr. MacDonald, which she read into the record.

Secondly, Ms. Drapeau submitted a letter from Mr. & Mrs. Carey, 621 Brookside Road, which she read into the record.

Thirdly, Ms. Drapeau submitted a copy of a letter from the Brookside Community Homeowners Association to the Public Participation Committee for District 4, which she read into the record. She pointed out that there was an overwhelmingly supported motion at their annual meeting this spring wherein the residents wanted the whole Brookside area to remain strictly residential. She indicated that attached to the letter is a submission which has 80+ signatures on behalf of the homeowners that want the area to remain residential.

Lastly, Ms. Drapeau submitted a letter from herself dated August 16, 1989.

Ms. Drapeau stated that it was her impression that neighbours are not in favour of C-1 zoning because it is C-1 zoning, not because it is Mr. MacDonald doing his business. She said that Mr. MacDonald's intentions might be great, but that he could sell the house shortly after the new zoning is approved. She pointed out that it is a substantial piece of land and is largely landlocked, and therefore would be against the C-1 zoning.

Ms. Drapeau advised that regarding the petition circulated earlier by Mr. Hill, Mr. MacDonald asked her to sign it but that she refused, not because of ill intentions, but because of what would be allowed in the C-1 zone, regardless of who owns the property. She cautioned that perhaps some of the people who signed the petition might not have been aware of all the uses permitted in the C-1 zone.

Ms. Drapeau indicated that there seems to be some opinion in the neighbourhood that Mr. MacDonald should be allowed to continue storing his equipment, but not to continue the excavation. She commented that she would still be concerned if only one small portion was zoned C-1 because of the various uses permitted in that zone.

Ms. Drapeau commented that under By-law No. 24 Mr. MacDonald's business has been operating illegally, so therefore there is really no non-conforming use that could be labelled onto the property.

Ms. Drapeau indicated that she thought a lot of the people in the neighbourhood are concerned about what would happen to the pit, and noted that it might have to be a provincial matter. She pointed out that the boulders shown in the pictures are in her back yard and that she would soon have four children and that there is a young child next door to her. She suggested that that area needs to be graded more gently and finished.

Questions from Council

Councillor Fralick referred to the letter from the Brookside Community Homeowners Association and asked Ms. Drapeau if she was speaking on their behalf or her own.

Ms. Drapeau responded that she was speaking on her own behalf. She noted that the letters from the Crocker's and the Careys' are individual letters. The other is a letter from the Brookside Community Homeowners Association to the Public Participation Committee.

Councillor Fralick indicated that he thought all the comments were reasonable, except for the hours of operation that Mr. MacDonald would be allowed to run his equipment. He indicated that the private sector would not survive by only working between the hours of 8:00 a.m. and 4:00 p.m.

Councillor Fralick asked Ms. Drapeau if the ad in the newspaper caused her any confusion.

Ms. Drapeau responded no, and indicated that on the following day she came into the office and picked up a copy of the staff report.

Councillor Fralick asked Ms. Drapeau what the height of the pit was.

Ms. Drapeau responded that it was difficult to say. She said that by looking down from the back of her property it is more than twice her height.

Councillor Fralick commented that a fence would solve that problem. Ms. Drapeau indicated that the fence would have to be high enough that small children could not get over it.

Councillor Fralick asked Ms. Drapeau for confirmation that she was not in favour of granting C-1 zoning to any of the land in question.

Ms. Drapeau responded that given that most of the property is landlocked by the other residents, it would be very awkward to have a large apartment building or any kind of business operating out of there. She indicated that the only way she could see it happen is if somebody bought a property on the Prospect Road and turned it into a right-of-way.

Councillor Fralick asked Ms. Drapeau if she felt Mr. MacDonald should be able to continue to operate. Ms. Drapeau responded that by default more than anything else.

Councillor Fralick asked Ms. Drapeau if it was her opinion that there should be an appendix in the new plan that would allow Mr. MacDonald to continue to operate.

Ms. Drapeau responded that it was her understanding that the public participation committee can only deal with a legal non-conforming use on the property. She commented that unless some resolution comes out of tonight's public hearing, the public participation committee still has its hands tied.

Councillor Boutilier asked Ms. Drapeau how long she lived there.

Ms. Drapeau advised that she lived there for three years. When they bought the property, it was excavated behind his property and part way across Mr. McCarthy's lot, and that Mr. MacDonald did not start excavating behind Mr. MacDonald's property until after they moved in. She indicated that the previous owner was opposed to the excavating, but never expressed concerns to them and just assumed that it was legally operating.

Councillor Boutilier asked Ms. Drapeau if she would be opposed to Mr. MacDonald continuing if he was to contain his business to the home and garage, with the exception that the proper steps would be taken to ensure that the excavation of the pit was closed down.

Ms. Drapeau responded that she would not be opposed to that business.

Councillor Boutilier asked Ms. Drapeau if she felt those who signed the petition would agree to that.

