

11. Report - Committee on Works:

- (a) Acceptance - MacLeod Drive and Campbell Drive.
- (b) Encroaching Entrance Portico and Canopy -
Cameo Restaurant/Lounge - 5511 Spring Garden Road.
- (c) Encroachment - Telephone Booth - Maritime Tel. & Tel. Co. Ltd.
Corner Buckingham and Barrington Streets.
- (d) 1. Tenders - Demolition of Building - 5418 Uniacke Street
- (d) 2. Tenders - Demolition of Buildings -
2317-2319 and 2321-2323 Gottingen Street.
- (e) Tender - Retaining Wall - Howe Avenue.
- (f) City Clean-up and Beautification Policy.
- (g) Tenders - Painting Police Court and Market Building.
- (h) Closing Gerrish Street - Uniacke Square Housing Project -
Stage No.2 (Date for Hearing).

12. Report - Safety Committee: NONE.

Report - Public Health and Welfare Committee:

- (a) Public Health Bursaries.
- (b) General Policy - Bursary Supplement.
- (c) Bursary Supplement - Miss Barbara Robertson, City Nutritionist.
- (d) Paediatric Clinics.
- (e) Social Assistance Policy Manual.

14. Report- Committee of the Whole Council, Boards and Commissions: NONE.

- (a) Request for Extension of Deadline for Assistance to Patients -
Halifax Mental Hospital.

15. Report - Town Planning Board:

- (a) Property 2606-28 Robie Street:
 - 1. Alteration to a Subdivision.
 - 2. Extension to Service Station.
- (b) Extension to a Non-conforming Building and Modification of
Side Yard Requirements - 3620 Acadia Street.
- (c) Use of Block Bounded by Gottingen, Cogswell, Creighton and
Falkland Streets.

16. Motions:

- (a) Motion - Alderman Trainor Re: Amendment to Ordinance #111,
"EARLY CLOSING" - First Reading.

17. Miscellaneous Business:

- (a) Accounts Over \$1000.
- (b) Lord's Day Permit.
- (c) Appointments to Forum Commission.
- (d) Appointments to Advisory Committee Re: Beautification of City.
- (e) Duration of Encroachment - Sobey Stores Limited on Queen Street.
- (f) Report - Board of Directors Centennial Aquarium.
- (g) Report - Internal Audit Department.
- (h) Administrative Order No.6 - Payment of Grants.

18. QUESTIONS.

19. Notices of Motion.

20. Added Items.

CITY COUNCIL
MINUTES

Council,
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Council Chamber,
City Hall,
Halifax, N. S.,
June 30, 1966,
8:00 p.m.

APPOINTMENTS TO INDUSTRIAL DEVELOPMENT COMMISSION

Further deferred.
A meeting of the City Council was held on the above date.

After the meeting was called to order, the members of Council attending, led by the City Clerk, joined in reciting the Lord's Prayer.

There were present: His Worship the Mayor, Chairman; Aldermen Abbott, Black, Moir, Matheson, Ivany, A. M. Butler, Doyle, Meagher, LeBlanc, Trainor, Connolly, Richard, O'Brien and H. W. Butler.

Also present were Messrs. P. F. C. Byars, D. F. Murphy, R. H. Stoddard, W. J. Clancey, R. B. Grant, G. F. West, J. F. Thomson, M. M. Latham, W. Cleary and Dr. E. M. Fogo.

MINUTES

Minutes of the meeting held on June 16, 1966, were approved on motion of Alderman Abbott, seconded by Alderman LeBlanc.

APPROVAL OF ORDER OF BUSINESS - ADDITIONS OR DELETIONS

MOVED by Alderman Trainor, seconded by Alderman LeBlanc that the following item be added to the Order of Business as item (20) a - Property Settlement - #5412 Gerrish Street. Motion passed.

MOVED by Alderman H. W. Butler, seconded by Alderman Moir that the Order of Business as amended be approved. Motion passed.

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MOTION OF RESCISSION

Motion of Alderman LeBlanc to Rescind Resolution of Council dated
March 1, 1966, relating to the proposed construction of a
APPOINTMENTS TO INDUSTRIAL DEVELOPMENT COMMISSION

MOVED Further deferred.

that the resolution approved by Council at a meeting held on
March 1, 1966, relating to the proposed construction of a
APPLICATIONS FOR LORD'S DAY PERMITS OF MAY 26, 1966

MOVED by Alderman Trainor, seconded by Alderman
North West Ave Causeway, be rescinded.

