

related to Ms. Keeping's proposal. He did not want to see anything hinder his family's well being. Faber Court was not a through street even though it was called Faber Crescent on the subdivision plan. With the proposed development, he said he did not know what was going to take place and it might jeopardize his privacy. When he built his house 18 years ago, the area was basically a residential area. He pointed out he had nothing against progress.

QUESTIONS FROM COUNCIL

None

SPEAKERS IN OPPOSITION

Mr. Brian Veitch, 1 Faber Court stated his opposition to the amendment dealt with a matter of trust. He stated that Ms. Keeping had made several attempts to buy an empty lot at the end of his street which would hook onto the property to be developed. Her reasoning for buying the property at the time was to keep it natural and leave it as a bird sanctuary but her intention was to find another access route to her property. This would mean that Faber Court would be turned into an access for her shopping centre. He said all the children on his street were young, including his own, and even if she did not manage to purchase the property and open an access road, she would be excavating directly below the hill on which Faber Court was located and there would be a cliff. He said he was not against development but was against the size of this development in that particular area.

Mr. Veitch said the residents did not know what was going to be located in the building; they had not been dealt with fairly to this point nor given accurate information. He advised that, in his view, everybody on Faber Court was against the development and most of the people on Martin Drive as well as the people on Highway #7.

Mr. Veitch advised he was President of the Lions Club and they managed the Community Centre. The Lions Club had spent a great deal of money doing surveys and holding public hearings as to what the community wanted insofar as the expansion of the Community Centre. The next stage would be to find out what type of septic system was required and whether or not the property would support it. The Lions Club was concerned that a commercial development directly across the street would create so much traffic that it would hinder the safety of the children using the immediate area. If there were no restrictions on the shopping centre, it might be necessary for the Lions Club to put a restriction on the expansion which would be detrimental to the community as a whole. He said that recreation facilities in Lake Echo were practically non-existent and if the Lions Club did not provide it, then Council would feel pressure from the community to provide it.

QUESTIONS FROM COUNCIL

Councillor Snow asked if Faber Court was a dead end street. Mr. Veitch replied that it was at this time.

Councillor Snow asked how access would be gained to Ms. Keeping's property from Faber Court. Mr. Veitch replied that the property she owned had a steep cliff in back but the lot next to that was more gradual. Warden Lichter advised that this would be a Department of Transportation concern as to where access to any particular lot was gained.

Councillor Taylor asked when the Lions Club located in the Community Centre. He said he appreciated Mr. Veitch's concern for recreation in the area.

Mr. Veitch advised they had been there for many years; however, the Recreation Association actually managed the building. The primary source of income was from bingo.

SPEAKERS IN OPPOSITION

Mr. Bill Toulany stated he was the owner of the pizza parlour. He said he had a commercial building in Lake Echo that had been closed for over a year and his building was available for rent. He said he had been unable to keep a restaurant open in Lake Echo; these were very hard times. He said he really did not know if he was in favour or against the amendment.

QUESTIONS FROM COUNCIL

None

SPEAKERS IN OPPOSITION

Mr. John Anderson, Joyce Court, stated he was not against progress but was concerned with the environment. He pointed out that Council did not have any idea of how high or how big the cliff was. He stated that septic fields had a funny way of not working and he was concerned with runoff from sewage polluting the lake because the ground on the property would not support it. He said he did not know how far back the building was proposed to be located from the road but the further back it was, the more the cliff would have to be cut into. He also expressed concern regarding an increase in traffic.

QUESTIONS FROM COUNCIL

Warden Lichter asked if the soil conditions of the cliff had changed since 1987. Mr. Anderson said what he was concerned with was pollution in Lake Echo and since 1987, the population had grown as well. Warden Lichter stated that pollution had nothing to do with the zone.

DECISION OF COUNCIL

Councillor Adams stated that the decision Council had to make was certainly a difficult one. He said he fully understood much of the content of the presentations made, pro and con. He said, however, he wanted to be as fair as possible when weighing the pros and cons and had spoken to a number of people over the last few weeks. The County did, in fact, issue a building permit and this debate and Public Hearing was public recognition of the developer's previous development right. He said it had not changed that the lot was zoned commercial but because of the lapse in time of the development permit, the Municipal Planning Strategy precluded the continuance of the development for a size over 2,000 sq. ft. He said that even if the staff recommendation was adopted, Ms. Keeping could still proceed with a 2,000 sq. ft. commercial development. He said the difficult spot he was in was that he was part of the body that did issue the first permit and part of the body that expressed the feeling to try to accommodate Ms. Keeping's development and part of the body being asked to deny her that right of appeal. He said his conscience told him it was difficult and, in the wake of what he had received as constant support for the proposed commercial development since April 9 until last night, he could not find it within himself to deny her or any other private developer the right to appeal on the specific points of her application. He said he was somewhat struck by the number of people who said they would not publicly support the project because of some good friends who were strongly opposed. He said he knew that tended to tear apart goodwill among people, even the best intended.

Councillor Adams said that on the point of trust, several people expressed to him fear of who the development would be sold to. He said he personally sought the potential buyer and was satisfied that the person was reputable in Halifax and thought that might help some of the concerns. He said he was sure the Municipal Planning Strategy would ensure proper development and the concerns expressed tonight in terms of the environment, highway safety and the size of the development would be properly determined by the authorizing departments of both the County and Province of Nova Scotia. He advised he had spoken to Department of Transportation, Department of Environment and Department of Health and had been told there did not appear to be a whole lot of difficulty but they would be following the specifics of the Municipal Planning Strategy.

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

"THAT THE AMENDMENTS CONTAINED IN APPENDIX "A" OF THE STAFF REPORT DATED MARCH 2, 1992 BE APPROVED BY MUNICIPAL COUNCIL".