Ms. Drapeau responded that she thought so. She said that the way it was presented to her was whether or not she would be in favour of him continuing his business.

Councillor Boutilier asked if he was correct in assuming that the majority of the concern is with the pit operation and the supposed expansion.

Ms. Drapeau responded that she thought there was another concern. The primary concern would be all of the other permitted C-1 uses.

Councillor Poirier indicated that Ms. Drapeau's letter was well written. She said that she got the impression the people want Mr. MacDonald to carry on but do not want to be in the position of not knowing the future involvement of that piece of property. She asked if it was possible to negotiate a development agreement which would allow Mr. MacDonald to continue with his business.

Warden Lichter advised that it is possible to negotiate a development agreement under a P.U.D. if the area of land is over five acres. Until a municipal planning strategy is developed, there is no development agreement provision.

Councillor Poirier suggested that the municipality should be able to make some arrangement to allow Mr. MacDonald to work until the new municipal planning strategy is adopted.

Councillor Ball indicated to Ms. Drapeau that the point she was making it that they did not object to Mr. MacDonald's business, but rather it is the C-1 zone. The fact that even if the house was rezoned C-1 the possibility of a restaurant going there could be objectionable to the neighbourhood.

Ms. Drapeau responded yes. Also, that that extends to the Brookside Community Homeowners Association as well. In 1973, the people pushed for R-2 zoning and in 1978 reiterated their wish to keep it residential.

Councillor Ball summarized that the C-1 zone is still the big issue.

Susan Smith, 450 Brookside Road

Mrs. Smith stated that the point not mentioned is the precedent that C-1 zoning in one area will set for the rest of the community. She advised that she was one of the people who took the petition around in 1974 to have the rezoning to R-2 put into place. She said that it was a lot of work and that they went to everybody's door and asked them how they felt and asked for their signature. She pointed out that the rezoning to R-2 was approved by Council. She expressed concern that by granting the C-1 zoning in one area, will mean that the people will have to come back to the Council Chambers every time someone wants to start a business in Brookside. She said that she knew of several people who operate small income operations from their homes and that it does not offend people; the businesses grow and then they become offensive.

Fred Guptill, 46 Lakewood Court

Mr. Guptill stated that he lived there for eleven years, and that he wished to echo what was already said.

Mr. Guptill submitted a letter from Bruce and Marilyn Johnson which he read into the record.

Mr. Guptill said that the C-1 zoning, and not Mr. MacDonald's business, is the main concern. He noted that the point overlooked is that Mr. MacDonald operates a small business; one of several in the area. He commented that it is a natural process of evolution for these businesses to grow, and felt that it was natural for them in their small stages to be operating out of a kitchen. He stated that it should not come to a shock that Mr. MacDonald finds himself forced to move. He said that he had sympathy for the

inconvenience, but to state that he would be put out of business is a gross exaggeration. He indicated that he thought there was a hairdresser a few houses from Mr. MacDonald who was forced to move because her business was in violation.

Mr. Guptill concluded that he would question what rationale could be used to decline future similar applications if Mr. MacDonald's request for rezoning is approved.

Sylvia McBurney, 31 Tracey Road

Mrs. McBurney stated that they have to drive by Mr. MacDonald's property all the time and that they were shocked to see the pit. She questioned how many people are aware that it is there. She expressed concern with the precedent if the rezoning to C-1 is approved. Also, she expressed concern that once C-1 zoning is granted, the value of their property would diminish greatly. She said that as a resident she put a lot of time and money into her property. She advised that she has lived there for well over thirty years and stressed that it is a residential area. Also, that anybody who lives there, is well aware that it is a residential area and not commercial. She said that she did not think any business like Mr. MacDonald's should be in a residential area.

Eileen Ulrich, 119 Lakewood Drive

Mrs. Ulrich advised that they are not against Mr. MacDonald's business, but are opposed to the rezoning of this area to commercial. She submitted a letter from her husband, Jim Ulrich, dated August 21, 1989. She pointed out that as stated by her husband, one of the conflicts was that there would be no commercial businesses allowed.

Mrs. Ulrich indicated that the lot directly across from their property is not developed and that she was nervous something would be developed there that would endanger her own family.

Robert & Robin MacIntosh, 150 Lakewood Drive

Mr. MacIntosh submitted a letter which he read into the record. He indicated that he is not directly affected by Mr. MacDonald's business, but was against rezoning to commercial development in the area.

John Peers, Northcliffe Drive

Mr. Peers expressed concern with the potential for setting a precedent. He urged that Council consider the precedence of making a decision on a one on one basis.

Jim McFadgen, Northcliffe Drive

Mr. McFadgen advised that he was one of Mr. MacDonald's customers and that he had no objection to him running his business. However, he said that he objected to C-1 zoning being granted in the area.

Mr. McFadgen submitted a letter from Bill and Dede Gaston, Lakeshore Drive, which he read into the record.