LeBlanc that permits to operate stores on the Lord's Day
Alderman LeBlanc stated that on previous occasions
he granted to the undernamed applicants a report having
given reasons why he opposed the causeway. He stated the following
reasons against:
of the individual premises:

1. The causeway would defer the construction of the
desperately Mr. Hugo Gutfreund 5465 Inglis Street
2. Mr. Cecil Billard 3445 Windsor Street
- location would be acute to 1069 Bland Street
- relieve it Mr. Joseph Salah 2622 Agricola Street
3. Mrs. J. W. Ross 2160 Windsor Street
- useless in Mr. Samir Toulany 556 Tower Road
- unsanitary Mr. Hamid B. Greige 1826 Robie Street
- proving Mr. Becher Habebe 2705 May Street

Motion passed.
It would render the public baths useless and would
present considerable danger to the small children who are using
the beach at the present time.

4. The causeway would not serve the purpose for which it
was intended.

5. It would not take off the traffic which, it is hoped,
would use the Rotary.

7. It would render the side streets off Quinspool Road
practically useless and people living thereon would have to find

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MOTION OF RESCISSION

Motion of Alderman LeBlanc to Rescind Resolution of Council dated
March 17, 1966 Re: Arm Causeway

MOVED by Alderman LeBlanc, seconded by Alderman Meagher
that the resolution approved by Council at a meeting held on
March 17, 1966, relating to the proposed construction of the
North West Arm Causeway, be rescinded.

Alderman LeBlanc stated that on previous occasions he
gave reasons why he opposed the causeway. He listed the following
reasons against:

1. The causeway would defer the construction of the
desperately needed North West Arm Bridge for many years.

2. The construction of the causeway in the proposed
location would compound the acute traffic problem rather than
relieve it.

3. It would render the body of water north of the causeway
useless in a very short time and would become a stagnant and
unsanitary area which would eventually be filled in, thus de-
priving many residents and visitors of a most beautiful area.

4. It would also render the public baths useless and would
present considerable danger to the small children who are using
the beach at the present time.

5. The causeway would not serve the purpose for which it
was intended.

6. It would not take off the traffic which, it is hoped,
would use the Rotary.

7. It would render the side streets off Quinpool Road
practically useless and people living thereon would have to find

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other ways to proceed in an easterly direction toward the centre of the City.

8. The merging of three lanes of traffic into two lanes at the proposed intersection of Quinpool Road and the causeway would not alleviate the traffic, but rather paralyze it.

He contended that construction of the proposed causeway would desecrate one of the most beautiful, scenic attractions of any City in Canada. He felt that Council should act immediately to disassociate itself from the grave danger of becoming a partner of a project which it would regret in the future. He said he was certain that the Provincial Government does not wish to impose the causeway on the City and the people of the area involved if Council does not think it is good for Halifax and the entire Metropolitan Area.

He pointed out that the Motion to Rescind is not made as blind opposition to progress, but opposition to blind progress. He urged Council to act in a firm and positive manner and not to defer this matter as Council could always consider any new proposal that might come forward from the Bridge Commission or other bodies.

The City Clerk then read the following report:

OFFICE OF THE MAYOR
City Hall, Halifax, N. S.

June 29, 1966.

To the Members of City Council.

Dear Aldermen:

The Special Council Committee named to meet with the Minister of Highways to discuss the North West Arm causeway met with the Minister on Monday, June 27, 1966. Present were the

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Honourable Stephen T. Pyke, Minister of Highways, Mr. James Wickwire, Deputy Minister, Mayor Charles A. Vaughan, Alderman T. H. Trainor, Alderman N. P. Meagher and Alderman G. R. Matheson.

The model of the proposed causeway was on display and this fact facilitated the discussions. It was pointed out to us that the proposal that had been accepted by the City Council was the result of a joint Provincial-City staff report following a study by the consultants, Fenco Engineering Co. Ltd.

Mr. Wickwire stated that the Department of Highways' staff had opposed the multi-level grade separation at the Rotary for several reasons - the acquisition of a number of high value properties, the lack of relief to roads leading directly into the Rotary and the effect that a concrete structure of the type recommended would have on the aesthetics of this section of the City.

Mr. Pyke declared that the Province of Nova Scotia was not forcing this solution to the Rotary traffic problem on the City of Halifax, but he, along with Mr. Wickwire, stated the thought that if this solution was not acceptable to the City then he would expect the City to advance another solution.

Your Committee stated their opposition to the plan and repeated the suggestion made many times in the last eight years that the long-term solution would be to proceed with the construction of the Robie Street bridge. We also supported the principal points in the petition recently tabled in the City Council as arguments against the construction at this time of the Quinpool Road causeway.

Mr. Wickwire replied that at least three consultants in recent years had reported that an Arm crossing by a bridge would not provide any significant relief to the Rotary and that even if a bridge across the Arm was to be constructed within the next few years some measure of relief would have to be provided at the Rotary.

