

MINUTES & REPORTS
OF THE
FIRST YEAR MEETINGS
OF THE
FORTY-FIFTH COUNCIL
OF
HALIFAX COUNTY MUNICIPALITY
JANUARY COUNCIL SESSION
TUESDAY, JANUARY 3 & 17, 1995
&
PUBLIC HEARINGS
JANUARY 9 & 23, 1995
&
COMMITTEE OF THE WHOLE
JANUARY 3 & 23 & 31, 1995

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COUNCIL SESSION

January 3, 1995

PRESENT WERE: Mayor Ball
Councillor Meade
Councillor Rankin
Councillor Fralick
Councillor Mitchell
Councillor Deveaux
Councillor Bates
Councillor Hendsbee
Councillor Levy
Councillor Dooks
Councillor Smiley
Councillor Naugle
Councillor Peters
Councillor Merrigan
Councillor Brill
Councillor Snow
Councillor Hache
Councillor Scratch
Councillor Harvey
Councillor Sutherland
Councillor Turner
Councillor McInroy
Deputy Mayor Cooper

ALSO PRESENT: K. R. Meech, Chief Administrative Officer
Nancy Dempsey Crossman, Municipal Clerk
Fred Crooks, Municipal Solicitor

=====
The meeting was called to order with the Lord's Prayer.

APPOINTMENT OF RECORDING SECRETARY

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

'THAT JULIA HORNCastle BE APPOINTED AS RECORDING
SECRETARY'

MOTION CARRIED

LETTERS AND CORRESPONDENCE

1. The mayor outlined a letter from the Premier of Nova Scotia acknowledging receipt of the facsimile regarding Ultramar.

It was moved by Councillor Mitchell, seconded by Councillor

Naugle:

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

2. The mayor outlined a letter from the Halifax County Business Association with respect to solid waste management suggesting that no particular community be omitted from the possible stakeholders committee.

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

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

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

'THAT THE LETTER AND APPROPRIATE DOCUMENTATION BE REFERRED TO THE STAKEHOLDERS COMMITTEE"

Councillor Scratch said the Economic Development Committee suggested they would take no stand on the issue and they would not initiate debate. Members of the committee could participate outside the committee.

Councillor Harvey said he feels that the second letter from the HCBA that had been circulated should also be sent to the stakeholders committee.

Councillor Hache said that it should be made clear that a resolution was already passed by council stating that Sackville would not be included. She would like a copy of those minutes to be included.

Councillor Bates said that council had taken the stand that Sackville would not be included in those that might take on the new landfill. He said he feels council should defeat the motion and let the HCBA deal with it as they see fit.

Councillor Harvey said he feels that all relevant documents should go to the committee. He said also the relevant minutes of the last Sackville Council meeting where a motion was passed indicating under what circumstances Sackville would consider a proposal.

Mayor Ball said the stakeholders committee was set up to remove the mandate and let them make recommendations to council.

Councillor Brill asked for confirmation with respect to what was

being referred to the stakeholders committee.

Mayor Ball said it is his understanding that the motion incorporates all the appropriate documentation, resolutions, minutes etc including the two letters from the Halifax County Businessmens Association; one signed by Mr. Robertson and one signed by Mr. Prescott.

MOTION CARRIED

12 IN FAVOUR

10 AGAINST

3. Ms. Dempsey Crossman outlined a memorandum from Metropolitan Authority with regards to the dissolution of MAPC and the distribution of the surplus funds.

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

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

4. Ms. Dempsey Crossman outlined a letter from George Armoian requesting that either he or his representative be permitted to address council.

It was moved by Councillor Mitchell, seconded by Deputy Mayor Cooper:

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

Mayor Ball said he would suggest that Anahid Investments Ltd. be notified that the item in question was being sent to the Cole Harbour Community Council and if they wished could address the issue at that time.

5. Ms. Dempsey Crossman outlined a letter from the Department of Justice with regards to the payment of tickets and fines.

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

'THAT THE LETTER BE RECEIVED"

MOTION CARRIED

6. Ms. Dempsey Crossman outlined a letter from the Department of Justice with regards to the RCMP services for 1995/96 fiscal period.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

7. Ms. Dempsey Crossman outlined a letter from FCM advising that the Atlantic Regional Caucus of FCM met on December 2nd and noted items that were discussed.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

8. Ms. Dempsey Crossman outlined a letter from Carol French tendering her resignation as a committee member on the Citizens Committee on Recycling.

It was moved by Councillor Hendsbee, seconded by Councillor Hache:

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

9. Ms. Dempsey Crossman outlined a letter from Claire Hilchie tendering her resignation as a committee member on the Citizens Committee on Recycling.

It was moved by Councillor Mitchell, seconded by Councillor Hache:

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

10. Ms. Dempsey Crossman outlined a letter from the Department of Transportation in response to council's letter of December 8, 1994.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

11. Ms. Dempsey Crossman outlined a letter from the Department of Transportation acknowledging receipt of council's letter of

September 30, 1994.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

12. Ms. Dempsey Crossman outlined a letter from the Department of Transportation in response to council's letter of October 27, 1994.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

13. Ms. Dempsey Crossman outlined a letter from the Department of Transportation in response to council's letter of August 9, 1994.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

14. Ms. Dempsey Crossman outlined a letter from the Department of Transportation in response to council's correspondence of October 19, 1994.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

15. Ms. Dempsey Crossman outlined a letter from the Department of Transportation advising that the Governor in Council has approved of the nomination of Mr. Bruce Evans to the Halifax Dartmouth Port Development Commission.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

16. Ms. Dempsey Crossman outlined a letter from the Department of Transportation in response to council's letter with regards to Holland Road, Fletchers Lake.

