

THE FACT THAT SINCE HALIFAX COUNTY NOW HAS ITS CHARTER THE STANDARD MUNICIPAL ACT THAT GAVE THE ABILITY UNDER NOTARIES AND COMMISSIONERS ACT, FOR COUNCIL MEMBERS TO BE COMMISSIONERS OF OATH, IS NOW NULL AND VOID AND THEREFORE REQUEST THAT HE WOULD MAKE IT AN ORDER IN COUNCIL TO HAVE ALL THOSE MEMBERS, WHO ARE NOT ALREADY COMMISSIONERS, APPOINTED COMMISSIONERS"

MOTION CARRIEDMEMORANDUM RE: EAST PRESTON BUSINESS CENTRE, EAST PRESTON - COST OVERRUNS

Mr. Meech stated that a memorandum and background material circulated to the councillors on August 11, 1992 with notification that it would be on the agenda.

The report attempts to give the background of the project. There have been some cost overruns and after review by the Industrial Commission the recommendation is that Council authorize an additional \$60,000.00 to the mortgage that had been agreed. Should a private sector mortgage be achieved, the Municipality agree to guarantee the mortgage to a maximum of \$300,000.00.

Councillor McInroy stated that he would question a project that did not take into consideration construction interests, the money spent prior to the approval of the project.

Mr. Meech stated that when the initial projections were developed it was on the assumption that the monies that were to be received from both the province and the federal government, in the form of grants, it had been anticipated and expected that those monies were going to be received earlier than what was achieved. As a result of this it was felt, on balance, that there might be additional cash flow or monies during certain periods of construction so that they may have been in a position where they would have had some excess cash. On the other hand there would have been periods where there would be a need to provide some temporary financing. What happened in practice was the grants from the province did not get received as early as anticipated. The bottom line is that there are some obvious differences in the original projections and the actual cost. The major reason for the overexpenditure is essentially in the fact that the leasehold improvements were incorporated in the end by W-5 as part of the construction costs.

He stated that the estimated gross cost of the project would be \$705,000 less tax rebates for PST and GST. This would mean there would have been a net cost of \$675,000 of which \$300,000 was to come in the form of a grant from the province, \$150,000 from ACOA and the balance of \$225,000 to be provided in the form of a first mortgage by the Municipality to the group. As a result with some projected final cost, the cost now is going to exceed that original

projection by approximately \$57,000.

Councillor McInroy asked if the cost to administer the contract went from \$46,000 to \$64,000.

Mr. Meech stated that there was a substantial increase in the actual cost for the resident project manager that was on site to manage the project. That to a large degree is due to the fact that in the original construction schedule there was a shorter period of time than what the actual construction schedule was. Many of those things had been dealt with and there had been cost reductions achieved in some other areas to offset some of those costs. In the end, there were costs associated or incorporated primarily for leasehold improvements that were not originally intended in the original projection.

Councillor McInroy asked if the project was totally finalized now and no room to save anything further.

Mr. Meech stated that this was correct except they had them hold back on finalizing the landscaping and the asphaltting pending the outcome of dealing with the additional financing. The ACOA monies were granted on site development costs and ACOA is not going to be prepared to fulfil their obligation unless those site development costs, including landscaping and asphaltting, is completed.

Councillor Ball asked what was meant by leasehold improvements.

Mr. Meech stated that this relates to the finishing such as putting up ceilings, walls, flooring and lighting.

Councillor Ball stated that he was seeing additional expenditures beyond insulation, drywall, etc.

Mr. Tam explained that those amounts are relating to the leasehold improvements. That is why he is showing it as not budgeted for. At the end of the project those are some of the materials that they purchase to work on the leasehold improvements. That is part of the \$51,000.

Councillor Ball stated that the only issues are whether or not Halifax County is going to take the first mortgage and increase its amount or if Halifax County is going to make W-5 get their own mortgage.

Mr. Meech stated that this project, for the most part, went quite well with the exception of the leasehold improvements. He stated that this is an area where he has expressed concern as that had not been originally negotiated to be part of the deal and because of circumstances they proceeded to incorporate that. There is some possibility that Halifax County may be getting some additional money from the other agencies and hopefully this is the worst case

scenario. An application has been made to the province as well as ACOA, on Halifax County's behalf, to see if they are prepared to increase their grant another 10% for overexpenditures.

Councillor Ball asked if there was anybody from the Industrial Commission overseeing this project and therefore gave approval to this leasehold improvements.

Mr. Meech stated that it was managed through the Administration and Engineering and Works as is done with all capital works projects. He stated that it had been monitored on a regular basis and payment was done through joint cheques. He stated that, to a large degree, Halifax County did not have all the information but most of it and were preparing cost of work in progress projections on a regular basis. He stated that on a number of occasions changes had to be made to overcome some anticipated over expenditures in certain areas. He stated that with the exception of the problem on the leaseholds for the most part this project ran well.

Councillor Ball asked who's decision was it to go beyond the realm of the contract that was approved to go to leasehold improvement.

Mr. Meech stated that it was W-5's decision. He stated that they had not been aware that this was happening. After the information was received, after the fact, part of the problem may be that there were a couple of offices are under lease that are government offices and part of this should have been paid as up front costs by those agencies as opposed to having it incorporated in the long term financing. He stated that they are working on this.

Councillor Bates stated that there was extensive discussions with members of W-5 at the Industrial Commission. They were asked a lot of the questions that are being asked here. Most of them centred around the \$51,000 but in all fairness, if you take a look at the project, it did not work out badly. Something new was being tried here with three levels of government involved and the management of it for the most part was by members of W-5 and the County kept close tabs on it. He stated that on a project this size and working with labour and materials \$51,000 does not take long to spend.

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

"THAT HALIFAX COUNTY COUNCIL ADOPT THE MOTION PASSED AT
THE INDUSTRIAL COMMISSION AS DETAILED IN THE MEMORANDUM"

Councillor Merrigan asked if any money had been set aside for cost overruns in the original costing.

Mr. Meech stated not for cost overruns but a contingency amount.

Councillor Merrigan asked if the appraisal had come in on the

property.