Your Committee asked if it would not be possible to provide some relief to the existing Rotary in the following manner:

1. Provide a right-hand turn lane from the Herring Cove Road to Quinpool Road.
2. Provide a right-hand turn into the bus area and thence into the St. Margaret's Bay Road so that Dutch Village traffic could remain outside the present Rotary.
3. Increase the width of travelled way on the Rotary by reducing the circumference of the traffic circle.
4. Widen the road from the Rotary to the junction of the Herring Cove and Purcell's Cove Roads.

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5. Instal traffic lights at that junction in order to provide a sharing of time for the various traffic streams and reduce the congestion at this point, which now backs up into the Rotary proper.

Mr. Pyke stated that he would ask the Provincial traffic planners to examine these proposals and report to him on their findings.

Mr. Wickwire advanced the view that these changes would not provide the measure of relief deemed necessary. We countered with the suggestion that if these proposals were adopted, the Rotary, which in any event is to continue in existence as part of the traffic pattern of the area, would be improved and that these changes be made before commencing construction on the two million dollar causeway scheme. Mr. Wickwire repeated a statement made earlier in the meeting, that it was in the best interests of the City of Halifax to accept the proposal in view of the fact that in the event of annexation a greater portion of the cost would have to be borne by the City.

Mr. Pyke at the close of the meeting stated that the Province of Nova Scotia had no intention of forcing the causeway on the City of Halifax but he believed that the City would have to advance other possible solutions if the Council rejected the causeway proposal.

We pointed out that the Pratley study of the two harbour bridges and a Robie Street bridge was expected in a few days and that this report might have a bearing on any Council action.

The meeting ended at 12.30 p.m.

Following the meeting I telephoned Mr. Pratley's office in Montreal and learned that the up-dated report on the financial implications of the two harbour bridges and the Robie Street Arm crossing had gone to the printers and that it was expected that the report would be mailed to the Halifax-Dartmouth Bridge Commission on Tuesday, June 28, 1966. The Bridge Commission will have to consider the report and advise the Government of any proposals arising out of the Pratley report.

Under the present circumstances I recommend that the Council withhold any action on a decision with respect to the Quinpool Road causeway until we have a reply from the Minister of Highways on the suggested modifications to the Rotary and until we get a report from the Bridge Commission with respect to the Robie Street Arm bridge.

It may well be that the Council will, after reviewing all the facts, be forced, in the interests of the City of Halifax, to give approval to the Quinpool Road causeway. Before this irrevocable step is taken, however, we must satisfy ourselves that

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we have explored every possible alternative.

The maintenance of the beauty and the preservation of the charm of one of our most cherished scenic assets are matters of concern to all Haligonians. A delay of a few weeks at this time will not seriously affect the traffic planning in this metropolitan community. I recommend that a decision on this matter be deferred to the next meeting of the City Council.

Yours very truly,

(Original Signed)

CHARLES A. VAUGHAN
M A Y O R

CAV:EHJ

Alderman Matheson congratulated His Worship the Mayor on the preparation of his report but felt that one point should be included and that point related to the matter of the Minister of Highways requesting the City to defer decision until the Pratley Report is received and considered.

In reply to a question from Alderman Black, His Worship the Mayor pointed out that the right-hand turn into the bus area and thence into the St. Margaret's Bay Road would start from Dutch Village Road rather than from the Rotary lane itself as additional space could be taken from the bus area.

Alderman Black stated that he hoped the mover and seconder of the Motion to Rescind would go along with the proposal as submitted from His Worship the Mayor to defer until the next regular meeting of Council. He stated that he had grave difficulties about this matter. The Alderman pointed out that when the Rotary was built, 99.9% of the citizens of Armdale said it would not work and it didn't, and the same thing might be said with respect to the proposed construction of the causeway.

His Worship the Mayor stated that he had called Dr. A. M. MacKay, Chairman of the Bridge Commission and asked

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him if he had received the Pratley Report to which he replied in the negative, but he promised His Worship the Mayor a meeting of the Bridge Commission as soon as it came to hand which would probably be next week.

Alderman O'Brien stated he was glad to see that the Special Committee put forward proposals about modifications at the Rotary. The first two of them are in keeping with a motion which passed Council on May 7, 1965 that priorities be established as follows:-

1. Right turn improvements at the Rotary;
2. Construction of the North West Arm bridge with connecting roads to Spryfield.

He suggested that the Province should consider a device for traffic proceeding north on Quinpool Road and destined for the Herring Cove Road which might be depressed underneath the artery coming from the St. Margaret's Bay Road in order to separate from the Rotary the Quinpool Road-Herring Cove traffic.