It was moved by Councillor Scratch, seconded by Councillor Hache:

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

17. Ms. Dempsey Crossman outlined a letter from the Department of Transportation in response to council's correspondence of October 19, 1994.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

18. Ms. Dempsey Crossman outlined a letter from the Department of Transportation in response to council's letter of October 19, 1994.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

SUPPLEMENTARY LETTERS AND CORRESPONDENCE

1. Ms. Dempsey Crossman outlined a letter from Mr. Keating, President, Access Cable with regards to CRTC's development of new regulations that will govern the opportunities open to broadcasters and communications companies as the information highway becomes a reality.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

It was moved by Councillor Hendsbee, seconded by Councillor Mitchell:

'THAT A LETTER BE WRITTEN TO THE CRTC IN RESPONSE'

MOTION CARRIED

PLANNING ADVISORY COMMITTEE REPORTProposed Systems Plan for Parks and Protected Areas in Nova Scotia

Ms. Dempsey Crossman said it is being recommended that the five candidate sites as proposed by the Province of Nova Scotia be recognized by the Community Stakeholders Committee as exclusion zones for landfill siting.

Mayor Ball said this would be either a motion to recognize those sites and to inform the Stakeholders Committee or to pass the information on to the Committee and let them decide.

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

'THAT THE INFORMATION BE FORWARDED TO THE STAKEHOLDERS COMMITTEE AWAITING THEIR RECOMMENDATION ON THOSE DESIGNATED AREAS"

MOTION CARRIED

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

'THAT ANY CORRESPONDENCE PERTAINING TO THE NEW SOLID WASTE MANAGEMENT WOULD BE AUTOMATICALLY REFERRED TO THE STAKEHOLDERS COMMITTEE"

Councillor Peters asked that copies of any information that is forwarded to the Stakeholders Committee be circulated to council for information purposes only.

MOTION CARRIEDREPORT RE: SEWER SERVICE CAPACITY - COLE HARBOUR/WESTPHAL, EASTERN PASSAGE/COW BAY

Mayor Ball said the intent was that this item be referred to the Cole Harbour/Westphal Community Council.

It was moved by Deputy Mayor Cooper, seconded by Councillor Deveaux:

'THAT THIS ITEM BE REFERRED TO A JOINT SESSION OF THE EASTERN PASSAGE COUNCILLORS AND THE WESTPHAL/COLE HARBOUR COUNCILLORS"

MOTION CARRIED

Mayor Ball said that Anahid Investments be made aware of this referral.

EXECUTIVE COMMITTEE REPORT

Purchase of County Land - Glenarry Gardens, Timberlea

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

'THAT COUNCIL APPROVE THE REQUEST WITH ALL SURVEYING AND LEGAL COSTS BEING THE RESPONSIBILITY OF MRS. CHASE'

MOTION CARRIED

Office Location - Sackville

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

'THAT COUNCIL APPROVE A COMPREHENSIVE ANALYSIS OF THE ACADIA SCHOOL PROPERTY FOR AN EXPANDED BRANCH LIBRARY FOR SACKVILLE AND FOR CONSOLIDATION OF EXISTING HALIFAX COUNTY OFFICES IN SACKVILLE AS WELL AS PROVISION FOR HEADQUARTERS FOR THE LIBRARY ADMINISTRATION. FURTHER SACKVILLE COMMUNITY COUNCIL BE APPROACHED TO PROVIDE LONG TERM FUNDING FOR THE RENOVATION PROJECT'

Councillor Brill said he would like to know what would be the cost of the study as well as the time frame involved.

Mr. Meech said most of this work is to be done in house and he has asked staff to have a report ready by the end of January.

Mayor Ball read a letter that had been received from the Library Board endorsing the proposal for the Acadia School property as a site for a new Sackville branch and expressing the Library's willingness to work with the county to achieve this goal.

Councillor Bates asked if this would have to get approval of the Minister of Municipal Affairs before it could proceed. Mr. Meech said that the county may have to get the province to agree to it before it can proceed.

Mayor Ball said that any capital expenditures since October 27, 1994 is subject to review by Municipal Affairs.

Councillor Peters said she has concerns which she would like to see addressed. She said she recognizes the fact that Sackville needs a new library but the Library Board is constantly returning to council asking for more funding. She said there are two or three library boards that don't even have computers that talk to each other and this proposal will be looking at an expensive computer system. She said the county does not know whether the Department of Education is going to amalgamate the library systems and the education systems. She said council may have to re-examine how the library is funded or have a joint meeting of

levels of government.

Councillor Harvey said he does not feel that the questions raised by Councillor Peters are relevant to this project. He said provincial money for automation has been committed to the county.

Mr. Meech said it is intended to find out what the impact will be on an ongoing operational basis. He said he has communicated to the library administration that one of the things needed to be put together is what additional operational costs will be required on an annual basis. He said this would be part of the analysis.

MOTION CARRIED

Financing Aerotech Industrial Park

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

'THAT AN AMOUNT OF \$84,000 BE COMMITTED FROM THE GENERAL OPERATING FUND BEGINNING WITH THE 1995/96 BUDGET TO REPAY THIS LOAN OVER A TEN (10) YEAR TERM OR UNTIL SUCH TIME AS REVENUES FROM SALES MATERIALIZE TO REDUCE THE OUTSTANDING LOAN"

MOTION CARRIED

Purchase of Lot CS-1F, Coastal Estates, Eastern Passage

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

'THAT COUNCIL APPROVE THE SALE OF LOT CS-1F, CONSISTING OF APPROXIMATELY 6.542 ACRES, LOCATED OFF CALDWELL ROAD IN EASTERN PASSAGE"

MOTION CARRIED

SERVICE STANDARDS COMMITTEE REPORT

Paratransit - Signage

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

'THAT COUNCIL APPROVE AN EXPENDITURE OF \$3,000 FROM THE PARATRANSIT BUDGET FOR BEAVERBANK TRANSIT"

MOTION CARRIED

Service Exchange - Roads

Mayor Ball said what this is requesting is that a letter be written to the Department of Transportation stating that in light of amalgamation they continue having responsibility for the roads.