Mr. Denny stated that the appraisal arrived and was discussed with W-5. He stated that the appraisal is based on the income and the recommendation from three levels of government is to keep the rental low so that you can encourage entrepreneurs to lease in the unit so therefore the appraisal value is actually less than the building value. By the same token it's sufficiently high enough to allow the bank to support a mortgage. The appraisal is at \$405,000 and a \$300,000 mortgage is being requested which would pay the county out and give them a little bit more money to finish the interior of the units that are not rented at the present time. There are only two units vacant out of six and some of the units rented have two tenants in them. The plan is to increase the rents on a two year basis.

Councillor Merrigan asked if a costing had been done to determine the ability to service the required loan.

Mr. Meech stated that if it is done on the basis of the projected rental then it is taking those factors into consideration.

Councillor Merrigan stated that he is concerned whether or not this project can support its required loan with the county or the loan the county is asked to guarantee.

Mr. Denny stated that this was done prior to this meeting and there was ample. There was a monthly payment of \$2,700.00 and there is \$4,700.00 coming in from payments for rent.

Councillor Deveaux stated that he presumed that the building would be completely finished. He asked if those issues were taken into consideration when a proposal is made on what it is going to cost to construct a building.

Mr. Meech stated that under normal circumstances for commercial buildings for rental purposes the tenant normally becomes responsible for the leasehold costs. He stated that the units are not normally finished until you know what tenant is going to occupy the space. Mr. Meech stated that he wanted to make clear is theoretically if the mortgage is taken out or Halifax County places the mortgage, if they meet their obligations it's not going to cost the Municipality for the additional expenditures. If they can't meet their obligations then Halifax County would have to foreclose and operate the building as a commercial property.

Councillor Ball stated that as he understood it \$732,000 was spent on a building with an appraised value of \$405,000 which is a loss of \$300,000. He asked what the building would the building give on the market.

Mr. Meech stated that, based on the appraisal, it should have a

market value of \$405,000.

Councillor Taylor asked if there was any other alternative but to approve the motion other than foreclose.

Mr. Meech stated that Halifax County could take the position of indicating that unless they come up with the additional monies then the county would keep the project. He stated, in his view, the only viable alternative is to either increase the mortgage or guarantee the mortgage and let them manage it and lease it from the County.

Councillor Cooper asked what the difference was between the income, the mortgage payment and the common area costs for this project.

Mr. Denny stated that there is \$4,700.00 per month income with a \$2,700.00 per month expenditure leaving \$2,000.00 per month to pay for snow removal, taxes, outside lighting, landscaping, etc.

Councillor Cooper asked what the estimate of those costs would be.

Mr. Denny stated that there should be a profit left over at the year's end. He stated there would be no ongoing expense to the County.

Councillor Cooper asked if there was a guaranteed percentage of the monthly income going to W-5. Mr. Denny stated there was none.

MOTION CARRIED
12 IN FAVOUR
2 AGAINST

MEMORANDUM RE: MILL COVE STP - 2ND EXPANSION, PHASE I

Mr. Meech stated that this is dealing with a substantial expenditure in the vicinity of \$19,500,000. It is based on the assumption that Halifax County will get 50% provincial contribution. The balance will have to be financed between Halifax County and the Town of Bedford. He drew council's attention to page two where projections have been made as to what the annual impact of this expansion will be both to the Environmental Services rate as well as to Halifax County's own debt charges that would be supported by the general tax rate as well as to the operational expenditures that would be added to the Environmental Services rate.

If Halifax County assumes 50% from the province the County's portion is 65% with the other 35% being from the Town of Bedford. Halifax County's 65% would then be allocated between the Environmental Services rate and debt charges on the general tax rate. For the year 1996, when the full impact comes on stream and

assuming there is 50% provincial grant, Halifax County is looking at the general tax having to bear an annual cost of approximately \$315,000 in debt charges. Environmental Services would be \$473,000 plus \$164,000 for operation. This amounts to an increase of approximately 4.2 cents on the Environmental Services rate.

This project has been endorsed previously, the preliminary design has been completed, the joint committee has met and this is as a result of that session. The recommendation is to proceed with the project with the first major step being to secure 50% cost sharing from the province.

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

"THAT COUNCIL APPROVE RECOMMENDATIONS 1, 2 AND 3"

Councillor Cooper asked what impact this would have on other capital projects.

Mr. Meech stated that they have not finished the detailed analysis and evaluation of the impact of the capital budget which would incorporate this. He stated that, at this point, he could not say what the outcome will demonstrate.

Councillor Cooper stated that up until this time there have been some large projects which get pushed to the top of the list and the smaller ones are put in jeopardy. He feels that if Halifax County is going to grow then a policy will have to be looked at that says all the requests and all the requirements shall get put on a list and the council shall decide how they are prioritized.

MOTION CARRIED

COUNTY PLAQUE, CAIRN

Councillor Meade suggested the County have a monument or cairn erected in front of the building with a plaque indicating that Halifax County was the first county in Nova Scotia to receive a charter, the date the charter was declared, and the name of the Mayor at the time of declaration.

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

"THAT STAFF LOOK INTO OBTAINING A PRICE FOR THE ERECTION OF A CAIRN AND WITH A PLAQUE IN FRONT OF THE MUNICIPAL BUILDING AND FURTHER THAT AFTER THIS INFORMATION HAS BEEN OBTAINED A STAFF REPORT TO COME BACK TO COUNCIL"

MOTION CARRIED

CHAIN OF OFFICE

Mr. Meech stated that it is traditional and customary that there be a chain of office.

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

"THAT STAFF OBTAIN AN ESTIMATE ON DESIGN AND COST OF HAVING A CHAIN OF OFFICE DEVELOPED AND FURTHER THIS INFORMATION TO COME BACK TO COUNCIL"

MOTION CARRIED

DOG BY-LAW - COUNCILLOR RANDALL

Councillor Randall stated that the Dog By-law hasn't been reviewed for a number of years and some of the fines are no longer deterrents. He feels that this should be looked at because those fines are not the same deterrent today. He stated that the monthly reports stated that complaints are on the increase which indicates that the deterrents presently in the By-law are not meeting the requirements. There are parts of the By-law that are not enforced at the present time for one reason or another and he feels these should also be looked at. He suggested the issuance of tickets be considered.