Councillor Cooper said he could agree with Councillor Adams only that it was a difficult decision to make. He said the plan was put in place in 1988/89, which was slightly after the issuance of the building permit and the community had indicated that in that particular residential area 2,000 sq. ft. was the acceptable norm. They seemed to be so convinced of that that they made specific provision for larger commercial areas. With regard to previous rights and the issuance of building permits, he stated they were a factor but should not be the deciding factor. He said the plan, in his opinion, was the primary issue and Council had to ask if the development was against the intent of the plan. The intent was to have low density residential with supporting uses and services which was met by ensuring that there was continued C-1 commercial on the property. He referred to the report wherein there was a particular paragraph under Analysis addressed concerned Ms. Keeping which implied that she was aware all along of the plan and its direction; yet there was no supporting argument in the plan for continuation of her 18,000 sq. ft. development. He stated that the area could be developed for higher usage by a Development Agreement in order to address the concerns regarding the environment and sewage disposal if a hotel, motel or motor inn was put on the property, which was a permitted use. The concerns regarding the environment and sewage disposal would be present in any larger scale development for that particular property. He stated that the crux of the matter was how the residents felt, whether they wished continued support of their plan as it stands. He noted there seemed to be fairly widespread opposition and where the community has indicated the desire to have only certain size developments in the area, has made provision for larger scale developments outside of the community core and the development permits were allowed to lapse, he said he felt the emphasis should be on Council to support the intention of the plan and the low density residential with the supportive uses that could be maintained on those lots under C-1 use on the 2,000 sq. ft. development. He stated he would be voting against the present motion.

Councillor Richards stated that decision on the amendment was difficult because, after listening to the speakers, there still seemed to be some unanswered questions and missing information as to what exactly was permitted on the property if the zoning was granted. To move from the current zoning which would allow up to 2,000 sq. ft. to permit a construction of 18,000 sq. ft. was a fairly significant amendment and, if it was known what was going into the building, it would allow opportunity to assess on its merits and try to decide whether or not the community was interested; however, there was no way of determining that. Plans were not finalized and, therefore, not available. Council could only go on speculation. He said he thought it would have been far better if Planning Advisory Committee and staff had come forward with a Development Agreement whereby Council could look at the specifics such as how the building would impact on the sewer system. He said because of the uncertainties and unanswered

questions, he would not be able to support the amendment that would allow construction of a building that Council was unclear about.

Councillor McInroy stated that he also could not support the motion for reasons that had already been covered. He said that one of the regrettable realities, from his point of view, of the Public Hearing system was that no one was under any obligation, except his own honour, to tell the truth, the whole truth and nothing but the truth. Council quite often did not know what would happen once a zone was approved, especially in a situation like this where there was a mysterious unknown purchaser waiting in the wings for the amendment to be approved. He noted that Mr. Beer's intentions and word were as good as anyone else's but that was not the point. He said the size increase of the proposal was a major change and, as well, with the sensitivity surrounding it a Development Agreement would have been a much more sensible approach. With regard to permits and recouping of expenditures, he stated it was all speculation and no one could know whether or not there would eventually be a profit. With regard to the recession, Councillor McInroy pointed out that there were people who had difficult financial times in any given year, whether or not the economy was doing well or not.

Councillor Merrigan stated he would be supporting the motion because he did not think the arguments presented by the people against the amendment, although he could appreciate their concerns, was any different from a lot of concerns heard again and again by people who were afraid of the unknown. He said he could appreciate that but he did not see it as taking a 2,000 sq. ft. development and allowing it to increase to 18,000 sq. ft. but as a chance to right a wrong. By allowing a building permit, regardless of the time frame allowed, and then by renewing and allowing the footings to be put in, then the development had taken place and there were rights. He pointed out that an 18,000 sq. ft. development would be hard to put together in one or two years.

Councillor Brill asked what was preventing Council from entering into a motion allowing for a Development Agreement between the developer and Council. Warden Lichter advised it would require a new public participation session because the intent would be a different one, new advertising, a new Public Hearing and then the procedure would begin to negotiate a Development Agreement. Councillor Brill stated this was indeed unfortunate and, therefore, he was left in a position where he would support the motion.

Councillor Giffin stated that with issues like this, it did happen that there was a tearing apart of goodwill between people in the community. He stated that with regard to the questionnaires sent out against the amendment, roughly 12-15% had been received back which meant that there were approximately 85% for the amendment. He said that it would appear the people have overwhelmingly agreed.

Councillor Bates stated he would not be supporting the motion. He said he had sympathy for Ms. Keeping and the amount of money invested in the project but it was unknown who the developer was. He noted the concerns put forward regarding the environment and traffic and agreed that the best way to handle this would be with a presentation once they knew exactly what they were going to do - when the people who were going to develop the property could come forward.

Councillor Taylor stated representation had been made by the Lions Club, the Ratepayers, private homeowners and staff who clearly indicated that the development was neither wanted nor needed. He stated there were just too many intangibles on which to base a decision and he could only base his decision on the facts before him. He said, therefore, he would not support the motion.

Warden Lichter pointed out it was indicated that it was a drastic change to go from 2,000 sq. ft. to 18,000 sq. ft.; however, he proposed that the drastic change actually came about when the 18,000 sq. ft. which was in existence went to 2,000 sq. ft. when the Municipal Planning Strategy was approved.

Councillor Boutilier stated that Council was not being asked, under the Municipal Planning Strategy, to pass judgement on the property itself but subsequently what would happen when a purchaser bought the property. He said he did not feel that by approving the amendment, great repercussions would come about. If the amendment was approved, the purchaser who wished to develop the land would not put up a facility of 18,000 sq. ft. and put in anything that would not be viable. He said Council should not be considering what a private individual could do with a piece of property if it was sold and what a private developer who purchased it could do in the future. He stated that the proper way would have been to have some kind of grandfathering clause but, unfortunately, it was not there. What existed before the Municipal Planning Strategy went into place and what Ms. Keeping could have done with her property would have enabled her to continue on. He said he was prepared to support the motion.

Councillor Rankin stated he could not support the motion because the governing document was the Municipal Planning Strategy and certainly the community approved the plan through process. The document was legal and set out the rules. If it were not for the question of the building permit, the amendment would not have come forward. Allowing the permit to lapse was a business decision and it would be necessary to accept the consequences.