Councillor Peters said that she would like to make a recommendation that because the county would only be taking over the roads for a twelve month period and the infrastructure that would have to be put in place to handle the takeover would be a sizeable expense.

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

"THAT COUNTY STAFF EITHER MEET WITH OR WRITE A LETTER TO THE DEPARTMENT OF TRANSPORTATION REQUESTING DISCUSSION WITH RESPECT TO THE DEPARTMENT CONTINUING THE MAINTENANCE OF ROADS FOR ONE YEAR IN VIEW OF POTENTIAL AMALGAMATION"

Mr. Meech said that Mr. Max Miller has been contracted to help develop the approach and policy to take over the assumption responsibility. He said the arrangement is that if the province was to agree with what has been put forward here, then the process undertaken by Mr. Miller would halt. He said this can be pursued and brought back to the next council session. He said the criteria that has been established in house is that the service would be contracted out.

Mayor Ball said if the Department of Transportation does it, it may be by their standards and the county may not be able to have an effect on this even though the county may be paying the bill.

Councillor Peters said this would be one of the questions that may have to be answered.

Councillor Rankin said he feels that setting up the infrastructure to handle the maintenance of roads for one year would be counterproductive to the public purse; whether the property taxpayer or the provincial taxpayer. He said council should also make a case that the county will not accept non subdivision roads.

Councillor Harvey said the recommendation came after lengthy discussion with Mr. Martin Delaney and the Service Standards committee did request detailed updated lists of what roads were involved.

Councillor Bates said the intent of the motion was to see if it was more cost effective for the Department of Transportation to look after the roads for the county or for the county to look after them themselves and source it out.

Councillor Fralick said he would like the letter to be sent to the Premier.

Councillor Harvey said all the recommendation tried to do is recognize the unique situation of Halifax County which does not have a roads department such as the other municipal units have. He said it is his understanding that the Province will be handling the winter maintenance aspect until the end of the winter season.

MOTION CARRIED

Councillor Rankin said he feels council should go on records as indicating that it is not interested in accepting responsibility for the roads that are not "J" roads; the subdivision roads. He said he would like the letter to be sent to the Minister of Transportation with copies to all the county MLA's and also indicate that council is available to meet anytime.

Mayor Ball asked for clarity on what Councillor Rankin meant by non "J" class roads. He said the province, at the present time, has no responsibility over private roads.

Councillor Rankin said it should be indicated that the primary responsibility shift would be for the J roads and that the county would like to meet to clarify the issue.

Mayor Ball asked for confirmation that it should indicate only J class roads. Councillor Rankin said it should be indicated that the primary shift would be for J roads.

It was moved by Councillor Rankin, seconded by Council Sutherland:

'THAT THE LETTER BE WRITTEN TO THE MINISTER'

Councillor Hendsbee asked what would happen to the residents that presently have roads that are maintained but are not classed as J roads.

Mayor Ball said the municipality will be accepting responsibility for J class roads and whatever other the province gives the county. He said the remaining roads will become a provincial responsibility or, depending on whether or not it is classed as a private road or private right of way, it may then become the responsibility of the people that live on that road as is the case in some areas today.

Mayor Ball said the Mr. Miller is meeting with DOT staff to clarify what roads the municipality will be taking over and the motion may not be necessary.

Mr. Meech said as soon as clarification is received from DOT reports and information will be provided to council so that, at that time, they will be able to decide whether or not certain roads they are intending to transfer should become the responsibility of the municipality.

MOTION WAS WITHDRAWN

CHILD WELFARE EXPENDITURES BILLED TO HALIFAX COUNTY MUNICIPALITY BY THE PROVINCE OF NOVA SCOTIA

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

'THAT COUNCIL ENDORSE A JOINT APPLICATION TO THE COURTS BY THE CITIES OF HALIFAX AND DARTMOUTH AND HALIFAX COUNTY MUNICIPALITY TO ATTEMPT TO RECOVER FROM THE PROVINCE OF NOVA SCOTIA A PORTION OF THE APPREHENSION COSTS PAID OVER SEVERAL YEARS BY THE COUNTY"

MOTION CARRIED

DATE - MINOR VARIANCE APPEAL

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

'THAT JANUARY 17, AT 7:00 P.M. BE SET AS THE DATE AND TIME FOR MINOR VARIANCE APPEAL APPLICATION MV-11-01-94"

MOTION CARRIED

APPOINTMENTS - BOARD OF DIRECTORS COLE HARBOUR PLACE

Mayor Ball asked the Mr. George McLellan be added to the list of the Board of Directors for Cole Harbour Place.

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

'THAT COUNCIL APPROVE, BY RECORDED RESOLUTION, THE APPOINTMENTS, INCLUDING MR. GEORGE MCLELLAN, TO THE BOARD OF DIRECTORS COLE HARBOUR PLACE FOR THE 1995 TERM:

The appointments are:

John Russell
Don Kyte
Derrick Tower
Roy Teal
Reg Fahie
Dave Dickson

Stephen Mabey
George McLellan

MOTION CARRIED

APPOINTMENTS - SPECIAL CONSTABLE (SPCA)

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

"THAT COUNCIL APPROVE, BY RECORDED RESOLUTION, THE APPOINTMENT OF RICHARD WATTS AND MICHELLE STEVEN AS SPECIAL CONSTABLES (SPCA)"

MOTION CARRIED

NON COUNCIL APPOINTMENTS

Citizens Committee on Recycling

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

"THAT COUNCIL APPROVE, BY RECORDED RESOLUTION, THE APPOINTMENT OF ANNA MCCARRON TO THE CITIZENS COMMITTEE ON RECYCLING"

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

'THAT COUNCIL APPROVE, BY RECORDED RESOLUTION, THE APPOINTMENT OF MR. GREG PEASE TO THE CITIZENS COMMITTEE ON RECYCLING"

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

"THAT NOMINATION CEASE"