He contended that if some of these modifications can be worked out and the Arm Bridge under construction as soon as possible, the City should drop the idea of the causeway entirely. He suggested that the Motion to Rescind could be passed and eliminated from the record as some Members of Council are not in favour of the causeway. If, after further facts are available, somebody then wishes to give Notice of Motion to propose the causeway, it would be new action by the Council.

Alderman Matheson stated he was going to support the Motion to Rescind. He pointed out that the Special Committee gave an undertaking to the Minister of Highways that the Council

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would be requested to defer action at this time. As this is a Partnership arrangement, he felt that Council owed this much to the Province in this respect. He did not think there is a chance that the causeway would be supported by Council and that a majority would vote against it.

At this time, it was MOVED by Alderman Meagher, seconded by Alderman Connolly that those persons appearing in opposition to or in favour of the causeway be now heard. Motion passed.

Alderman Connolly stated he was going to vote against the causeway and that Council should take positive action at this meeting.

Mr. Thomas MacQuarrie appeared on behalf of himself and 841 petitioners protesting the construction of the causeway for the reasons set out in the petition. He said the real fear of the petitioners is that the causeway will not solve the existing traffic problem and also that a causeway of this nature will add to and compound the existing traffic problem. He suggested that the diversion of \$2,000,000.00 into the proposed causeway will put an end to any Arm bridge or tunnel. He suggested that the causeway would be a temporary and partial solution but what is needed is a long-term realistic practical solution which will solve in whole or at least a substantial part of the existing traffic problem. He also referred to the effect the causeway would have on the scenic beauty of the Arm.

Mr. Ernest Edwards appeared on behalf of the Quinpool Road Merchants Association against the proposed causeway, and endorsed the remarks of Mr. MacQuarrie. He suggested that any

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traffic device that would take some of the traffic off Oxford Street and divert it to the south end would be a great help in relieving the traffic congestion in the area. The side streets would also be relieved if the south end traffic would cross the Arm at the south end rather than coming up to Quinpool Road and out to the Rotary. He pointed out that the present traffic is hazardous and urged that the Motion to Rescind be approved either at this meeting or the next.

No person appeared in favour of the proposed causeway.

MOVED by Alderman Black, seconded by Alderman Matheson that the matter be deferred until the next regular meeting of Council.

Alderman Matheson stated that Council wants the Minister of Highways to make the improvements to the rotary building and on that basis, he felt that Council should defer to defer decision until the next meeting.

Alderman Matheson again stated that this is a Partnership arrangement and the Special Committee had spent two and one-half hours discussing the matter with the Minister of Highways and all he asked was that Council defer action until the next regular meeting of Council.

He said that the Minister gave the Committee his personal commitment that the causeway would not be built if the Council rejected it. He pointed out that the City might have problems on such matters as Arm crossings if Council refuses to co-operate with the Province on the matter of deferment for a short time. He suggested that Council should accede to the Minister's request.

Alderman A. M. Butler advised he was going to vote for the Motion to Rescind but that he was persuaded, in view of the report from the Special Committee and the statement of Mr. Edwards that he had no objection to defer until the next regular meeting of Council, to support the motion to defer.

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Alderman Richard speaking to the motion to defer stated that he felt as he had several months ago that the causeway was possibly a poor solution to a problem. He said he had heard that the causeway would defer for a long term the building of the Arm bridge and, if this is the case, he would be prepared to vote for the Motion to Rescind. He suggested that at the next regular meeting of Council, there might be a report submitted which would give the Members an answer to the problem. He agreed with Mr. MacQuarrie that the causeway would defer the building of the Arm bridge and on that basis, he felt that Council could afford to defer decision until the next meeting.

Alderman Matheson stated that Council wants the Minister of Highways to make the improvements to the Rotary.

Alderman Ivany asked how many more reports does Council want and what other report to be submitted to Council at a later meeting will change the minds of the Members. He suggested that Council should take its stand on the matter either for or against the causeway as he contended that Council has had enough reports submitted to date.

Alderman O'Brien asked if the design work on the causeway is continuing at the moment.

Alderman Matheson replied that he did not think that Council ever agreed that it would build a causeway but only approved it in principle and asked for engineering drawings which would go back to Council and, at that time, the Members would be concerned over such matters as rubble, pollution, etc. He pointed out that the Minister of Highways feels embarrassed

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by Council withdrawing at this point and he having to go to the engineers and tell them to stop working on the drawings. The Pratley Report might very well have a positive recommendation concerning the economic feasibility of an Arm bridge and, if this is the case, it will make a great deal of difference in everybody's thinking. The Premier asked the Bridge Commission to retain Mr. Pratley to prepare and submit his report. If Mr. Pratley comes in with a favourable report, it seems to be inconceivable that the Province of Nova Scotia can reject it and, therefore, the Bridge Commission will go ahead with the Arm bridge. He said there are other matters to be considered such as the effect of a Prospect connector and the relief it has given to the Rotary but the other suggestions made by the Special Committee to the Minister might be carried out.