Question was called on the motion. 13 votes in favour were required.

11 in Favour  
6 Against

MOTION DEFEATED.

Warden Lichter stated that because the motion was defeated, Appendix "B" would require no motion because it would have no value in law.

ADJOURNMENT

Meeting adjourned at 9:40 p.m.

MINUTES & REPORTS  
OF THE  
FIRST YEAR MEETINGS  
OF THE  
FORTY-FOURTH COUNCIL  
OF THE  
MUNICIPALITY OF THE COUNTY OF HALIFAX  
JUNE COUNCIL SESSION  
TUESDAY, JUNE 2 & 16, 1992

&

PUBLIC HEARING  
JUNE 15 & 22, 1992 *+ 29/1992*

&

COMMITTEE OF THE WHOLE  
JUNE 30, 1992

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COUNCIL SESSION

June 2, 1992

PRESENT WERE: Warden Lichter  
Councillor Meade  
Councillor Rankin  
Councillor Fralick  
Councillor Holland  
Councillor Ball  
Councillor Deveaux  
Councillor Bates  
Councillor Randall  
Councillor Smiley  
Councillor Peters  
Councillor Merrigan  
Councillor Brill  
Councillor Snow  
Councillor Giffin  
Councillor MacDonald  
Councillor Boutilier  
Councillor Harvey  
Deputy Warden Sutherland  
Councillor Richards  
Councillor McInroy  
Councillor Cooper

ALSO PRESENT: G. J. Kelly, Municipal Clerk  
K. R. Meech, Chief Administrative Officer

=====  
The meeting was called to order at 6:00 p.m. with the Lord's Prayer and the observance of a minute of silence in memory of former Councillor Colin Baker.

Mr. Kelly called roll.

APPOINTMENT OF RECORDING SECRETARY

It was moved by Deputy Warden Sutherland, seconded by Councillor Giffin:

"THAT JULIA HORNCastle BE APPOINTED AS RECORDING SECRETARY"

MOTION CARRIED

Warden Lichter congratulated Councillor Randall and his wife on their 40th wedding anniversary and presented Councillor Randall with a certificate.

LETTERS AND CORRESPONDENCE

1. Mr. Kelly outlined a letter from Rene A. MacEachern, P. Eng, Manager, Solid Waste Management System in response to County correspondence and Council's resolution with respect to Metro Recycling Facility.

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

"THAT THE CORRESPONDENCE BE RECEIVED"

Councillor Ball stated that he did not feel that the letter did answer the question because there are a couple of problems he still has with this particular item. He stated his question was whether or not Authority Board Members were aware that the question of senior members of Halifax City staff being members of the Board of Directors of HRDA was never raised by Authority board members. When he reviewed the proposal process that went through this one of the clauses was that whoever the proponent was going to be would utilize disadvantaged individuals to operate the facility. His question is was HRDA Enterprises, who are in direct connection with Envirocare, in an advantageous situation because that was part of their program. Also, another question, was the proposal circulated to only certain companies or was there a tender process.

Warden Lichter stated that he believed that it was a tender process. He stated that he wasn't and he does not believe that the other members were fully knowledgeable of the involvement that Councillor Ball is referring to. He stated that he would be making a report on this issue later in the evening and he would entertain any motions at that time.

Councillor Ball stated that his biggest concern is that HRDA is utilizing disadvantaged people within the jurisdiction of the City of Halifax but county taxpayers are contributing to this facility. We are paying for a service offered to a group of people and the county residents aren't getting the same offering.

MOTION CARRIED

2. Mr. Kelly outlined a letter from the Honourable Ken Streach, Minister, Department of Transportation and Communications in response to county correspondence with respect to the existing speed zone between the City of Halifax limits and Hebridean Drive in Herring Cove.

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

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

3. Mr. Kelly outlined a letter from the Honourable Ken Streach, Minister, Department of Transportation and Communications with respect to county correspondence regarding the sidewalk construction on Holland Road and improvements to the intersection of Highway #2 and Holland Road in Lake Fletcher.

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

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

4. Mr. Kelly outlined a letter from the Honourable Jean Corbeil, Minister of Transport in response to county correspondence on behalf of the Atlantic Canada Aviation Museum seeking space for aircraft storage at the Halifax International Airport.

It was moved by Councillor Giffin, seconded by Councillor Harvey:

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

5. Mr. Kelly outlined a letter from the Honourable Guy J. LeBlanc, Minister, Department of Education in response to county correspondence regarding the Select Committee on Education to establish supplementary funding committees with binding powers.

It was moved by Councillor Brill, seconded by Deputy Warden Sutherland:

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

6. Mr. Kelly outlined a letter from Premier Don W. Cameron to Warden Lichter informing him that his letter of April 3, 1992 regarding various issues to be considered by all municipalities at the request of Mayor John Savage, President of the UNSM has been referred to the Minister of Municipal Affairs, the Honourable Brian Young.

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

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

7. Mr. Kelly outlined a letter from the Honourable Marie P. Dechman, Minister, Department of Consumer Affairs in which she is bringing to the attention of council that a number of direct sales companies are ignoring regulations and illegally conducting

business on Sunday's and holidays. She is asking that those regulations be upheld and enforced.

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

"THAT THE LETTER BE RECEIVED"

Councillor Richards stated that in light of the changes that Halifax County made with regards to business being conducted on Sunday's and holidays in the County by-law where does this place the county with respect to what the minister is saying.

Mr. Dickson stated that the request of the minister is a surprise in that the changes that were made to the Provincial Retail Business Closing Days Act repealed the municipality's by-law and took away its authority to create an offence for a business operating on a closing day as defined in that act. He stated that there is concern that the municipality is not the appropriate body to be enforcing that act at this time.

Councillor Richards asked if that information should be directed to the Minister in a letter of response.