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

"THAT STAFF, IN CONJUNCTION WITH THE PEOPLE FROM ANIMAL CONTROL, TAKE A LOOK AT THE PRESENT DOG BY-LAW AND COME BACK TO THE EXECUTIVE COMMITTEE WITH RECOMMENDATIONS TO UPDATE AND STRENGTHEN THIS BY-LAW"

MOTION CARRIED

URGENT AGENDA ITEMS

Canada Post - Councillor Holland

Councillor Holland stated that this item was for an easement for Canada Post to put a supermailbox site at Pinedale Park in District #4.

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

"THAT AN EASEMENT BE GRANTED TO CANADA POST TO ENABLE THEM TO ERECT A SUPERMAILBOX AT PINEDALE PARK IN DISTRICT #4"

MOTION CARRIED

Becks Brook Bridge - Councillor McInroy

Councillor McInroy stated that funding had been approved to construct a pedestrian foot bridge over Becks Brook in Cole Harbour. Subsequent to that being done the School Board was advised it was the County's intention to proceed with the installation of that structure and on that basis the School Board made a decision which essentially transferred students from an area in close proximity to Becks Brook from two other elementary schools to Colby Drive Elementary School. This was done on the basis that it would be accessed by a walkway which would lead to and then cross the brook on a safe, maintained structure that the county was going to have in place.

He stated that he learned in July that there had not been any significant progress with regard to the construction of the bridge and early in August he learned that when information was requested for the footings of the structure the storm drainage engineer determined that there should be a flow analysis conducted of the waterflow and watercourse. It was determined that a consulting engineering firm had to be engaged to do the analysis. He stated that he is concerned that the structure won't be in place when school opens. He stated there is concern by the parents of the children who now have to attend that school and walk a distance of approximately one and a half miles.

He stated that he wants to ask staff to look into the possibility of the provision of some temporary crossing that would be safe and would satisfy the concerns that he and the parents in the area have until such time as the permanent structure is located and installed. He suggested that the Department of Transportation may be able to provide something.

Block Parties - Councillor Cooper

Councillor Cooper stated that a block party in the community of Cole Harbour/Westphal resulted in a number of complaints to the RCMP and they did not seem to be able to control the scene. This resulted from a permit issued from the Department of Transportation to close off the street in order to have the party.

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

"THAT STAFF PREPARE A REPORT SUGGESTING THE BEST WAYS TO COORDINATE THE ISSUING OF PERMITS BOTH FROM THE DEPARTMENT OF TRANSPORTATION AND THE MUNICIPALITY TO ENSURE THAT ALL THOSE WHO HAVE BLOCK PARTIES ARE AWARE OF THE REGULATIONS PERTAINING TO DISRUPTION OF THE NEIGHBOURHOOD WHERE THE PARTY IS"

MOTION CARRIED

COUNCIL SESSION

23

AUGUST 18, 1992

ADDITION OF ITEMS TO SEPTEMBER 1, 1992 COUNCIL SESSION

Cable Service to Elmhurst Senior Citizens Home, Sheet Harbour -
Councillor Smiley

DOT - Councillor Taylor

Listing of Capital Projects - Councillor Cooper

Sidewalks - Councillor Merrigan

MOTION OF RECONSIDERATION

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

"THAT HALIFAX COUNTY NOT ATTEND THE UNSM CONFERENCE BE
RECONSIDERED"

MOTION DEFEATED

ADJOURNMENT

It was moved by Councillor Merrigan:

"THAT THE MEETING BE ADJOURNED"

MOTION CARRIED

PUBLIC HEARING

August 10, 1992

PRESENT WERE: Deputy Warden Sutherland
Councillor Meade
Councillor Rankin
Councillor Fralick
Councillor Holland
Councillor Bates
Councillor Adams
Councillor Randall
Councillor Bayers
Councillor Smiley
Councillor Taylor
Councillor Merrigan
Councillor Brill
Councillor Snow
Councillor Giffin
Councillor Harvey
Councillor Cooper

ALSO PRESENT: G. J. Kelly, Municipal Clerk
Alan Dickson, Municipal Solicitor
Bill Butler, Acting Director, Planning Department

RECORDING

SECRETARY: Julia Horncastle

The meeting was called to order at 7:00 p.m. with the Lord's Prayer. Mr. Kelly called roll.

Deputy Warden Sutherland outlined the procedure followed at a Public Hearing. He stated that speakers in favour would speak first and then speakers against would have an opportunity to speak.

He stated that a survey was sent out in February of 1988 with a 21% response. There were four public meeting hosted by the Plan Review Committee as well as nine evening meetings throughout 1988, 1989 and 1990 to receive submissions. These were advertised in local newspapers. There were two open house sessions held by the planning staff, one on May 28, 1992 and one on May 29, 1992. The PRC meetings dealing with the review for the Municipal Plan was held at the council chamber. In all there was a total of 78 meetings held which were open to the public.

He stated that a letter had been received from the Armoyn Group requesting a revision or amendment to the Municipal Planning Strategy that all land owned by Armoyn Group Limited in Governor's Glen Subdivision in Timberlea not presently in receipt of Endorsed Final Approval receive the R-2 designation.

ADOPTION OF THE REVISED MUNICIPAL PLANNING STRATEGY AND LAND USE BY-LAW FOR TIMBERLEA/LAKESIDE/BEECHVILLE AND AN AMENDMENT TO THE MUNICIPAL SUBDIVISION BY-LAW

SPEAKERS IN FAVOUR

Mr. Derrick Redden, Timberlea stated that he had spoken with Jim Donovan and he had been informed that it would be a formality to remove a development agreement once the zone was in place.

Mr. Bill Butler stated that Mr. Redden's property and Mr. Robinson's have contracts which would override the zoning until such time as council would rescind the agreement. If the plan were approved in it's present form there would be very little reason not to discharge the existing development agreement which would then bring the C3 zone into effect.

Deputy Warden Sutherland asked the solicitor to respond to the correspondence received from the Armoyan Group.