In reply to a question from Alderman O'Brien, Alderman Matheson stated that the Province is paying 80% of the cost of the design work.

Motion to defer was put and resulted in a tie vote, seven for the same and seven against, as follows:

For: Aldermen Black, Abbott, Matheson, A. M. Butler, Trainor, Doyle and Richard.

Against: Aldermen Moir, Ivany, Meagher, LeBlanc, Connolly, O'Brien and H. W. Butler.

His Worship the Mayor voted in favour of the motion and declared it passed.

PUBLIC HEARINGS AND HEARINGS

Public Hearing Re: Amendment to Part VI Zoning By-law - R-3 Uses

A public hearing was held at this time into the matter of an amendment to Part VI of the Zoning By-law pertaining to

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permitted uses in an R-3 Zone.

The City Clerk advised that the matter had been advertised and that no written objections had been received.

No persons appeared for or against the proposed amendment.

MOVED by Alderman Black, seconded by Alderman Richard that the amendment, as submitted, be approved. Motion passed.

A formal By-law to give effect to the foregoing motion of Council was submitted.

MOVED by Alderman Black, seconded by Alderman Richard that the By-law, as submitted, be approved. Motion passed.

Hearing Re: Refusal Building Inspector to Issue Occupancy Permit at #1333 South Park Street

At this time, a hearing was scheduled into the matter of the refusal of the Building Inspector to issue an occupancy permit for certain uses at "Park Victoria", #1333 South Park Street.

The following report was submitted from the City Manager: Park Victoria - 1333 South Park Street

The following is a report from the Building Inspector respecting the appeal from his refusal to issue occupancy permits for the above captioned property.

City Council at a meeting held on May 12, 1966 fixed Thursday, June 30, 1966 as the date for a hearing of an appeal from the refusal of the Building Inspector to issue Occupancy permits for a:

- (a) Valet Service Salon
- (b) Frozen Food Vending Machine
- (c) Men's Hair Styling Salon
- (d) Ladies Coiffure Salon
- (e) Dining Room and Restaurant

on the ground floor of the Park Victoria apartment building located at 1333 South Park Street.

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Mr. John Buchanan, Solicitor, made application, March 15, 1966 on behalf of the owner, Centennial Properties Limited, for Occupancy permits to operate the service facilities as above set out. This gentleman was subsequently advised, by letter, that the proposed uses were not permitted in an R3 zone and therefore, the Building Inspector lacked the authority to issue the permits as requested.

On April 28, 1966, Mr. Buchanan, forwarded a letter to the City Clerk appealing the decision of the Building Inspector and requested that the matter be placed on the next agenda of City Council. The matter was placed on the May 12, 1966 Council Agenda as requested and June 30, 1966 was set as the date for hearing the appeal.

Council is reminded that this is not the normal type of appeal which is heard concerning Occupancy permits. Usually an appeal is initiated when an Occupancy permit is refused under Section 739A of the Charter which gives the Inspector authority to refuse an occupancy permit if in his opinion (a) such occupancy is unsuitable for the building structure or premises for which such occupancy is proposed or (b) such occupancy is unsuitable for the locality in which the same is proposed or the locality in which such occupancy is proposed is unsuitable for such occupancy.

Under Section 739A (4) any person who has been refused an Occupancy permit by the Inspector under Section 739A may appeal to Council from the refusal of the Inspector by notice in writing filed with the City Clerk within fifteen days of such refusal.

It is important to note that the Occupancy permits were not refused by the Inspector under Section 739A of the City Charter, but rather they were refused because the Zoning By-law does not permit the proposed uses in an R3 zone.

It is the Inspector's opinion therefore that there is no basis for this appeal against his refusal to issue Occupancy permits in this case.

It is apparent that the applicant desires a change in the R3 regulations to permit uses which are not permitted under the existing regulations.

Alderman Richard stated that a large number of the Members of Council are aware of the conditions under which the permit for this building was issued initially. He said there were major concessions made with respect to the R-3 Zoning Regulations when the application was first considered and that the developer signed a letter which is in the possession

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of the City Clerk stating that he was withdrawing an application for C-1 zoning. The Alderman felt that the uses now requested are fairly clear to be "commercial" and he viewed the situation as a little bit of bad faith on the part of the Company in bringing this matter forward. In the context of the manner in which the concessions were originally made to have this building constructed at this location, he could not see how Council could reverse the decision it made in the beginning. He stated he would uphold the Building Inspector in his report.