MOTION CARRIED

It was moved by Councillor Richards, seconded by Councillor

"THAT A LETTER BE ADDRESSED TO THE MINISTER OF CONSUMER AFFAIRS OUTLINING THE ISSUES THAT THE SOLICITOR HAS POINTED OUT WITH REGARD TO THE MUNICIPALITY'S POSITION REGARDING THE CLOSING OF BUSINESSES ON SUNDAY'S AND HOLIDAYS"

Councillor McInroy suggested that it may be more appropriate if the letter is drafted by the solicitor for the Warden's signature as it was addressed to him.

Warden Lichter agreed to do this.

Deputy Warden Sutherland asked if the municipality was saying that since it is not a municipal act or legislation we are not responsible for it's enforcement.

Warden Lichter stated that if they have repealed the municipality's right to prohibit opening then how do we go out and enforce something that we don't have the right to legislate.

MOTION CARRIED

8. Mr. Kelly outlined a letter from the Honourable John G. Leefe, Minister, Department of Natural Resources in response to county correspondence and council's resolution requesting that

consideration be given to implementing a bounty for the control of coyotes.

It was moved by Councillor Brill, seconded by Councillor Peters:

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

9. Mr. Kelly outlined a memorandum from Nina L. Clarke, Provincial Coordinator, Home Care Program with respect to coordinated home care program.

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

"THAT THE MEMORANDUM BE RECEIVED"

MOTION CARRIED

10. Mr. Kelly outlined a letter from Mary Clancy, M.P. responding to a copy of a resolution passed by council at a previous session respecting the Federal governments decision to cut funding to the social housing program.

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

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

It was moved by Councillor Brill, seconded by Councillor Giffin:

"THAT THE PETITIONS BE CIRCULATED THROUGHOUT COUNCIL, AT THE NEXT MEETING, FOR SIGNATURES AND FORWARDED ON TO MARY CLANCY"

MOTION CARRIED

SUPPLEMENTARY CORRESPONDENCE

1. Mr. Kelly outlined a letter from the Honourable Guy J. LeBlanc, Minister, Department of Education in response to Warden Lichter's correspondence of May 5, 1992 expressing, on behalf of council, concern with the application of the education funding formulas to the Halifax County - Bedford District School Board.

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

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

EXECUTIVE COMMITTEE REPORT

Acquisition of Properties - Moser River Fire Department Sheet Harbour

Mr. Kelly outlined the report and recommendation from Executive Committee. The report indicated that the Municipality is unable to obtain clear title to parcels of land and therefore it is the recommendation of the solicitor that a friendly expropriation would be appropriate.

It was moved by Deputy Warden Sutherland, seconded by Councillor Harvey:

"THAT THE MUNICIPALITY CARRY OUT A FRIENDLY EXPROPRIATION FOR THE PARCELS OF LAND AS OUTLINED IN THE REPORT"

MOTION CARRIED

Request for Easement, Armcrest Estates

Mr. Kelly outlined that staff report relating to this item and the recommendation of the Executive Committee that the request for easement be approved.

It was moved by Deputy Warden Sutherland, seconded by Councillor Smiley:

"THAT THE REQUEST FOR EASEMENT, AS OUTLINED IN THE STAFF REPORT, BE APPROVED"

Deputy Warden Sutherland stated that this is as a result of a situation that after the fact a walkway needs to be established. If it had been identified as a requirement during the subdivision process the walkway would not have cost anything to acquire. The developer was willing to provide the County with the right of way for a walkway because there was a housing commission walkway that abutted the walkway and it would have been easy to do it at the time of subdivision.

Councillor Cooper stated that his understanding was that Armoyan is willing to give the Municipality the 12 ft. walkway on 402A and the Municipality is going to buy 40 sq. ft. of land from Mr. Brewster. He feels that the amount being paid for this piece of land is a little excessive.

MOTION CARRIED

Proposed Walkway, Armcrest Estates

Mr. Kelly outlined a report and recommendation respecting a proposed walkway, Armcrest Estates.

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

"THAT THE PROPOSED WALKWAY RECOMMENDATION, AS OUTLINED IN THE STAFF REPORT, BE APPROVED BY COUNCIL"

Councillor Merrigan stated that this walkway is needed for school children.

Deputy Warden Sutherland stated that this would extend to the Gertrude Parker School.

MOTION CARRIED

Harrietsfield/Williamswood Waste Water Management District

Mr. Kelly outlined a report and recommendation with regards to the establishment of the Wastewater Management District. The report stated that a secret ballot had overwhelmingly rejected the establishment of the Wastewater Management District. The Executive Committee recommends that further involvement by Halifax County with regards to the implementation of the Wastewater Management District for Harrietsfield/Williamswood be abandoned and further that the Board of Health be notified of Councils decision.

It was moved by Councillor Ball, seconded by Snow:

"THAT FURTHER INVOLVEMENT BY HALIFAX COUNTY WITH REGARDS TO THE IMPLEMENTATION OF THE WASTEWATER MANAGEMENT DISTRICT FOR HARRIETSFIELD/WILLIAMSWOOD BE ABANDONED AND FURTHER THAT THE BOARD OF HEALTH BE NOTIFIED OF COUNCILS DECISION"

MOTION CARRIED

Capital Grant Requests

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

"THAT DISTRICT CAPITAL GRANT, DISTRICT 3, IN THE AMOUNT OF \$3,500.00 FOR IMPROVEMENTS TO THE TANTALLON CENTENNIAL ATHLETIC ASSOCIATION BALLFIELD BE APPROVED"

MOTION CARRIED

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

"THAT GENERAL PARKLAND GRANT IN THE AMOUNT OF \$580.00 AND DISTRICT PARKLAND GRANT, DISTRICT 10, IN THE AMOUNT OF \$580.00 TO SUPPLY AND INSTALL ONE 645 GALLON TANK AT THE DALE BENNETT MEMORIAL FIELD IN MUSQUODOBOIT HARBOUR BE

APPROVED"

MOTION CARRIED

SUPPLEMENTARY EXECUTIVE COMMITTEE REPORT

Capital Grant Requests

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

"THAT DISTRICT CAPITAL GRANT, DISTRICT 1, IN THE AMOUNT OF \$500.00 FOR THE PURCHASE OF EQUIPMENT FOR THE HUBBARDS-BLACK POINT SQUIRTS BALL TEAM BE APPROVED"