Mr. Dickson stated that reviewing the correspondence he would draw to council's attention the fact that the whole concept of a planning strategy under the Planning Act is designed to allow for public input and notice to people of what is proposed and to allow the public to have input into that. For council to consider something like this request it would be advisable to actually readvertise and make available, to members of the public, the notice of this proposed change so that people would know exactly what they might expect from the new plan. There may be people who have looked at the proposed plan and have concluded that they are not affected and are not concerned. They might be concerned if council were to make an amendment such as the one proposed in the letter.

Mr. Butler stated that if the rezoning is not given tonight the Armoyan Group could apply, either under the existing plan or under the new plan. Either way the rezoning provision remains open to it. They could make separate application for the rezoning.

Mr. Harry Lindros, 43 Fraser Road, Timberlea, stated that he has been in Timberlea since 1948. He built his premises in 1960. In 1972 they started Harmony Music. He stated at that time they had come to the County and were told that the Fraser Road has a general zone and it was okay to start that type of business. They were told in 1982 they would have a local business zone within the residential area because of having started the business in 1972. In 1987 when the review of the zoning came up they found out that they are on an appendix. In 1992, after meetings, the PRC has recommended that Harmony Music Centre receive a C-1, local business zone, for which they are grateful and thank the PRC for it's recommendation.

Mr. Lindros presented a petition with names of people living on the Fraser Road in favour.

He stated that they have a parking area of approximately 800 sq. ft. running into the main shop and school area. They have a personal area for at least eight cars. There is more than eight feet of shoulder on the side of the road at the frontage which is not completely finished at this time. In the past two years county By-law enforcement officers have been out there many times because of complaints.

Mr. Humphrey Longard, thanked council for arriving at the C-3 zone that has been proposed. He thanked Councillor Rankin for his efforts in arriving at this decision. He asked if there was some specific reason why take out restaurants were not included in the restaurant section.

Mr. Butler stated that take out restaurants or drive in restaurants are regarded as a more intensive kind of a restaurant use. They require more land or are more reflective of a travelling public.

Mr. Longard asked, with the enlargement to the building sizes from 5,000 to 6,500, if it comes on a building permit application or do they have to apply for a development agreement.

Mr. Butler stated that they have to apply for a development agreement.

Mr. Longard stated that Longard Trucking is located on 2196 Bay Road not 47 Riverside Drive. He stated that he is satisfied at this time. He asked on Appendix B for trucking if there was any clarification on building sizes listed.

Mr. Butler stated that the trucking business is permitted as an existing business under the Appendix. Any expansion to the trucking business would occur through a development agreement.

Councillor Rankin stated that it is the intention of the Planning committee, through council, 7500 sq. ft. be offered for that particular lot by development agreement.

QUESTIONS FROM COUNCIL

No questions from Council.

SPEAKERS IN OPPOSITION

Mr. Carmen Zinck, 42 Fraser Road, stated that he lived across the street from the Harmony Music Centre and his concern was with the parking situation. He stated that he is concerned about the volume of traffic increasing if businesses are allowed to develop in the area.

Deputy Warden Sutherland stated that council would keep his concerns in mind when making their decision.

QUESTIONS FROM COUNCIL

Councillor Giffin asked Mr. Zinck if Mr. Lindros had been in business when he had moved into the neighbourhood.

Mr. Zinck stated that yes the business was there when he moved in.

Councillor Harvey asked Mr. Zinck if he would be satisfied if parking was permitted on one side of the street only.

Mr. Zinck stated no because his concern is with cars parking either side of the street which means cars coming up or going down the street have to swerve around and there are children playing in those areas.

MOTIONS FROM COUNCIL

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

"THAT THE MUNICIPAL PLANNING STRATEGY FOR
TIMBERLEA/LAKESIDE/BEECHVILLE BE APPROVED"

MOTION CARRIED

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

"THAT THE LAND USE BY-LAW FOR
LAKESIDE/BEECHVILLE BE APPROVED"

MOTION CARRIED

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

"THAT THE SUBDIVISION BY-LAW AMENDMENT BE APPROVED"

MOTION CARRIED

ADJOURNMENT

It was moved by Councillor Meade:

"THAT THE MEETING BE ADJOURNED"

MOTION CARRIED

PUBLIC HEARING

August 17, 1992

PRESENT WERE: Mayor Lichter
Councillor Meade
Councillor Rankin
Councillor Fralick
Councillor Holland
Councillor Deveaux
Councillor Bates
Councillor Randall
Councillor Bayers
Councillor Smiley
Councillor Taylor
Councillor Peters
Councillor Merrigan
Councillor Brill
Councillor Giffin
Councillor MacDonald
Councillor Harvey
Deputy Mayor Sutherland
Councillor Richards
Councillor McInroy
Councillor Cooper

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

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Mayor Lichter called the meeting to order with the Lord's Prayer.
Mr. Kelly called roll.

APPOINTMENT OF RECORDING SECRETARY

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

"THAT JULIA HORNCastle BE APPOINTED AS RECORDING
SECRETARY"

MOTION CARRIED

PA-F&S-10-92 & ZAP-F&S-10-92 - APPLICATION BY THE MUNICIPALITY TO
AMEND THE MUNICIPAL PLANNING STRATEGY AND LAND USE BY-LAW FOR
PLANNING DISTRICTS 14 AND 17 IN ORDER TO RECOGNIZE AN EXISTING
LUMBER MILL OPERATED BY LEDWIDGE LUMBER LIMITED AS A PERMITTED USE
WITHIN THE LAND USE BY-LAW.

Paul Morgan made the presentation. He stated that the first application is to amend the policies for Districts 14 & 17 plan area, specifically to make accommodations for the Ledwidge Lumber mill. Under existing plan policies for this area this property is within the residential designation and as such has been zoned R-1

(Suburban Residential). This zone permits the existing businesses but requires that any expansion be by development agreement. Staff was asked to make amendments to accommodate expansion of this use by right particularly in recognition of the fact that this mill has preceded the plan and has been in existence prior to the plan.

There were several options examined and, as requested by PAC, the option put before council is to rezone the property R-6 (Rural Residential). Under the existing policies there are not provisions to rezone to this zone. The R-6 zone in itself did not allow for expansion of lumber mills by right. In the text shown in Appendix "B" there is both the provision in terms of permitted uses, there's and addition of existing forestry uses and then under the provisions for the zone there is a provision to allow for expansion by right subject to the requirements of the mixed resource zone. This requires that any lumber mill maintain a minimum distance of 200 feet from any residence other than residence associated with the lumber mill. It also requires a minimum setback of 100 feet from a watercourse. For Mr. Ledwidge this would allow him to expand, by right, in the future.