MOTION CARRIED

Rehab Centre Board

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

'THAT ARCHIE FADER, BY RECORDED RESOLUTION, BE APPOINTED TO THE REHAB CENTRE BOARD"

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

'THAT STEPHEN MONT, BY RECORDED RESOLUTION, BE APPOINTED TO THE REHAB CENTRE BOARD"

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

'THAT NOMINATION CEASE"

MOTION CARRIED

Heritage Advisory Committee

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

'THAT LAURIE BAKER BE NOMINATED"

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

"THAT MARK STEWART BE NOMINATED"

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

'THAT FRED ALLEN BE NOMINATED"

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

'THAT DELPHIS ROY BE NOMINATED"

It was moved by Councillor Hendsbee, seconded by Councillor Dooks:

'THAT MARGO MARSHALL BE NOMINATED"

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

'THAT NOMINATION CEASE"

A vote was taken for election of members

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

"THAT THE FOLLOWING, BY RECORDED RESOLUTION, BE APPOINTED AS MEMBERS OF THE HERITAGE ADVISORY COMMITTEE"

Mark Stewart
Delphis Roy
Margo Marshall
Fred Allen

MOTION CARRIED

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

'THAT A LETTER BE WRITTEN TO ALFREDA WITHROW AND ELIZABETH CORSER THANKING THEM FOR THEIR SERVICE ON THE COMMITTEE"

MOTION CARRIED

APPOINTMENTS - BOARD OF HEALTH

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

"THAT THE FOLLOWING, BE RECORDED RESOLUTION, BE APPOINTED TO THE BOARD OF HEALTH"

Councillor Fralick
Councillor Giffin
Councillor Merrigan
Councillor Snow
Barry Barnet
Leo Peddle

MOTION CARRIED

PCB INCINERATOR

Councillor Peters said she would request that a letter be written to the Honourable Sheila Copps, Deputy Prime Minister and Minister of the Environment to have her confirm a comment that she made in the press last fall with regards to the fact that there will be no PCB incinerator placed in the community of Goffs and that she and her department have re-evaluated the process of PCB destruction. She requested that a copy of the letter be forwarded to the MP for the area and the fire department in Goff's.

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

'THAT THE LETTER BE WRITTEN AS OUTLINED IN THE PREAMBLE"

MOTION CARRIED

BIG LAKE - COUNCILLOR MITCHELL

It was moved by Councillor Mitchell, seconded by Councillor Fralick;

'THAT THE DEPARTMENT OF TRANSPORTATION INSTALL TWO

SIGNS IN DISTRICT 4 IN THE BLIND BAY AREA ON HIGHWAY ROUTE 333 CHANGING THE NAME TO BIG LAKE. FURTHER THAT A COPY BE FORWARDED TO THE MLA"

MOTION CARRIED

Non County Owned Recreation Facilities - Councillor Hendsbee

Mr. Meech informed council that the report would be brought forward at the next council session.

Regional Meetings Re Amalgamation - Councillor Rankin

Councillor Rankin said the Nova Scotia Business Journal are conducting regional meetings in relation to amalgamation and the Western Committee met and dealt with this item. He said the committee felt that it should be recommended that Halifax County hold regional meetings to provide an analysis on the proposed changes under amalgamation. He said this would provide an opportunity for the public to gain information and pose questions. He said this would provide an opportunity for the councillors to answer questions. He said these meetings to be held as soon as possible after the meetings held by the business journal.

Mayor Ball said follow up meetings consisting of the Mayor, Mr. Meech and representatives of the different regions would be held. He said he would suggest that the municipality attend the business journal meetings and gather information from the entire municipality and then start with Halifax County's immediately thereafter.

G-7 - Councillor Hendsbee

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

"WHEREAS CANADA LED THE WORLD IN IMPOSING ECONOMIC SANCTIONS AGAINST APARTHEID REGIME IN SOUTH AFRICA WHICH EVENTUALLY LED TO THE NEW NON RACIAL DEMOCRATIC CONSTITUTION AND FREE ELECTIONS IN SOUTH AFRICA AND;

WHEREAS CANADA PLAYED A MAJOR ROLE IN THE INTERNATIONAL EFFORTS OF MANY OTHER FREE WORLD NATIONS IN RESTORING AND MONITORING ALL ELECTIONS IN SOUTH AFRICA AND;

WHEREAS IN THE RECENT APRIL, 1994 ELECTION OF NELSON MANDELLA AND HIS OFFICIAL INAUGURATION AS SOUTH AFRICA'S FIRST DEMOCRATICALLY ELECTED BLACK PRESIDENT TO OFFICE IN MAY, 1994 AND;

WHEREAS MR. MANDELLA WAS PRESENT FOR THE G-7 SUMMIT IN

NAPLES IN JULY, 1994 AND;

WHEREAS IT HAS BEEN THE RESPONSIBILITY IN THE PAST FOR THE G-7 COUNTRIES TO HELP AID IN POLITICAL AND ECONOMIC TRANSITIONS OF PREVIOUSLY UNDEMOCRATICALLY SUPPRESSED NATIONS SUCH AS RUSSIA;

BE IT RESOLVED THAT THE GOVERNMENT OF CANADA, PROVINCE OF NOVA SCOTIA INVITE SOUTH AFRICA'S FIRST FREELY ELECTED PRESIDENT, MR. NELSON MANDELLA, TO THE JUNE, 1995 G-7 WORLD ECONOMIC SUMMIT IN HALIFAX, NOVA SCOTIA, CANADA AND BE IT FURTHER RESOLVED THAT MR. MANDELLA BE SENT AN INVITATION TO VISIT THE BLACK COMMUNITIES OF PRESTON IN HALIFAX COUNTY"

Councillor Hendsbee said he would like this to be forwarded to the Prime Minister, Premier, Minister of External Affairs.