MOTION CARRIED

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

"THAT DISTRICT CAPITAL GRANT, DISTRICT 1, IN THE AMOUNT OF \$1,000.00 FOR THE PURCHASE OF A LASER BOAT FOR THE ST. MARGARET'S BAY SAILING CLUB BE APPROVED"

MOTION CARRIED

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

"THAT DISTRICT CAPITAL GRANT, DISTRICT 4, IN THE AMOUNT OF \$6,524.00 FOR IMPROVEMENTS TO THE TERENCE BAY ELEMENTARY SCHOOL AND COMMUNITY FIELD BE APPROVED"

MOTION CARRIED

SUPPLEMENTARY PLAN REVIEW COMMITTEE REPORT

Mr. Kelly stated that the Plan Review Committee has completed it's review of a revised Municipal Planning Strategy and Land Use By-law for Timberlea/Lakeside/Beechville. Open house sessions were held on May 27 and 28, 1992 and the Plan Review Committee held a meeting in the community on May 28, 1992.

It is the recommendation of the Plan Review Committee that a Committee of the Whole session be held on Monday, July 6, 1992, at 6:00 p.m., in order that staff can present an overview of the proposed Municipal Planning Strategy and Land Use By-law for Timberlea/Lakeside/Beechville.

It is also the recommendation that a public hearing on the adoption of the new Municipal Planning Strategy and Land Use By-law be tentatively scheduled for Monday, August 10, 1992, at 7:00 p.m., subject to ratification by Committee of the Whole.

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

"THAT THE RECOMMENDATIONS OF THE PLAN REVIEW COMMITTEE BE APPROVED"

MOTION CARRIED

GRANTS TO ORGANIZATIONS

Warden Lichter stated he realized that a Special Council Session had been called for the discussion on what grants are going to be given out this year from the amount of money that has been allocated in the budget for this purpose. In the meantime some of those groups like the Cancer Society, Grace Maternity Hospital, Homes For Special Care, etc. where the County has long term commitments have asked if it would be possible to speed up those items. He stated that if Council is prepared to consider those at this meeting rather than wait until June 30, 1992. The Grace Maternity Hospital had some time ago made its request and their campaign is actually coming to a close without knowing as to where they stand with Halifax County Municipality.

Councillor Ball asked how much money was allocated in the budget process to grants to organizations.

Mr. Meech stated that the amount was \$105,000.00.

Councillor Ball stated that he would like to see the County go through the route of honouring the commitments that have been made and whatever is remaining be used to offset any deficits. He stated that we are in tough times and if that money can be better allocated within Halifax County then that is the area in which the money should be spent.

Warden Lichter stated that whether or not a final commitment is made to the Grace, they would like to know whether or not Halifax County is seriously considering a grant. He stated that they would need to know within a week.

Councillor MacDonald stated that he feels that the Grace Hospital needs Halifax County's assistance at the present time.

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

"THAT THE FIRST OF FIVE PAYMENTS OF \$40,000.00 BE MADE TO THE GRACE MATERNITY HOSPITAL"

Councillor Merrigan asked how much had been paid to the Grace Hospital up to the present.

Warden Lichter stated that the County has paid \$40,000.00 annually for the last five years for the capital program and he had asked at the Executive Committee, when the representatives of the Grace Fund

Raising Committee appeared, as to why it was they did not make their request at the very beginning. He stated that his understanding was that they did not realize at the beginning that the cost overruns were going to be as substantial as they were for the building itself. They now find themselves in the position that they have to do a great deal of fundraising in order to equip the building.

Councillor Merrigan stated that he would not support a grant to the Grace Hospital this year.

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

"THAT THIS ITEM BE DEFERRED UNTIL SUCH TIME AS THE WHOLE MATTER OF GRANTS IS DEALT WITH"

He stated that he did not think it was fair to step outside the normal parameters in terms of dealing with grants. He stated that if there is a grant coming from the County he is certain it will be put to good use. He stated that he can't see that it is urgent enough to deal with at this meeting.

MOTION OF DEFERRAL CARRIED

AMENDMENTS TO COMMITTEES AND BOARDS BY-LAW

Warden Lichter stated when the amendment was made to this By-law, By-law #3 that text was not before council. The Municipal Act calls for the actual text to be before council when it is being voted on.

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

"THAT THE AMENDMENT, AS PRESENTED, BE APPROVED"

MOTION CARRIED

APPOINTMENT OF REPRESENTATIVE - 1999 PAN AMERICAN GAMES

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

"THAT JOHN MARKISINO BE APPOINTED AS THE HALIFAX COUNTY REPRESENTATIVE TO THE 1999 PAN AMERICAN GAMES"

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

"THAT NOMINATIONS CEASE"

MOTION CARRIED

CALDWELL ROAD PROJECT

Councillor McInroy stated that subsequent to the last council session during which it was suggested that perhaps the Community Committee could review the matter and take a position. After some discussion with the local MLA and others a resolution was formulated and agreed to at a special meeting on June 1, 1992. The intent of the motion is that in as much as Halifax County will be the administrator of the contract and will undertake the project and since it can be completed within the road right of way, which is owned by the Department of Transportation and Communications, and also recognizing that there may be site works required on the watercourse that is currently used and will be used to carry the storm water to Morris Lake, in order for the project to proceed the recommendation is that council authorize the Engineering department to proceed with the calling of tenders. Included in the motion is a commitment to reflect the fact that the County is not ignoring the requirement for site works on the watercourse and recognizes that it is committing itself to undertaking this part of the project at some point.