If this amendment was approved by council and if it received Ministerial approval council would be subsequently be asked to make a resolution to discharge the agreement. There are provisions in the Planning Act to allow for discharge of an agreement and it states that when council does this provisions of the Land Use By-law apply.

QUESTIONS FROM COUNCIL

Councillor Peters asked Mr. Morgan that, in the Development Agreement, if Mr. Ledwidge wishes to do something other than a kiln, does he have to keep coming back to amend an existing development agreement each time he wishes to do something like this.

Mr. Morgan stated that this was correct as there are no provision for this.

Councillor Peters asked if this proposed change for an R-6 abutting R-6 zone.

Mr. Morgan stated that there are several properties directly abutting it that are zoned R-6.

SPEAKERS IN FAVOUR

No speakers in favour.

SPEAKERS AGAINST

No speakers in opposition.

DECISION OF COUNCIL

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

"THAT THE BY-LAW AMENDMENT FOR THE MUNICIPAL PLANNING STRATEGY FOR PLANNING DISTRICTS 14 & 17 BE AMENDED TO APPENDIX "A"

MOTION CARRIED UNANIMOUSLY

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

"THAT APPENDIX "B" OF THE MUNICIPAL PLANNING STRATEGY FOR PLANNING DISTRICTS 14 & 17 BE ACCEPTED"

MOTION CARRIED UNANIMOUSLY

PUD-1-88 - APPLICATION BY AL KILLEN TO ENTER INTO A PLANNED UNIT DEVELOPMENT AGREEMENT TO PERMIT THE USE OF SEASONAL RECREATION PROPERTIES ON THE LAND OWNED BY THE APPLICANT AT HIGGIN'S LAKE, DISTRICT #13.

Paul Morgan made the presentation to council. He stated that the application is made by Allison Killen to allow for the continuation of seasonal residential development situated on the North shore of Higgin's Lake near Elderbank. These developments are on two individual parcels of land owned by Mr. Killen. There are presently 14 cottages and 17 recreational vehicles located on these properties which are individually owned by people who have entered into a lease agreement with Mr. Killen. There is a separate parcel owned by Carlton Swinamer which is not subject to this agreement.

The development has all been taken in violation of Municipal and Provincial regulations. No building permits were issued, no occupancy permits were issued and no permits from the Board of Health were issued for waste disposal facilities. The developments also are in violation of Halifax County Zoning By-law #24, the document regulating land uses in this area.

Even though the property is unzoned at the current time, the By-law only allows for one main building on the lot. In this case there are 31. Halifax County became aware of this in the summer of 1987 and negotiations started in early 1988. Under normal regulations there did not appear to be any way to bring this development into conformity with Municipal and Provincial regulations. In order to accomplish this each separate unit would have to be on its own lot and most of them were too close together to allow for subdivision. He stated that the Planning department looked into the planned unit development By-law or an agreement made pursuant to it. This By-law is made pursuant to a special act, an act respecting the Municipality of the County of Halifax, which was enacted by the

province in 1972. Under this someone could apply for a development scheme as long as they had the minimum 5 acres and the scheme could be examined from the requirements of the Planning Act, Zoning By-law, Building By-law and Subdivision By-law. It was never really intended that the planned unit development By-law would be used this way but this is the only mechanism that they are aware of that could bring a development into conformity with Municipal and Provincial regulations.

He stated there is a risk in entering into this agreement. The risk would be that it would appear that council is rewarding somebody that has undertaken development in violation of the rules. The regulations were designed to specific purposes such as protecting public health, environment and abutting land owners. There is a risk of giving an appearance that if someone goes ahead and does this council will accommodate them. He stated it was very difficult to negotiate after the fact. It presented a lot of difficulties for staff.

He stated that council has to consider carefully because if this agreement is not approved it would signify to staff that council does not want this development to stay and action would be initiated to have the development removed. This would pose hardship for people who have invested in their individual dwellings. He stated that from staff point of view, in terms of recommending this agreement, they feel that the terms and conditions in this agreement should allow the outstanding issues to be addressed. The main one is the lack of sanitation facilities and also none of these structures were inspected by a building inspector.

He stated that, from a land use point of view, there is no planning strategy in effect so there are no policies to guide staff as to what the community wants or what type of development is appropriate. The terms of the agreement only apply to lands within 500 feet of the shoreline because that is where all the cottage development is. It will be administered by the development officer of the Sackville office except for issuance of building and occupancy permits. These have to be issued by a building inspector. The agreement states that the permitted uses are all those existing at the time of council's approval. This poses some difficulty with regard to the new cottage that is under construction. This was not contemplated that this would be considered existing. If council so chooses it could be considered part of the existing agreement. Staff, initially, at the request of Mr. Killen were going to allow for six new cottages at some future point after a waste disposal had been in operation for two years. This provision has been deleted at the recommendation of the Planning Advisory Committee. Any additions or alterations to/of existing development will only be allowed if a waste disposal had been in operation for two years.

He stated that the agreement specifies that the units can only be occupied from May 1 to September 30 of each year. Within 30 days of the signing of the agreement Mr. Killen would have to provide the development officer with notification that all the tenants have received a copy of the agreement, approval from the Department of Health for an engineering design of the grey water disposal system, a performance bond for its construction, confirmation from the building inspector that there are no evident deficiencies. Because the buildings are already there it is not going to be possible to guarantee that they fully comply with building codes. He stated that it is not their intention to ask the owners to rip out walls. Notification from the fire department that all the residences are accessible to fire fighting equipment. There are provisions that if there were some deficiencies found the development officer could grant an additional thirty days to rectify the matter.