The City Solicitor was asked for his opinion with respect to the Staff Report. He replied that at the last meeting of Council, he was asked whether or not there should be an appeal and whether Council should have a public hearing. At that time, he felt that it would be rather presumptuous on his part to anticipate what the arguments of the appellants might be. He said he advised the Building Inspector that, in his opinion, at the time that the uses for which Occupancy permits were requested, that they were not accessory uses within the meaning of the By-law.

Alderman A. M. Butler asked the City Solicitor if, in the event a hearing is proceeded with, would the Council be in a position to make a decision.

The City Solicitor replied that he thought the Council would have to make the decision. The question to be determined is whether by oratory or persuasiveness that he would be able to be convinced that these are accessory uses. If there is nothing more than what is in the submission from the appellant,

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he said he was not persuaded by what he had read.

Alderman A. M. Butler stated that the suggested uses would be of great convenience to the people who live in the apartment and if that is the case, would that have any effect on the City Solicitor's ruling to which he replied in the negative.

Alderman Matheson asked if the City Solicitor was ruling that because the matter is not the kind of a discretionary power exercised by the Building Inspector, that it is not appealable to Council.

The City Solicitor replied in the affirmative and stated that Council would only have the same discretion that the Building Inspector had and he did not have the discretion at the time of the application to grant the permit. After having read the submission, he was still of the same opinion that Council does not have the authority to issue the permit.

Alderman Matheson hoped that Council could hear the appeal as it might involve the matter of policy as much as law which, on the other hand, if Council does not have the power to overrule the decision of the Building Inspector, then it would be just a waste of time. He pointed out that if the Building Inspector is wrong and Council overrules him, would it mean that he has to change his decision and, if he does, perhaps he would be going contrary to the law. If there is not the exercise of this discretion, perhaps the remedy of the applicant is to go to court by way of mandamus. He suggested that Council should hear arguments on the question of the law rather than on the merits. He stated that Council has to know whether

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it has the power to deal with the matter and that it has to have the opinion of the City Solicitor before making any decision.

The City Solicitor then stated that he was of the opinion that the uses that have been applied for are not accessory uses within the meaning of the term in the Zoning By-law.

Alderman O'Brien stated that Council should hear the arguments for and against and the City Solicitor should make his final statement to Council as to its legal position. If he says Council cannot upset the Building Inspector's ruling, he suggested that it should express itself in an informal way. If there is a majority who feels, in spirit, that these are accessory uses along the lines of the brief submitted by Mr. Buchanan, then the question will be is there a way, other than rezoning to R-3, that Council can secure an amendment to the Zoning By-law which would define "accessory use" in a way which would make the application possible and still not go outside the spirit of the brief submitted. Richard asked how wide the Building Inspector's

discretion. Alderman Matheson insisted that the Council has to have a legal opinion from the City Solicitor on the question of whether or not the application is appealable before any decision is reached. Worship the Mayor replied that such was not his

opinion. Alderman Black stated that Mr. Buchanan's brief made some sense. He said that Council has received from the City Solicitor an opinion that this particular decision of the Building Inspector is not appealable to Council. He indicated he would be satisfied to have a discussion in the Town Planning Board as to whether the definition of "accessory use" is either

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adequate in the light of present day conditions and the community feeling of what are accessory uses in so far as an apartment house is concerned. He advised that there was no-one who was on the Council in April 1964 who ever agreed to permit the type of use that is requested for this particular building in the appeal. He pointed out that the applicant undertook almost two years ago that no such request would be made then or in the future for this type of use. He contended that His Worship the Mayor should make a ruling whether the matter is open for a public hearing or not.

His Worship the Mayor then stated he was of the opinion that the matter before Council was not a proper one for a hearing and that if a hearing were proceeded with, Council would have to vote on the matter. He then ruled that Council lacked the authority to vote on the matter and that it is not one which can be heard under Section 739-A-4 of the City Charter.

Alderman Richard asked how wide the Building Inspector's discretion is in this respect and if there is a discretion there, the only thing the Inspector and the Council could be accused of is not an illegal act but an action made in poor judgement.

His Worship the Mayor replied that such was not his opinion.

The City Solicitor stated that the Building Inspector, in determining whether a use is an accessory use, uses the same approach as he would in determining whether a building is an hotel. There is the use of discretion in determining whether a building is an hotel or an apartment building; it is either

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an accessory use or not. If this involves a use of discretion, he uses his discretion.

His Worship the Mayor stated that the only thing open for Council is whether anyone wishes to appeal the ruling of the Chair.

Alderman A. M. Butler referred to the Rules of Order of Council and suggested that the applicant be heard under another section of the Order of Business.

Alderman Connolly suggested that the applicant be heard but that a decision would not have to be made at this time.