MOTION CARRIED

Bell Park School Environmental Problems - Councillor Hendsbee

It was moved by Councillor Hendsbee, seconded by Councillor

'THAT A LETTER BE WRITTEN TO THE HALIFAX COUNTY/BEDFORD DISTRICT SCHOOL BOARD FOR AN EXPLANATION AND A STATUS REPORT ON THE ENVIRONMENTAL AIR QUALITY CONCERNS"

MOTION CARRIED

Alarm Systems - Councillor Rankin

Councillor Rankin said that he would request that staff look into and provide a report with regards to what regulations or the lack thereof are present and the appropriateness of any by-law that may be brought to bear on this matter.

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

'THAT STAFF EXAMINE AND PROVIDE A REPORT"

MOTION CARRIED

ADDITION OF ITEMS TO JANUARY 17, 1995

East Preston Recreation Centre - Councillor Hendsbee
Non County owned Recreation Facilities - Councillor Hendsbee
Presentation by Coverall Home Services - Councillor Dooks
Council agreed to hear a ten (10) minute presentation

IN CAMERA

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

"THAT COUNCIL MOVE IN CAMERA"

MOTION CARRIED

Council agreed to move out of camera.

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

'THAT THE RECOMMENDATION AS OUTLINED IN THE REPORT BE APPROVED"

MOTION CARRIED

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

'THAT COUNCIL MOVE IN CAMERA"

Council agreed to move out of camera.

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

'THAT THE RECOMMENDATION WITH RESPECT TO SALE OF BUILDING #1, HUBBARDS SQUARE BE APPROVED"

MOTION CARRIED

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

'THAT COUNCIL MOVE IN CAMERA"

MOTION CARRIED

Council agreed to move out of camera.

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

'THAT THE PROPOSAL BE APPROVED AND FURTHER THAT THE AUTHORITY BE DELEGATED TO THE CHIEF ADMINISTRATIVE OFFICER AND THE MAYOR TO SELECT FROM THE INVITATION PROPOSALS"

MOTION CARRIED

ADJOURNMENT

It was moved by Councillor Meade:

COUNCIL SESSION

19

JANUARY 3, 1995

"THAT THE MEETING BE ADJOURNED"

MOTION CARRIED

COUNCIL SESSION

January 17, 1995

PRESENT WERE: Deputy Mayor Cooper
Councillor Meade
Councillor Rankin
Councillor Fralick
Councillor Mitchell
Councillor Deveaux
Councillor Bates
Councillor Hendsbee
Councillor Levy
Councillor Dooks
Councillor Smiley
Councillor Reid
Councillor Naugle
Councillor Merrigan
Councillor Brill
Councillor Giffin
Councillor Hache
Councillor Scratch
Councillor Harvey
Councillor Sutherland
Councillor Turner
Councillor McInroy
Deputy Mayor Cooper

ALSO PRESENT: K. R. Meech, Chief Administrative Officer
Nancy Dempsey Crossman, Municipal Clerk
Fred Crooks, Municipal Solicitor

=====
The meeting was called to order at 6:00 p.m. with the Lord's
Prayer. Ms. Dempsey Crossman called roll.

APPOINTMENT OF RECORDING SECRETARY

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

'THAT JULIA HORNCastle BE APPOINTED AS RECORDING
SECRETARY"

MOTION CARRIED

PRESENTATION TO COUNCIL - COVERALL HOME SERVICES

Mr. Donald Parker, Coverall Home Services, made a presentation to
council.

After a question and answer period by members of council Deputy Mayor Cooper said there were two actions council could take: one would be to rescind the motion of council made December 6, 1994 at the next council session and to have the request considered for funding under the grants to organizations.

Councillor Dooks gave Notice of Motion for the February 7, 1995 council session.

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

"THAT COUNCIL REQUEST A REPORT FROM SOCIAL SERVICES AS TO THE VIABILITY AND SUPPORT THAT THIS OPERATION PROVIDES TO THE COUNTY OF HALIFAX IN THE AREA COVERED. FURTHER A STAFF REPORT BE PREPARED WITH REGARDS TO THE POSSIBILITIES OF WHETHER OR NOT THIS COULD QUALIFY UNDER GRANTS TO ORGANIZATIONS AND IF SO IT THEN BE FORWARDED AT BUDGET TIME"

MOTION CARRIED

EAST PRESTON RECREATION CENTRE - COUNCILLOR HENDSBEE

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

'THAT THIS ITEM BE DEFERRED TO A FUTURE COUNCIL MEETING AT WHICH TIME THE RECREATION GROUP OF EAST PRESTON RATEPAYERS ASSOCIATION BE AVAILABLE TO ANSWER QUESTIONS"

MOTION CARRIED

NON COUNTY OWNED RECREATION FACILITIES - COUNCILLOR HENDSBEE

Councillor Hendsbee advised this is with regards to the situation of the North Preston Recreation facility and stated his concerns.

Mr. Meech said he would suggest that the report be referred to the Service Standards Committee so that it can be discussed and then come back to council with a recommendation.

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

"THAT THE REPORT BE REFERRED TO THE SERVICE STANDARDS COMMITTEE"

MOTION CARRIED

LETTERS AND CORRESPONDENCE

1. Ms. Dempsey Crossman outlined a letter from the People Against Casinos in Nova Scotia asking for an opportunity to address a Committee of the Whole Session.

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

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

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

'THAT COUNCIL HEAR A TEN MINUTE PRESENTATION AT THE NEXT COUNCIL SESSION"

MOTION CARRIED

2. Ms. Dempsey Crossman outlined a letter from Bruce Evans expressing his thanks to council for reappointing him as a member to the Halifax Dartmouth Port Development Commission.

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

'THAT THE LETTER BE RECEIVED"

MOTION CARRIED

3. Ms. Dempsey Crossman outlined a letter from the Department of Municipal Affairs in response to council's letter regarding the application for village status for the community of North Preston.