There are provisions to allow for camper trailers to be replaced with cabins after the two year period. There are some design limitations. Maximum floor area would be 750 square feet, maximum height of 15 feet and 20 foot set back from the lake. There are provisions that council could, by minor amendment, allow for variations to the setback requirements. The problem that exists with water and waste water disposal systems is that there are no facilities available for disposal of grey water. There is potential, biologically, over a long period of time that the nutrients from dishwater will accumulate in the lake and the lake will become polluted. To deal with this problem a conceptual plan was submitted and there would be a clustering of holding tanks where a cluster of cottages would each be allowed to drain any waste waters into the holding tank and from there be pumped out by a licensed tank cleaner. Final engineering design would have to be approved within thirty days of signing of the agreement. It would have to be in operation before the start of next season. In order to ensure that the system is maintained properly the agreement requires annual inspections and Mr. Killen will be required by written notification from the Department of Health that their inspectors have come out, checked over the site and are satisfied that all the health facilities are adequate. He would have to provide proof that a septic cleaner did pump out the tanks.

The owner has agreed that a by-law enforcement officer or building inspector would have the right to enter onto the property at any time to ensure compliance with the terms of the agreement. Also to check whether water was being pumped from the lake to the residences. This would not be permitted. If Mr. Killen did not comply then a fine could be levied or if there were more substantial matters that had to be addressed, such as not having the grey water system constructed, there are provisions that council could release itself from the agreement and action could be taken by way of a court order.

Councillor Snow asked if there was a reason in section 7(1) why

nobody is allowed to drill a well.

Mr. Morgan stated that the reason it was done this way is that holding tanks have a limited capacity and there was danger, if water is being pumped into those house, there would be a lot more consumption than if the occupants brought in their own domestic water. Dishwater and water for washing would be bucketed from the lake.

Councillor Snow stated that he feels it would be healthier if there was a well.

Councillor McInroy asked when council had authorized staff to commence negotiations.

Mr. Morgan stated that there was no formal authorization but councillors were made aware of the situation through updates and application. Planning Advisory Committee has been aware of this.

Councillor McInroy stated that he would like the record to show that it is his opinion that this council, if it finds that its by-laws and regulations are being totally ignored or violated, it has the responsibility to decide whether prosecution or some kind of accommodation should be considered. He asked how many units there were on the site in 1987.

Mr. Morgan stated there had been 31. He stated that in the last five years there has been one addition and one new. He stated that, as owner of the property, Mr. Killen is responsible for any infractions and he is the one who has to obtain all the permits.

Councillor Taylor asked Mr. Morgan if he was satisfied that protection services can be met.

Mr. Morgan stated that the road is well constructed and there wouldn't appear to be any difficulty. Mr. Killen would have to make sure the roads are up to par to satisfy the fire department in that regard.

Councillor Peters asked what would happen if Mr. Killen decided to sell.

Mr. Morgan stated that under the Registration and Effective Conveyance, part 13, the agreement would continue to apply until discharged by council.

Councillor Merrigan asked why the proper development of on site septic systems is not encouraged in this agreement.

Mr. Morgan stated that if it could have been done it would have been done.

Councillor Brill asked if any penalties been served against Mr. Killen over the last five years.

Mr. Morgan stated that there have been no penalties. He stated that if council rejected the agreement then appropriate recourse would be taken.

Councillor Fralick asked if there were any permanent residences in the development.

Mr. Morgan stated that to the best of his knowledge there are no permanent dwellings.

Councillor Peters asked Mr. Crooks what it would cost Halifax County if this agreement is signed and some of the agreement is not carried forward and the county has to take steps according to the development agreement clauses. What would the cost be to enforce these rules and regulations if there was a default.

Mr. Crooks stated that it would depend on the nature of the breach and the kind of remedy that was required but whenever a party initiates proceedings in court the cost could be substantial. It would be difficult to be more specific without knowing whether or not the proceeding, if it was initiated, was contested.

Councillor Smiley asked if any of the cottages were large enough for a septic system.

Mr. Morgan stated that under Department of Health regulations in order for a lot to have its own septic system it would require a minimum area of 40,000 square feet. None of the cottages are on defined lots.

Councillor Smiley asked if Mr. Morgan knew the length of the leases on those sites.

Mr. Morgan stated that it was his understanding that there are no written leases.

SPEAKERS IN FAVOUR

Mr. Frank MacCullen stated that he is the owner of a lot on the property and he informed council that Mr. Killen keeps good control over the property.

Councillor Holland asked Mr. MacCullen if he goes out to the property after September 30th.

Mr. MacCullen stated he did not. He stated that if it was legal to do so he probably would spend more time there. He stated he feels September 30th is a little early.

Councillor Taylor asked Mr. MacCullen how many residents go there on a regular basis.

Mr. MacCullen stated that less than half the owners are there on a regular basis.

Councillor Bayers asked Mr. MacCullen where he obtained the water used for showering.

Mr. MacCullen stated that he brings all the water for his needs with him. He stated that there are only two of the residents, that he is aware of, that are getting their water from the lake.

Mayor Lichter asked Mr. MacCullen if he knew when the first building was erected on the lake. Mr. MacCullen did not have this information.

Mayor Lichter asked Mr. MacCullen if he had a written lease for his parcel of land. Mr. MacCullen stated that he did not.

Mr. David Kerr stated that Mr. Killen is not a developer. He stated that before the development the lake had broken bottles and garbage. The best interest of the environment and resources of the area are being served. He stated that Higgins Lake is a significant benefactor for having such a conscientious and responsible custodian maintain these lands. He stated that the Killin's have been custodians of that land for over fifty years.

Mr. Malcolm Noble, Elmsdale, stated that he has been a resident of the lake for four years. He stated that he is fire chief of the village of Elmsdale and has been involved in fire service for 25 years. He stated he would not have his family there if he felt that fire protection could not be provided. The residents include eight or nine fire fighters that he is aware of. He stated that to his knowledge fire protection could be provided to the area without any difficulty.

Councillor Bates asked Mr. Noble if he has a lease.

Mr. Noble stated that he has a yearly verbal agreement and if he does not keep his property to Mr. Killen's satisfaction, he will not be back the next year. He stated that he supports the one year agreement and he does not want a long term lease.

Mrs. Ann Eisner stated all the residents are conscientious of the environment and no one would purposely harm the lake and will do everything they can by working together to be able to stay.

Councillor MacDonald asked Mrs. Eisner if she pays rent for the lot. She stated she pays an annual rent.