The last statement was put in because at the time it was prepared there had been no written final information received from the Department of Transportation and Communications with regard to its financial commitment. Initially the project was approved on a cost sharing basis, 70% Provincial and 30% County. However, when the design was beginning to be finalized, it was recognized that there were considerable more costs associated with the fact that the storm sewer had to be much deeper than was originally anticipated. Because that depth was much more than the Department of Transportations normal requirements for drainage of its street, the point was raised that there would not be complete cost sharing on those additional costs. He stated that he understands that basically what is being said is that the Departments position is that it will cost share 70/30 on the entire storm sewer project. In order to get the project constructed in 1992 the finalization of design work and preparation for tender call proceed now. Addressing the situation of the watercourse, he feels comfortable in moving now on the project itself. He feels that a move has to be made in order to get the work done because the funds may not be available much longer. The funds are available now and the Department of Transportation has no difficulty with the County proceeding right now as is proposed. What is being suggested is that pipes be installed on Caldwell Road right of way so that the water that is presently running by open ditch will now run by pipe to the watercourse. The flows will be increased somewhat because of the fact that the ground is not soaking up water it is all going through the pipe to its point of discharge. He has discussed this with Mr. Sheppard and, in terms of flows, it is not going to cause any significant difficulty without the site works having been done prior to the installation of the storm sewer pipes.

He stated that he would appreciate the support of council in adopting this resolution.

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

"THAT THE RESOLUTION FROM THE COLE HARBOUR COMMUNITY COMMITTEE BE APPROVED WITH THE ADDITION THAT UNTIL AFTER THE ISSUE OF THE BROOK IS ADDRESSED AND REMEDIED THERE WILL BE A DEVELOPMENT MORATORIUM ON ALL THOSE WATERSHED LANDS"

Mr. Meech stated that he was not in a position to concur with the resolution. It seems to him that the County is not being very responsible if it proceeds with the project without first having in hand the right of access to this watercourse. Based on the resolution, as he understands it, that the County would propose to proceed with the design and installation of the storm sewer project and at some later point when it becomes necessary then we would make whatever arrangements that are necessary to either make improvements or gain access to the right of way. He stated that it would be his view that it would not be the most appropriate way to proceed. He stated that the County may find that it may be necessary because to enforce that position one of the conditions from DOT is that the County makes an application to the Department of the Environment both federal and provincial. This may mean that they would want the County to demonstrate that it has permission of the property owner. He stated that he wanted to make it clear for the record that he could not recommend the County proceed with the project as proposed without first having put in place the agreement to right of access to the watercourse.

Councillor Peters asked if there had been any response to the Council's letter to the Ministers and MP with regards to this project.

Warden Lichter stated that no letter had been received from the Honourable Tom Siddon, Minister of Indian and Northern Affairs. He had spoken with David Nantes and Ken Streach and he had indicated to them that the Council is expecting a reply from them. They have both asked what the Council want as a reply since they had nothing to do with negotiations between Halifax County and the Millbrook Band. He stated that all that would be required is a letter with the date on it saying they have received the correspondence.

Councillor Peters stated that she would hope that the MLA, the Honourable David Nantes would have at least supported Council's concerns and perhaps sent a letter to Mr. Siddon to support what the County has to say.

Deputy Warden Sutherland asked if, with reference to the existing waterway, it got to the stage where as a result of putting more

water into the open ditch and started causing some flooding would there be any legal recourse through the property owners to the Municipality.

Mr. Dickson stated that the property owners might be able to claim nuisance against the Municipality.

Councillor Cooper stated that this project centres along a natural watercourse and if the County proceeds with the section of the project which is the road right of way, would the County in effect be creating a larger water flow than would be found in a 25 year storm. Would somebody have to prove that the County created more than that type of storm would create. To sit around and wait to maybe continue with this project on the scenario that we don't have a guaranteed access to that land is the wrong thing to do. The County basically saying that it is prepared to move along and look at the section of the project in the road way. It is also indicating that the County is prepared to make the necessary improvements in that watercourse to handle anticipated extra flows down the road. This resolution is also saying that the County is not coming up with that significant sum to gain access. This does not include paying the amount to the Indian Band. This is just saying that the County and the Westphal/ Cole Harbour Community is prepared to endorse the continuation of improvements in the community and are asking for the affected people in the community to cooperate and to allow the County to get on with the project.

Councillor Richards stated that he feels it is important to recognize that the flow of water that will be created by the installation of the storm sewer is going into a natural watercourse. There will be some additional flow but at this point in time will be limited because there is not any new development going on. He stated that he does not think that this closes the door on any further action that may be required or negotiable between the Municipality, the province and the Department of Indian Affairs. He stated that this would help get the problem resolved that is there today, to close in the open ditch along Caldwell Road, to get the road back in the order that it needs to be and allows the residents in that area to enjoy traffic flows that are more in line with the community that surrounds it. The project does not stop the County from looking at what might be presented in the future but resolves the problem of today. This is the position taken by the Community Committee and they are asking the Council to give consideration to this and with the provinces position of funding in place he has no hesitations on getting the go ahead.

Councillor McInroy stated that the last sentence states that proceeding with the storm sewer project or portion thereof is subject to the finalization of total cost sharing arrangements between the Department of Transportation and Communications and the Municipality.

Councillor Merrigan asked how much more water would be dumped on the watercourse. He stated that he feels that the County should either negotiate or not negotiate.

Councillor Boutilier stated that, through the Executive Committee, he was under the impression that rather than do one piece at one end of the road the idea was that it would be better if it all could be done at one time.

Councillor Peters stated that she believed that the Department of Transportation said that they would not proceed to lay one piece of pipe until the decision on what was happening with the Indian Band was resolved. If the Department of Transportation are saying they will not proceed until approval to discharge into this watercourse is given then this resolution puts the County in an awkward position because the project would be fully completed and the Indian Band could say that the County now has to pay them.

Mr. Meech stated that the Department of Transportation is saying that they are prepared to cost share but it is a Municipal project and if there are any associated liabilities or risks they are the Municipality's. One of their conditions is that the Municipality is to obtain the water access permit from the Department of the Environment. He stated that at that point the Municipality will be required to indicate that it has the permission of the land owner. Councillor Peters stated that she is in favour of securing the watercourse and reinforce the banks but she is not in favour of that payment being made when it is a natural watercourse.