His Worship the Mayor stated that the matter could be heard under item No. 9 "Petitions and Delegations" but it is not to be considered as a public hearing under Section 739 A of the City Charter.

Alderman Matheson stated that he thought the Building Inspector was wrong in this instance as he contended that an accessory use must relate to the type of building it is in regardless of the zoning. On the other hand, he agreed with the City Solicitor that this kind of discretion is not appealable. He suggested that there may be another solution to the matter and that the merits of the case should be heard. He felt an amendment to the Zoning By-law might be sought rather than resorting to court action and the expenses involved therewith. He felt the applicant had no alternative, under the circumstances, but to go to court. The Alderman was of the opinion that the ruling given by His Worship the Mayor was proper.

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Alderman O'Brien suggested a conference between the appellant and the City Solicitor to consider a possible proposal for amendment to the Zoning By-law other than the C-1 zone which would meet the purpose.

No further action was taken at this time but it was agreed to hear the applicant under the next item on the Order of Business.

PETITIONS AND DELEGATIONS

Refusal Building Inspector to Issue Occupancy Permit at #1333 South Park Street

At this time, Mr. John Buchanan addressed the Council with respect to the petition filed by Centennial Properties Limited relating to the application which had been made for Occupancy Permits as outlined in the City Manager's report viz: the ground floor uses for Park Victoria for the Dining Room, Beauty Parlour, Barber Shop, Frozen Food Vending Shop and a Valet Service Take-Out Shop. He submitted that these uses applied for are uses which are fit and proper for the building under discussion and which should be granted by Council in whatever way the Council, the City Solicitor and he could arrange. He suggested that these uses are unique for such a building and the occupancies are of a service nature and are not commercial retail uses but provide individual services to the occupants of the building. The main entrance to the building is located to the right of the service area and the entrance to the auxiliary area, where these uses would be located, is restricted to the main foyer entrance and also from the other entrance which

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is an extension of the normal fire exit of the building. There would be no signs on the exterior of the building or advertising of any type. He said that the uses proposed are definitely subordinate to the main use of the building; an apartment dwelling.

He then referred to a Floor Plan of the building and pointed out just where the various uses would be located. He maintained that these uses are accessory uses and are permitted in R-3 zones. He said that the original intention was that the first floor would be a commercial arcade with retail stores and certain service stores but this was withdrawn. He also stated that Council approval, at that time, was sought for only those uses permitted in an R-3 zone. He read clause "(m)" in the R-3 zone section of the Zoning By-law which stated quite clearly "uses accessory to any of the foregoing uses is not specifically prohibited." He maintained that the uses applied for are not specifically prohibited, therefore, the test is whether they are "accessory" and fall into the definition of "accessory" in the By-law. He then read the definition of "accessory" - "naturally and normally incidental, subordinate and exclusively devoted to". He pointed out that although the building itself is not open to the public, there will be no invitation to the public to enter it.

At this time, Mr. Medjuck advised that there would be no bar facilities provided in the building.

The City Clerk then read the following correspondence:

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"City Council
City Hall,
Halifax, N. S.

Your Worship and Members of Council:

We, the undersigned, residents living in the Park Victoria Apartments, South Park Street, Halifax, Nova Scotia, and in the adjoining neighbourhood, do support the application before you for occupancy of the ground floor of Park Victoria Apartments by service shops including dining room, valet service salon, men's hair styling salon, ladies' coiffure salon, and frozen food vending shop.

We feel that these uses are service in nature only, modest in size and will in no way disturb the residential character of the building or the neighbourhood. We believe further that these uses are by necessity of an accessory nature to a residential development the magnitude of the Park Victoria."

Spring Garden Area
Business Association
P.O. Box 1602, Halifax, Canada.

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His Worship Mayor C. A. Vaughan
and Members of City Council
City Hall
Halifax, Nova Scotia

Gentlemen:

Regarding the application for occupancy permits for service outlets in the Park Victoria apartment building, the Executive of our Association supports this application.

We understand that the service outlets proposed, such as a barber shop, beauty salon and dry cleaning outlet, for example, are designed and intended for the convenience and use of the tenants and we feel that these outlets are a desirable feature of a modern, high-class apartment building such as the Park Victoria.

We, therefore, hope that this application will receive the favourable consideration of City Council.

Yours very truly,

(Original signed)

P. J. Andrewes,
Chairman
Spring Garden Area Business Association.

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Mr. Ralph Medjuck then addressed the Council and stated that he did not wish to add to the remarks of Mr. Buchanan but to make himself available for any direct question which any Member of Council might want to ask. He said he took strong exception to and resented a statement from a Member of Council who suggested that his Company acted in bad faith. He contended that it is not true and holds no place in the record of Council and a careful analysis of the situation will prove otherwise. He pointed to the plan on display and advised that it was the original intention to provide a solarium or outside children's playroom, lunch room, convention room, etc., but, after careful examination, these uses were dropped and instead offices were made for a dentist and a doctor which would have an outside entrance.