Wallace Slaunwhite

Mr. Slaunwhite indicated that he wished to speak as a builder and a developer in the area. He advised that they sold many homes in the Brookside Mews area

and that the homeowners do have covenants saying that there would be no commercial development permitted. He said that he had nothing against Mr. MacDonald operating his business, but that from doing business with him, did not think it would hurt him to move.

Mr. Slaunwhite also indicated that he wished to speak on the safety aspect in which MacDonald's equipment is stored. He said that Mr. MacDonald has a tandem truck and a single axle truck, and that he has seen Mr. MacDonald leave his premises for two - three days at a time and leave the truck bodies up in the air. He expressed concern that this is a dangerous practice.

Donnie Roeding, 689 Brookside Road

Mr. Roeding said that he would prefer to keep the Brookside area as a residential area. He noted that one of the things that came up earlier is that Mr. MacDonald requires some property to store his vehicles and work his business out of. He said that it appeared to him there is sufficient lands in the industrial parks where Mr. MacDonald could probably locate his business.

Mr. Kelly also read into the record letters of opposition to the rezoning from the following individuals:

- Letter received from Edith and A. Lameront, 59 Northcliffe Drive;
- Letter received from Debra MacDonald, 444 Brookside Road;
- Letter received from Dorothy Yeadon, 470 Brookside Road;
- Letter received from Dr. F. and E. Dobson, 438 Brookside Road.

Discussion by Council

Warden Lichter indicated that Councillor Poirier had earlier asked about the possibility of a P.U.D. or a development agreement. He noted that the development agreement is out of the question until a municipal planning strategy is created for this area. Also, a P.U.D. is not within Council's means because the area of land is less than five acres.

Warden Lichter suggested that Council could defer a decision on this particular issue until after it sees a draft municipal planning strategy in order to see how the issue is being addressed by the public participation committee. He pointed out that it was said time and time again by the residents that they did not want to put Mr. MacDonald out of business, but were concerned about the rezoning to C-1. He expressed concern that if Council rejected the application, people might demand prosecution, which would lead to harassment. He noted that the Department of the Environment has indicated that Mr. MacDonald has to phase-out the pit operation. He felt that depending on what the public is willing to do in the municipal planning strategy will depend upon how much willingness they see on Mr. MacDonald's part in the next year. He said that he did not think approval or rejection would serve the people best, but rather deferral would give the people time to work it out or force Mr. MacDonald to another location.

Councillor Baker asked when it was anticipated that Council would see a draft municipal planning strategy.

Warden Lichter suggested that there would be a final plan within one - two years.

Councillor MacKay commented that regarding the time-frame for draft plans, it has been the experience that anyone's guess is as good as another.

Councillor Baker stated that he appreciated the Warden coming up with an alternative. He pointed out that time is a concern. The people of Brookside have been assured that there would be no commercial development. He noted that Council has heard from a number of people and also there were letters of objection read into the record. He commented that it was with sincere regret that he could not support the rezoning application.

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

THAT THE APPLICATION BY ALVIN MACDONALD TO REZONE LOT 104B, AS ILLUSTRATED BY A PLAN OF SUBDIVISION OF THE LANDS OF A.L. AND J.E. MACDONALD, IN HATCHET LAKE, FROM R-2 (TWO UNIT DWELLING) ZONE TO C-1 (LOCAL BUSINESS) ZONE BE REJECTED.

Councillor Morgan commended the public for their approach, and noted that it was different in that usually the public says they thought it was going to be a greenbelt.

Councillor Morgan questioned where the fill went over the years, and suggested that perhaps it was used by some of the people speaking in opposition to the rezoning application. He asked Mr. Cragg whether or not complicity with this individual would somehow bar their rights if they did it for longer than eight years.

Mr. Cragg responded that he did not think it would have anything to do with the merits before Council. He noted that right to use is twenty years.

Councillor MacKay indicated that he would support the motion on the floor.

Councillor Cooper noted that in 1974, the community indicated what they wished to have happen, which was agreed to by Council. It was quite clear that the residents wished to protect the character of their community. He indicated that he did not think the fact that we are discussing an illegal use or deferral of the item should enter into the making of tonight's decision. He felt that Council should afford the community the same protection as was done in the original decision made, and support any by-laws that come along in this municipality. He stated that he felt Council should deny the application for rezoning to C-1.

Councillor Poirier asked if Mr. MacDonald would have to immediately cease his business if the motion on the floor was passed.

Warden Lichter responded that it would mean the municipality would have to prosecute.

Councillor Boutilier suggested that if Council rejects the rezoning application, it could decide to defer prosecution until recommendations are received from the public participation committee. He felt that this would give an opportunity through the public participation committee to seek out very clearly and very definitely the feelings of the community. He suggested that it is possible the public participation committee might come forth with a way to allow Mr. MacDonald to continue his livelihood and to protect the environment of the community. He asked if Council has the powers to defer prosecution.

Warden Lichter responded that it was his opinion the municipality would have an obligation if the motion on the floor is passed to prosecute, and as frequently as necessary, in order to get that business out of there.