Mr. Eric Swinamer stated that he spends six months a year out at

Higgins Lake. He stated that he and his wife, Mr. Killen's sister, have an approved lot on the lake. He stated that since the development has taken place the worry of fire is not a big concern because everyone watches. He stated that if the lots were privately owned they could be sold which could possibly result in the lots being owned by people who are not as conscientious as Mr. Killen. He stated that there is wildlife at the lake which means that it is not polluted which is a good indication of the way things are.

Mrs. Marilyn Oakley stated that she has had a travel trailer at Higgin's Lake since 1983. They were one of the first residents to lease a piece of land from Mr. Killen. She stated that when she first went to the lake she had cleaned up the beach. She stated that the lake is a family place. She stated that they have a fireplace for cooking. She stated they are aware they have to be careful of their grey water. She stated that the lake water has been tested over the years. She stated that everyone would be willing to do what they can to maintain and comply with any stipulations.

Mr. Bruce Eisner stated that he has been at the lake for four years. He stated that Mr. Killin does do a good job of maintaining the lake.

Mayor Lichter asked Mr. Eisner if he had a mobile home on the lake.

Mr. Eisner stated that yes he had but he was replacing it with a permanent structure. He was not adding anything new. He stated that when he had started he did not realize that he was breaking by-laws. He has been made aware of the guidelines he has to follow.

Mayor Lichter stated that Mr. Eisner ought to make the request to council that if they are favourably considering the PUD agreement, they would have to amend the PUD agreement from the 14 and 17 to 15 and 16.

Mr. Allison Killen stated that when the project was started it was not with an idea of beating the system. He stated the prior to the project there were many people at the lake and they did not take care of it. He stated that people use to go to the lake to wash their cars. All the broken glass and garbage has been collected out of the woods and the lake. He stated that he would put in a holding tank for the grey water.

Councillor Taylor asked Mr. Killen how the roads that ran off the Bruce Settlement Road were maintained.

Mr. Killen stated that he maintained them through a private contractor. He stated that some of the residents use the cottages as a base during hunting season and he would like to see the time

frame extended to the end of November.

Mr. Fred Hutchinson stated that he is willing to do whatever is necessary to enable him to maintain his residence on the lake.

SPEAKERS IN OPPOSITION

Mr. Charlie Dillman of the Musquodoboit Rivers Association stated they would like the project to have further study. He stated that when the last PH level was taken, in 1988, it was 5.7 and trout will not reproduce at level 4. He stated that the lake had been stocked with trout in 1988, 1989, and 1990.

Warden Lichter asked why would they stock the lake when the PH level was 5.4 as this is an acidic water level and he had stated that trout cannot reproduce at level 4.

Mr. Dillman stated that it had been stocked by the Nova Scotia Fisheries and they would have the answer. He stated he feels that the people at Higgin's Lake should have to follow the same laws as the rest of Halifax County.

Mr. Floyd Day stated that he is not against cottages on the lake but he is against the number of cottages. He stated there is no green belt law and for that reason cottages are built up to the waterline which leaves no room for sewage. He stated that he is in a fish program which releases fish in lakes and the PH level in most lakes is borderline and these lakes are being destroyed because there is no green belt law.

Deputy Mayor Sutherland asked Mr. Day how much of a green belt he was suggesting.

Mr. Day stated that he feels 200 feet would be appropriate.

Mr. Don Grady stated that the water resources of Nova Scotia and the benefits and goods of all of the residents of Halifax County are at stake. He stated that the people at Higgin's Lake are the kind of people who would protect the environment but there is no way to reconcile the residents enjoyment and the future of the lake. If council agrees to the agreement it will have authorized the violation of a set of regulations that were designed to avoid these kinds of problems. This will set a precedent and send a signal to other private land owners.

It was moved by Mayor Lichter, seconded by Councillor Taylor:

"THAT COUNCIL APPROVE THE PUD WITH THE FOLLOWING AMENDMENTS: 1) THAT THE BRUCE EISNER PROPERTY BE RECLASSIFIED IN THE LIST FROM A TRAILER TO A COTTAGE TO ASSURE THE CORRECTNESS OF THE LIST; 2) THAT THE FIGURE OF \$100.00 BE PUT IN THE BLANK IN SECTION 12.3a UNDER THE

RIGHTS AND REMEDIES. FURTHER THE DATE OF USE BE FROM APRIL 1 TO THE END OF NOVEMBER EACH YEAR. FURTHER THAT SECTION 11.1a REFERS TO SECTION 4.4 NOT 4.5 AS INDICATED"

Councillor Taylor stated that in supporting the motion he feels that this public hearing is more than just legalizing an illegal operation, it is about people and families. The landowner across the road and the Department of Transportation have no objections to the development. He stated he does not encourage this type of agreement but, due to the circumstances, he has no objections to seconding the motion.

Mayor Lichter stated it has been a long and difficult four and a half year period. If it was a matter of a single family residential dwelling to go up illegally a simple solution could have been found for a disposal system. This isn't the case and a great deal of time and delay has been created by the fact that messages were being sent back between the Atlantic Health Unit and the Municipality. The question of the road was an issue that had to be addressed by the Department of Transportation. He stated that Mr. Killen has gotten away with having the land utilized without the necessary permitting systems and the necessary regulations. He stated that he was torn between whether he should or should not support the PUD. He stated that Mr. Killen would lose nothing more than a small amount of revenue but the residents would be losing a lot more. He stated that if this PUD was not approved steps would be taken which would result in the residents moving what belongings could be moved and leaving the rest to become unsightly premises with the lake going back to its former unkempt state. He stated that council has an obligation to make a decision and he, as councillor of District 13, ask them to support the application.

MOTION CARRIED

ADJOURNMENT

It was moved by Councillor Holland:

"THAT THE MEETING BE ADJOURNED"

MOTION CARRIED

COMMITTEE OF THE WHOLE

August 24, 1992

PRESENT WERE: Mayor Lichter
Councillor Meade
Councillor Rankin
Councillor Fralick
Councillor Holland
Councillor Ball
Councillor Deveaux
Councillor Bates
Councillor Adams
Councillor Randall
Councillor Bayers
Councillor Taylor
Councillor Peters
Councillor Brill
Councillor Snow
Councillor Giffin
Deputy Mayor Sutherland
Councillor Richards
Councillor McInroy
Councillor Cooper

=====
The meeting was called to order at 6:00 p.m.