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

"THAT THE LETTER BE RECEIVED"

MOTION CARRIED

4. Ms. Dempsey Crossman outlined a letter from Public Works and Government Services Canada advising that they will be doing a review of all federal properties within the municipality during the 1995 fiscal year.

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

'THAT THE LETTER BE RECEIVED"

MOTION CARRIED

5. Ms. Dempsey Crossman outlined a letter from the Department of the Environment in response to council's correspondence requesting an individual from the department attend a council session to discuss the elimination of Boards of Health.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

Council agreed that the clerk would arrange a date and time for Mr. Horwich to attend a council session to discuss this issue.

6. Ms. Dempsey Crossman outlined a letter from FCM asking council to proclaim February 5 to 11, 1995 as International Development Week.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

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

"THAT COUNCIL DECLARE FEBRUARY 5 TO 11, 1995 AS INTERNATIONAL DEVELOPMENT WEEK"

MOTION CARRIED

7. Ms. Dempsey Crossman outlined a letter from the Department of Municipal Affairs submitting the name of Ms. Joanne M. Hughes as the Province's nominee for appointment to the Cole Harbour Place Board.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

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

'THAT MS. HUGHES BE APPOINTED'

MOTION CARRIED

8. Ms. Dempsey Crossman outlined a letter from the Department of Transportation and Communications in response to council's letter of November 16, 1994.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

9. Ms. Dempsey Crossman outlined a letter from the Minister, Economic Renewal Agency, in response to council's letter regarding the expropriation of Ultramar Refinery.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

10. Ms. Dempsey Crossman outlined a letter from the Department of Housing acknowledging receipt of council's letter concerning additional senior units in Tantallon.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

11. Ms. Dempsey Crossman outlined a letter from the Department of Housing and Consumer Affairs advising that the province does not have adequate resources to continue to develop new senior citizens' housing without federal cost sharing.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

12. Ms. Dempsey Crossman outlined a letter from FCM requesting resolutions for consideration at the March 1995 meeting of FCM.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

13. Ms. Dempsey Crossman outlined a letter from the Department of Natural Resources acknowledging receipt of council's correspondence concerning the designation of Upper Hammonds Plains, Halifax County, as a Land Titles Clarification Area.

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

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

14. Ms. Dempsey Crossman outlined a letter from the North Preston Community Development Association with regards to the paying of waste water treatment charges on the water bill.

It was moved by Councillor Hendsbee, seconded by Councillor Dooks:

'THAT THE LETTER BE RECEIVED'

MOTION CARRIED

Councillor Hendsbee asked if this would have to be referred to Service Standards or the Executive Committee.

Deputy Mayor Cooper said this item had been determined through the Executive Committee and council for the billing of the waste water treatment on the water. He said it would have to go back for a reconsideration but he is not certain on what grounds council would reconsider it.

Mr. Meech said council established, by by-law, the surcharge on the water bill for waste water. It would require a change to that by-law or policy. He said the recovery of costs for waste water is in effect right across the board.

Councillor Hendsbee said he would like to request a letter be written to the North Preston Community Development Association notifying them of the requirements of the by-law and that they will not be able to have the billings adjusted back onto the tax billing as had been past practice.

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

'THAT A LETTER BE WRITTEN TO THE NORTH PRESTON COMMUNITY DEVELOPMENT ASSOCIATION NOTIFYING THEM THAT THE BILLINGS CANNOT BE ADJUSTED BACK ONTO THE TAX BILLING AS HAD BEEN PAST PRACTICE DUE TO THE

REQUIREMENTS OF THE BY-LAW"

MOTION CARRIED

SUPPLEMENTARY LETTERS AND CORRESPONDENCE

1. Ms. Dempsey Crossman outlined a letter from the Minister, Department of Housing and Consumer Affairs, with regards to the amalgamation of the Halifax Housing Authority and the Dartmouth/Halifax County Regional Housing Authority.

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

'THAT THE LETTER BE RECEIVED"

MOTION CARRIED

2. Ms. Dempsey Crossman outlined a letter from the Department of Housing and Consumer Affairs in response to council's correspondence of November 16th regarding a commercial lot in Forest Hills.

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

'THAT THE LETTER BE RECEIVED"

MOTION CARRIED

Deputy Mayor Cooper brought council's attention to the memorandum from the Department of Planning and Development with regards to a request to postpone the public hearing of the Revised Municipal Planning Strategy and Land Use By-law for Planning District 1 & 3 by A.S.C. Residential Properties.

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

'THAT THE PUBLIC HEARING SHOULD BE HELD AS PLANNED"

MOTION CARRIED

PLANNING ADVISORY COMMITTEE REPORT

Staff Report - File No. PA-LAW-12-93 - Amendments to the Municipal Planning Strategy for Lawrencetown to allow for certain tourist related accommodations and certain water-related recreation uses within the Lawrencetown designation by development agreement

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

'THAT A PUBLIC HEARING ON THE PROPOSED AMENDMENTS BE SCHEDULED FOR FEBRUARY 27, 1995, AT 6:00 P.M."

MOTION CARRIED

Initiation of Review Programs for Municipal Planning Strategies and Land Use By-law for Planning Districts 15, 18, 19 and Planning Districts 14 and 17

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

'THAT COUNCIL ADOPT A RESOLUTION TO FORMALLY INITIATE THE PLAN REVIEW PROGRAMS FOR PLANNING DISTRICTS 15, 18, 19 AND PLANNING DISTRICTS 14 AND 17"

MOTION CARRIED

EXECUTIVE COMMITTEE REPORT

Keddys Airport Hotel

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

'THAT COUNCIL APPROVE THE WRITE OFF OF TAXES AND INTEREST IN THE AMOUNT OF \$210,662.13"

MOTION CARRIED

Fire Fighting Operating Grants

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

'THAT THE FIRE FIGHTING OPERATING GRANTS REMAIN THE SAME FOR THE 1995/96 FISCAL YEAR AS THEY WERE FOR THE 1994/95 FISCAL YEAR"

Councillor Merrigan said in the last fiscal year those funds could be used in the community, by the fire department, for recreation. It was up to the individual councillor.