Councillor Ball stated that once everything is put in place the Municipality owns it and if the Municipality owns it then it is liable. He stated that if this project is endorsed then the Municipality has in fact endorsed the government to forcing the Municipality into resolution of the waterway and taking on the sole responsibility. He stated that he would prefer to see the resolution of the other matter before proceeding with this. He stated that if a moratorium was put on development this might be more acceptable because it controls the development in the sense that it is not going to have any more impact on the watercourse than what was already there.

Councillor Bates stated that he is concerned when advise is given to the CAO and legal advise as to the problems the Municipality could get into. He stated that this has come to a point where the Municipality has to decide whether it wants to carry on this work. He stated that the risks have to be looked at if this situation is not resolved in accordance with the recommendations from Mr. Meech and the solicitor. He feels that the risks are too great the Municipality should make an amendment so that this matter can be resolved by paying \$163,000.00 to the Indian Band.

Councillor McInroy that this project started at the request of the

Millbrook Band to have a waterline extension. Water and sewer was installed but when the Municipality moved on to storm sewer things were stopped. It could be that the Municipality will have to pay out at some point but he feels that the Municipality has a responsibility to stop throwing money at things to solve them and he feels that if the Municipality takes a position such as has been suggested. He stated that the Indian Band knew what the project was all about when it went from an extension of a water line to relieve their arsenic problem to a full fledged sanitary sewer, storm sewer and water installation. He stated that there are options and this is one.

Councillor Richards stated it was the position of council at the last meeting that the Community Committee try to come up with a resolution that would be acceptable at the community level and then the Community Committee could bring forward and present to council. There were some concerns expressed that might create a potential difficulty in light of solving some real problems. It does not close the door on what might occur if the water flows increase to the point that the natural watercourse through the Indian lands can't handle. He stated there is the natural watercourse that has handled extensive amounts of water and putting in this pipe does not increase the flow by any significant amount. The money from the Department of Transportation is available this year but it may not be available in future and this project needs to be completed.

Councillor Merrigan asked how the water problems are going to be solved without increasing water flows to this watercourse.

Mr. Tam stated that the situation right now is that if you put a pipe in the ground without any new development the flow is not going to be increased very much. There won't be any erosion of the brook. He stated that they are presently withholding subdivision approvals because with new development that is going to increase the flow and as a result there will be erosion of the brook. By putting this pipe in without upsizing that brook would mean not allowing any more development. He stated that his understanding of what the Department of Transportation is saying is they do not want to put in this pipe without having the how the water is to be discharged resolved. He stated that the pipe is not designed to handle just the existing flow but to handle the ultimate flow in that area.

Councillor Peters stated that she felt that a moratorium might be the answer.

Councillor Richards stated that the concern of additional flows could be addressed by putting a clause in the resolution to put a moratorium on development until such time as this project is resolved but gets the Municipality in the position whereby it can get the pipe into the ground and the necessary road work completed.

He stated that he would amend the resolution to add the moratorium.

Warden Lichter asked if this would be part of the original motion or an amendment to the motion.

Councillor Richards stated that this would be an addition to the resolution.

Warden Lichter stated that for clarification what Councillor Richards was saying was that everything that is stated in the resolution with the addition that until after the issue of the brook is addressed and remedied there will be a development moratorium on all those watershed lands. A moratorium means no building permits would be issued or sub division approvals given.

Councillor McInroy stated that he is aware of one landowner in that watershed that has an option of storm drainage in one or two directions. The intent of what is being added is that there be no further development that would add additional storm water flows.

Warden Lichter asked the solicitor to clarify the following situation: when an MPS or an amendment is being contemplated and council announces its intention to adopt an MPS or an amendment to an MPS is the criteria that is applied is anybody who received tentative approval is okay but anybody who hasn't received tentative approval is not. He asked if the same thing would apply in the case of a moratorium.

Mr. Dickson stated that he was concerned about how the moratorium would be implemented whether it would be implemented under the Subdivision By-law or the Land Use By-law for the area. By implementing this moratorium you are affecting landowners rights to deal with their land. He stated that he is not certain which would be the most appropriate way to proceed and he would like further time to consider this.

Councillor Peters asked if the County Engineering department monitor the direction of the flow.

Warden Lichter stated that it would be the Storm Drainage Engineer.

Councillor Cooper asked Mr. Tam if the lands on the Eastern and Western side of Caldwell Road take their storm drainage into this system including those lands of the Millbrook Indian Band.

Mr. Tam stated that the intent is to have it low enough that it would handle all the drainage from all homes on Caldwell Road.

Councillor Cooper stated that he would not be able to support any amendment that would talk about a moratorium that would effect the proponents of the Municipality but not all. He stated that it is his understanding that the Municipality is not able to control

development on the lands belonging to the Indians. He stated he could not support a resolution that includes an amendment that would stop landowners outside the Indian Band land from developing and yet not be able to include any development by the land belonging to the Indian Band.

Warden Lichter stated that the amendment speaks about a moratorium but whether it is there or not, what Mr. Meech is telling Council is that the Municipality has to apply to the Department of Environment for water rights. The Municipality will not get those water rights until after the issue of actually showing what work the Municipality intends to do is resolved. If the water rights are not there then the project cannot go ahead because the Department of Transportation and Communications says that this is one of the conditions under which the project is to go. If, for some reason the project goes ahead without the actual remedies to the brook, County Engineering staff, when they examine the subdivision applications, are going to say you are not going to be given subdivision approval because the water has no place to go. He stated that whether the motion says moratorium or not it appears that a moratorium may be there.

Councillor Richards stated that purpose of putting that clause in was to see what kind of support council might offer for it. He stated that would withdraw that section of the resolution and go with the original resolution.

MOTION DEFEATED  
7 IN FAVOUR  
14 AGAINST

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

"THAT HALIFAX COUNTY PAY \$93,800.00 FOR THE RIGHT OF WAY ACROSS THE LANDS OF THE MILLBROOK INDIAN BAND AND \$70,00.00 FOR THE WORK TO BE DONE ON THE WATERCOURSE"

Councillor Peters asked if any replies had been received from Mr. Siddon or the MLA's with regard to this question. She stated that the Council agreed that it would wait for a response either one way or the other and the motion was contrary to the decision of Council.