APPOINTMENT OF RECORDING SECRETARY

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

"THAT JULIA HORNCastle BE APPOINTED AS RECORDING
SECRETARY"

MOTION CARRIED

OVERVIEW OF THE REVISION TO THE MUNICIPAL PLANNING STRATEGY AND
LAND USE BY-LAW FOR COLE HARBOUR/WESTPHAL

Tony O'Carroll gave an overview. He stated there had been public participation sessions, surveys, public meeting and open house sessions. Since this plan review started Cole Harbour/Westphal plan did undergo significant plan amendment through the normal process such as the extension of a servicing boundary and greater provisions for home businesses.

There are a number of new policies which seek to give greater control over environmental matters. There is new importance attached to policies dealing with storm water management. The plan does include a specific section on setbacks from watercourses and includes a new standard from the Little Salmon River in addition to

the setback standards which were in force from Lake Major and the Lake Major watershed. There are also new policies dealing with waste management.

Greater control is asked for from the provincial authorities to help with long term planning in the community by the long term planning of the road network and the communication between the community through its community council and the provincial department.

A third change is increased support for social type of programs. Support for community schools, looking at the feasibility of daycare within schools. Policies dealing with social housing for a cooperative type of housing initiatives. There is not specific land use implications directly in them they do indicate the direction the community would like to look at.

The major changes are a set of conditions for controlling land use development. There is considerable reworking of many policies dealing with the specific site control, high density residential developments and general commercial developments. A large number of the provisions for development agreement has been expanded to include a lot more stringent requirements to give it a much greater degree of control. This plan has greatly increased the number of commercial opportunities. It has allowed for the expansion of local commercial via development agreement. It has allowed for the expansion of Appendix uses. There is also a return to rights formerly held under previous zoning to residents along highway #7. They now have opportunities to now develop higher residential and commercial developments in this area. There are now opportunities for the commercial community to increase development to help tax base and provide employment locally. The plan has increased the flexibility in many ways. It has provided more commercial opportunities and has provided more sites specific controls through both rezoning and development agreement processes.

Auxiliary dwelling units are permitted in the Urban Residential designation. This was included at the last plan review committee meeting. He stated that it was his understanding that the Cole Harbour Community Council had reviewed that matter and have arrived at a conclusion that is not in support of that particular policy at this time.

QUESTIONS FROM COUNCIL

Councillor Richards asked if there had been any discussion prior to August 6 with the owners of the shopping complex with regards to the PUD that is in place.

Mr. O'Carroll stated that the existing plan and the new plan are the same with respect to the Forest Hills PUD. It requires that council zone the developed lands within the PUD.

Councillor Richards asked if Mr. O'Carroll was suggesting that what is proposed in the new plan is that the plan considers renegotiating the PUD agreement or does in fact does it negotiate the conditions of the PUD agreement

Mr. O'Carroll stated that the plan does not refer to renegotiating the PUD it just says that zoning under the land use by-law be applied on developed properties of the PUD. He stated that it the same policy as before.

Councillor Richards asked if the proposed plan is accepted, what changes are applicable to the owners, specifically North American Property Group.

Mr. O'Carroll stated they are given a C-2 zone and they have all the rights of the C-2 zone plus there are development agreements which apply.

Councillor Richards stated that the zoning requirements are being changed for this property and yet there was little or no discussion with the North American Property Group.

Mr. O'Carroll stated that there had been no discussion with that group until this month. There was discussion with the Nova Scotia Department of Housing.

Councillor Richards asked if it was Mr. O'Carroll's understanding that in discussions with the Nova Scotia Housing Commission that they were responsible to talk to the property owners. He stated there seems to be a break down in communication between the property owners and staff.

Mr. Jim Donovan stated that the direction was given to remove developed properties from the PUD both within the planning strategy, the policy that was approved by PRC as well as several discussions by Plan Review Committee itself. Staff took direction and carried it forward and applied the zoning in conjunction with properties that were developed and there are a number of residential properties where if there was a single dwelling on the lot an R-1 zone was applied, and if there was a townhouse dwelling on the lot then an R-5 zone was applied. The same thing has occurred here and no individual notification was given to the residential property owners nor this property owner. It is a blanket rezoning.

Mayor Lichter informed council that approximately three years ago council has asked either Municipal Affairs or Department of Housing to remove all developed sections from the PUD and allow the county to include under the MPS all areas of Cole Harbour/Westphal and Sackville.

Councillor Cooper asked if the Housing Commission has agreed to

remove the PUD from that particular property.

Mr. O'Carroll stated that they had not given any indication for or against.

Councillor Cooper asked if the agreement required the agreement of both parties to that removal.

Mr. O'Carroll stated that he would assume they were indicating their agreement by not objecting to any of the proposed zoning.

Councillor Cooper asked if the property is owned by different interests can each of the parcels be developed, by right, to 10,000 square feet and into 20,000 square feet by development agreement.

Mr. O'Carroll stated yes they could under the plan if that zoning remained there.

Councillor Cooper asked if it was permitted by development agreement to develop fast food or takeout restaurants in the C-2 area.

Mr. O'Carroll stated that it was.

Councillor Bates stated it was not the intention of Halifax County to take away any of the right anyone might have under the PUD when this MPS is being introduced.

Mr. O'Carroll stated that they might have the ability to develop certain things which the C-2 zone would not allow such as a full service station or a tavern standing on it's own.

Mr. Donovan stated that the PUD is very unclear as to what a permitted commercial use is. What would be permitted on the property would basically be whatever was permitted in the PUD under previous arrangements. There are certain things that would not be permitted as of right within the C-2 zone and would have to be approved by development agreement.

Councillor Bates asked if there was some that Halifax County could sit down with the people to figure out what they want to make sure they are given reasonable consideration when this is changed.

Mayor Lichter stated that this can be done if council would like to refer the issue back to the PRC for further work and consultation.

Councillor McInroy stated that the North American Property Group would lose particular rights that they currently if council proceeded as currently outlined. He stated council should make sure there are not other property owners being impacted by this move as there are other vacant lands.