Councillor Reid said that at the Executive Committee it was said that the dollars that were available to the individual districts and for their fire departments would remain the same. He said he would interpret that to mean that if Councillor Merrigan wanted to use his fire fighting grant for recreation he would still be allowed to do it this year.

Councillor Merrigan said that had been the motion the previous year and he wanted to clarify it.

Councillor Reid said this part of it was not dealt with at the

Executive Committee. Staff was making a recommendation in relation to fire fighting grants only and the Executive Committee asked that the recommendation be turned down and the grants remain the same as it was last year.

Deputy Mayor Cooper said that the recommendation was that the fire department grants that were available to the districts be available again this year. He said that is as far as the motion went.

MOTION CARRIED

Transit Service Boundary - District #19

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

'THAT PROPERTIES ON FOXGLOVE STREET IN UPPER SACKVILLE BE EXEMPTED FROM THE TRANSIT AREA RATE FOR THE 1995 TAXATION YEAR. FURTHER CONSISTENT WITH PROPERTY OWNERS IN OTHER AREAS; PROPERTY OWNERS ON FOXGLOVE STREET DO NOT QUALIFY FOR REFUNDS OF TRANSIT TAXES PREVIOUSLY BILLED"

Councillor Hache said that she would like to have the motion amended so that the words "property owners on Foxglove Street do not qualify for refunds of transit taxes previously billed" be deleted.

Deputy Mayor Cooper said that that amendment would change the recommendation.

Councillor Hache said she feels the error has been the county's error. Metropolitan Authority has stated in the report that they are well outside the boundaries and yet the county has charged them year after year. She said she therefore feels that some sort of a credit should be in line.

Councillor Brill said that when this item was discussed at the Executive Committee it was clarified that there are no rebates.

Mr. Meech said this was correct. He said there have been, in the past, areas that are beyond what people might consider an acceptable boundary that were paying the rate. He said there is nothing illegal about charging them it is just a matter of policy and practice as to what that boundary is. He said there was a change a couple of years ago where some areas that had been paying before were removed from the roll because the county started to use the boundary of the 2500 feet.

MOTION CARRIED

MINOR VARIANCE

Mr. Paul Sampson made the staff presentation. He said there is an appeal of the development officer's decision of refusal to grant a minor variance to permit the location of an existing storage shed. The shed is located a distance of 2.3 feet from the left side property line. The required setback, under the land use by-law for Planning District 1 and 3, is 8 feet.

A complaint was received on October 18, 1994 regarding location of the storage shed. The municipal by-law enforcement officer notified the property owners, Donald and Margaret Blois, of the complaint and an application for minor variance was made by the owners on November 24, 1994. The development officer then notified the property owners, by letter, that their application had been refused and subsequently an appeal of this decision was filed with the municipal clerk's department. He proceeded to show slides, illustrating the situation, to council.

Upon reviewing the application, the development officer had no choice but to refuse the minor variance request. Section 86 of the Planning Act states that no variance shall be granted where the difficulty experienced results from the intentional disregard for the requirements of the land use by-law. The building was constructed without the required building and development permits even though permits were obtained for an addition to the dwelling. He said there does not appear to be any site specific reason as to why the eight foot setback could not have been maintained. As the decision of the development officer has been appealed it is now up to council to make a final decision on this matter.

QUESTIONS FROM COUNCIL

Councillor Giffin referenced the staff report which said that the minor variance was rejected as a result of an intentional disregard for the requirements of the land use by-law. He asked if the applicant was aware that he should have had a building permit.

Mr. Sampson said the building was placed there without the required permits at the same time an addition was made to the house and they did obtain permits for that addition. He said in terms of the applicants awareness for the requirement for a permit for the shed itself he cannot answer that question.

Councillor Sutherland asked if this was an existing building or a newer unit.

Mr. Sampson said he has been told by the applicants that construction began on it in 1991.

Councillor Meade said Mr. Sampson had mentioned 2.3 feet variance. He said that is just one corner. He asked what the

distance was for the opposite corner.

Mr. Sampson said the opposite corner is approximately 10 feet.

Councillor Merrigan confirmed that the building construction had started in 1991. He asked if a building permit is required to make changes or minor repairs.

Mr. Sampson said if construction is not complete within a year of obtaining a permit then that permit must be renewed. He said the building is complete at the moment although there is no exterior finish. He said it has been indicated that it was built in 1991.

Councillor Merrigan said that if he built a storage shed and, at that time, did not put any siding on it and three or four years later decided to put siding on it would he need a building permit.

Mr. Sampson said a permit would not be required for the siding.

Councillor Merrigan said it appears staff is saying they should have had a building permit but he is asking if staff is sure they should have had a building permit.

Mr. Sampson said that in 1991 when it was built they should have had a permit and they did not.

Councillor Merrigan asked if someone built a building without a building permit how far can council go back for purposes of a prosecution.

Mr. Crooks said the violation is on going. It is an on going requirement to comply with the provisions of the land use by-law and, in this case, to the extent that there is a violation and that violation is a current one. The required setbacks are not met. If there is a violation and it is continuing it continues from day to day until it is rectified. He said you don't get grandfathered or protected after a year or two if you are in violation of the land use by-law.

Councillor Bates said Mr. Sampson had indicated that there was an intentional violation. Mr. Sampson said that since municipal permits were not applied for the development officer can only assume that it was intentional disregard of the requirements.

Councillor Bates asked what was the distance this was away from any other building. Mr. Sampson confirmed that this was approximately 60 feet away from the nearest dwelling. He said the Blois are the owners of the adjacent property.

Councillor Fralick asked if there have been complaints about this. Mr. Sampson said there was originally one complaint made.