Warden Lichter stated that he did not feel that an reply would be forthcoming from either Mr. Siddon or the MLA's.

Councillor Merrigan suggested the motion be put on the floor be approved subject to a satisfactory agreement with the Indian Band. This would allow the Municipality to go ahead.

Warden Lichter asked Councillor Merrigan if he was referring to the motion by the Cole Harbour/Westphal Community Committees

resolution.

Councillor Merrigan verified that this was his intention.

Mr. Meech stated that he would agree that the resolution as proposed with the addition would be satisfactory. The only thing he would add to it is to put in subject to receiving a report at the next council session outlining what the financial implications are.

Councillor Bates as the mover and Councillor MacDonald as the seconder agreed to withdraw their motion in order that this could be voted on.

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

"THAT COUNCIL APPROVE THE RECOMMENDATION OF THE COLE HARBOUR/WESTPHAL COMMUNITY COMMITTEE SUBJECT TO AN SATISFACTORY AGREEMENT WITH THE MILLBROOK INDIAN BAND AND SUBJECT TO RECEIVING A REPORT, AT THE NEXT COUNCIL SESSION, OUTLINING THE FINANCIAL IMPLICATIONS"

Councillor Boutilier asked how long the province was willing to wait.

Mr. Meech stated that there is some urgency to advise the Department of Transportation and Communications that the Municipality would like to proceed with the project and the resolution on the floor will do that. Unless something else comes forward his assumption is that the agreement will be as proposed. He stated that at the present time everybody has the knowledge that as a result of negotiations at least one side has said they are prepared to come back and accept this and are waiting for a response from the Municipality.

Councillor Peters asked how this affected her deferral. She stated that her understanding was that this could not be dealt with until a reply was received from the letters sent to the Minister of Indian and Northern Affairs and the MLA's.

Warden Lichter stated that if it had been brought up at the beginning of the debate that the deferral motion ought to be honoured then it would have not been debated.

Councillor Peters stated that she is aware the \$93,800.00 fee is not being addressed but by making these improvements you would get into a position where all these pipes would be in and development would occur that would require discharging into these pipes. She stated that then the Indian Band could say that the County could not discharge into the brook. She asked the solicitor if the County pays to discharge into the brook could there be a precedent set that allows for any other developer or land owner in future say

they want compensation.

Mr. Dickson stated that you have to look at the duty to provide compensation where you are affecting a landowners rights.

Warden Lichter stated that the issue was on the agenda because he had requested it. He stated that he had to weight the chance of losing that amount of money or put it on the agenda. He stated that he had received a phone call from the Honourable Ken Streach in which he inquired as to what the status of this particular situation. He had explained the situation to him and he had said that there are a number of areas that are looking for provincial monies and he cannot hold this money forever. He wanted to know if the project was a go or not. Warden Lichter stated that he had informed Mr. Streach that he did not know and Mr. Streach had informed him that he needed to know or the money would have to go to another project somewhere else. He had informed Mr. Streach that he would put it on the agenda to make sure that Council has a chance to deal with it.

Councillor Cooper asked for clarification of the two addendums suggested by Mr. Meech.

Mr. Meech stated the second addition was that, in the meantime, Halifax County will clarify all of the financial implications and also clarify with the Department of Transportation and Communications so that the Municipality is very clear as to what they intend to pay 70% of and also how the Municipality would propose to recover its net cost for the project.

Councillor Cooper stated that during discussions, with regard to the resolution, the figure of \$93,800.00 came up and it was his understanding that it was never the intention to indicate that Halifax County would in any way endorse that amount.

Mr. Meech stated that the reason the addition is there to make it clear that this has to be part and parcel of the resolution of going ahead with this project.

Councillor Cooper stated that he would remove his seconding of the motion because there is no way he will accept that \$93,800.00.

Councillor Bates stated that he would second the motion.

MOTION CARRIED  
11 IN FAVOUR  
10 AGAINST

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

"THAT THE LETTER FROM L.L. CENTA, DEPUTY MINISTER,  
DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS INFORMING

THE MUNICIPALITY THAT THEY WILL COST SHARE ON A 70/30 BASIS BE RECEIVED"

Councillor Peters asked if the motion that was just passed was legal as there was a deferral motion at the last council meeting with regards to dealing with this item.

Mr. Dickson stated that in order to rescind the earlier motion notice of motion to rescind would have had to have been circulated with the notice of this meeting. He stated that this was his opinion.

Councillor Brill asked, after hearing the opinion of the solicitor, what was the chairs' decision.

Warden Lichter stated that the chairs' decision was that the motion had passed.

MOTION CARRIED

CHERRYBROOK WATER EXTENSION PHASE I

Mr. Kelly outlined a report from the Engineering and Works Department stating that the first phase of the Cherrybrook water main extension is currently under construction by Woodlawn Contracting and Colonel Contracting. The report states that at the present time, the estimated cost of Phase I is about 1.9 million, i.e. about \$400,000. under the budgeted amount of \$2.3 million.

Warden Lichter stated that this relates to item #6 on the main agenda which is a memorandum to council from the chairman Cole Harbour/Westphal Community Committee Re: Extension of Water - Westphal - Second Phase which recommends that Council approve the second phase of water installation in Westphal, which would include Lake Major Road, Upper Montague Road, and Burnhope Drive, with a projected total cost of \$838,000.

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

"THAT COUNCIL APPROVE THE SECOND PHASE OF WATER INSTALLATION IN WESTPHAL, WHICH WOULD INCLUDE LAKE MAJOR ROAD, UPPER MONTAGUE ROAD, AND BURNHOPE DRIVE, WITH A PROJECTED COST OF \$838,000"

Councillor Deveaux asked if the abutting residents pay frontage for water.

Mr. Meech stated that they would.

Councillor Meade asked if this would go to public tender.

Mr. Meech stated that there are a number of things that will have