He said there was a boundary survey of a property done and it indicted that the distance is 2.3 feet.

Councillor Mitchell asked if there was a requirement for a permit for all sheds or ones of a certain size. Mr. Sampson said anything over 215 square feet requires a permit.

Councillor Merrigan asked when the plan had come into effect for district 1. Mr. Sampson said it came into effect in 1988.

SPEAKERS IN FAVOUR

Mr. Don Blois spoke in favour of the minor variance. He said he and his wife are the owners of the property in which the minor variance request is being asked with regards to the shed. In 1991 they applied for a permit to put an addition on the house to do renovations. At that time they had an existing shed on the side of the house and because of the deteriorated cells they had to rebuild it. In the process of building the house they built the shed at the same time. They chose the side of the house that they did because it is away from all the neighbours except the Shovellers which are down over the hill. He said where there is a 35 to 45 foot patch of mature trees which they felt would keep their backyard out of sight of the neighbours they proceed to build the shed where is presently is located. He said they did not have a survey done of their property but they did have a location certificate done in order to get a mortgage on the house in 1980 when they purchased the property. He said they used the location of the dwelling that was on the location certificate. They drew on the extension along with a set of plans and they submitted this to council for the original approval for the dwelling improvements. He said they also measured from the Southern edge - they own two 75 foot properties they measured across. He said they assumed in the measurement they were within ten feet from the end of the boundary. He said he measured with a siting compass and felt they had the required variance. He said he was aware of the eight foot requirement. He said they did not know anything about this until they received notification from the by-law enforcement officer. He said they had to decline it because he had not received a building permit. He said he has since obtained a building permit. He said they were hoping that the complainants would have been protected by the shed because of the trees. He said there is a small portion of the shed visible which is part of a path that has been open for approximately thirty five years.

Councillor Brill asked Mr. Blois to confirm that the shed was built in 1991. Mr. Blois confirmed this saying that it was at the time the extension was done on the house.

Councillor Brill asked Mr. Blois to confirm that this was brought to his attention in 1994. Mr. Blois confirmed this.

Councillor Mitchell asked how much problem would it be for Mr. Blois to move the building. Mr. Blois said they could move it and if it is voted down they will do this.

SPEAKERS IN OPPOSITION

Mr. Bill Mahody, representing Mrs. Joan Shoveller, addressed council. He said the Shovellers position in this is that the variance is not minor in nature. He said what this is is a reduction of a sideyard setback requirement from eight feet to 2.3 feet. That is approximately a 75% reduction in the sideyard requirement. The Shovellers feel that this is not in the nature of what a minor variance is. That drastic reduction in a sideyard setback shouldn't be considered as a minor variance pursuant to the planning act. He said they feel there is no malice involved with the intentional disregard for the by-laws but an awareness which the applicant had in this case. In the summer of 1991 the applicant was doing construction both to his home and to this shed and a building permit was received for the home construction but no building permit was received or applied for for the shed. He said there is an awareness of the process and there was a choice not to apply for the permit. He said that is the intent they are talking about they are not contributing any ill effect to the applicant. There is the awareness and the intentional choice the permit won't be applied for and that is grounds for not granting the variance in this case. He said the facts of the case is the applicant has just over thirty thousand square feet of property. There is no question in the staff report that this out building could have been located on a section of the property well within the by-law requirements and that there are no physical characteristics of the property requiring the shed to be in this particular position. There is no objective reasons why, in this case, a variance should be granted based on the characteristics. The only reason this variance would be granted would be because council would not wish the applicant to move the shed at this stage. From the Shovellers perspective, they would urge council to look at this situation in light that if the shed were not there at the present time would such a minor variance be granted. He said the Shovellers had the property surveyed in 1993 and that was the first indication of how close the shed was to her actual property line and when she arrived at the county offices to ask about the location of the shed and to review the building permit for her own information she was told there wasn't any building permit. He said he does not feel that it is up to the Shovellers in this position to have to show why it has taken three years for the building inspector to realize this. He said it was just the matter of someone being unaware of it and the Shovellers wished to bring it to council's attention now.

Councillor Merrigan said the shed has been there for three years and the Shovellers only became aware of where the property line

exists. He asked if it has been a problem.

Mr. Mahody said it is a problem that they feel is continuing and if maintenance to the building is required it will necessitate having to go on the Shovellers property. He said even to paint the shed a ladder will have to be set up on the Shovellers property. If it were the property setback maintenance would not be a problem. Any type of use that will be made of the shed as a utility shed will involve some use of the Shovellers property in the immediate area surrounding the shed. The reason the Shovellers oppose this application is simply for the same reasons why there are sideyard requirements such as safety requirements. Damage to the Shoveller property is going to be much more immediate that it would have been if the proper sideyard requirements were met.

Councillor Harvey asked if the Shovellers were in residence in 1991 when the original renovation was taking place.

Mr. Mahody said the Shovellers used the property as a summer type of cottage property which is what the applicants property was before the permits in 1991.

Councillor Harvey confirmed that the Shovellers owned the property in 1991. Mr. Mahody said they owned the property since 1960.

Councillor Harvey confirmed that it was a seasonal property. Mr. Mahody confirmed this.

Councillor Harvey said it took four years for the Shovellers to lodge a complaint and four years for the neighbours to apply for a proper permit.

Councillor Meade asked if the Shovellers can see this property from their property.

Mr. Mahody said he has been told that they do. That they see it when they stand at the front of their cottage and look up towards their neighbours property they see the shed.

Councillor Meade asked if it was an eyesore. Mr. Mahody said it is more of an eyesore than if it were eight feet back from the property line.

Councillor Meade said it is already sixty feet away and asked if they Shovellers are saying it would be less of an eyesore if it were 68 feet. Mr. Mahody said that what they are saying is that the proper setback requirement being the eight feet and if it were back there and if it had to be seen then you have to live within that. But given the circumstances here, there is a two foot separation now where there should have been eight feet and