Alderman Matheson suggested that if the uses applied for were granted, that such occupancies would be incidental, subordinate and exclusively devoted to the building. He asked Mr. Medjuck if he would be satisfied with such an arrangement.

Mr. Medjuck replied that his Company is prepared to enter into any reasonable agreement. The Company will agree to a development agreement which will permit such uses.

Alderman Matheson then suggested that Council has to spell out that these proposed uses will be permitted as being incidental, subordinate and exclusive.

Mr. Medjuck suggested that such an arrangement would be fair and that he would agree if Council approved this suggestion in principle and later amended the Zoning By-law to accommodate such matters which would apply to everyone.

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In reply to a question from Alderman Ivany, Mr.

Medjuck stated they could have put a bank in the building but they declined that in favour of the proposed restaurant as it would serve the people in the building itself.

Alderman Ivany asked if there would be signs in the arcade to which Mr. Medjuck stated there would be signs on the doors of the various facilities. The Alderman then asked if Mr. Medjuck thought these uses would be taxed at the commercial or residential rate, to which Mr. Medjuck replied he did not know but hoped it would be the residential rate.

Alderman O'Brien asked for Mr. Medjuck's opinion for R-3 uses as they apply to the inner zone somewhat along the lines suggested by Alderman Matheson but with a definite prohibition on advertising and a sign which would say "for the use of tenants and their guests."

Mr. Medjuck stated that it depends on the location within the inner zone.

Alderman O'Brien then suggested a provision in the Zoning By-law which would leave two alternatives open.

1. The kind of accessory uses under discussion for this building; and
2. A commercial C-1 zoning which would apply to the first floor only.

His Worship the Mayor suggested use of the development permit. He contended that the matter should be referred to the Town Planning Board for full consideration after receipt of a report from Staff as to what means could be used if the Council was so disposed to grant the request.

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In reply to a question from Alderman Black, Mr. Medjuck then located on the plan the various uses proposed for the first floor which would include a restaurant, recreation room, play room, etc.

In reply to another question from Alderman Black, Mr. Medjuck stated that by withdrawing the commercial rezoning in 1964, he would have to rely on the fact that the only uses his Company could use would be the accessory R-3 uses. He contended that if an hotel could go in an R-3 zone with accessory uses of this nature, the withdrawal would be safe.

In reply to another question from Alderman Black, Mr. Medjuck stated that his Company is not going to operate a restaurant and the lease will not permit the lessee the operation of a bar.

Alderman A. M. Butler then MOVED the following motion which was seconded by Alderman O'Brien: "that this matter be referred to the Town Planning Board and that this Council express itself as disposed to find a solution to allow the facilities applied for to be introduced to Park Victoria".

In compliance with the wishes of the members of Council, His Worship the Mayor ruled that the motion could be voted upon in two phases.

Alderman Richard stated that he would like to withdraw to some degree the statement he made with respect to "a little bad faith". When the original withdrawal of the C-1 zoning took place in 1964, he was of the opinion that no

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commercial uses would be permitted in the future but he did note that Mr. Medjuck's letter of withdrawal did contain a statement which read as follows:-

"The space indicated on the plans which was the subject of rezoning application will be left as auxilliary R3 use."

It was then MOVED by Alderman A. M. Butler, seconded by Alderman O'Brien that Council express itself as disposed to find a solution to allow the facilities applied for to be introduced at "Park Victoria".

The motion was put and passed twelve voting for the same and two against it as follows:-

For: Aldermen Abbott, Moir, Ivany, Matheson, A. M. Butler, Meagher, LeBlanc, Trainor, Connolly, Doyle, O'Brien, H. W. Butler. 12

Against: Aldermen Richard and Black. 2

It was then MOVED by Alderman A. M. Butler, seconded by Alderman O'Brien that the foregoing motion be referred to the Town Planning Board for consideration. Motion passed.

REPORT - FINANCE AND EXECUTIVE COMMITTEE

Council considered the report of the meeting of the Finance and Executive Committee held on June 23, 1966, with respect to the following matters:

Capital Borrowing - Additions to Queen Elizabeth & St. Patrick's High School - \$1,000,000.00

MOVED by Alderman Connolly, seconded by Alderman Moir that, as recommended by the Finance and Executive Committee, the proposal as outlined in the report of the Committee on High School Needs to the Chairman of the Board of School Commissioners dated June 13, 1966, respecting additions to Queen Elizabeth High School and Saint Patrick's High School, be approved and

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that funds in the amount of \$1,000,000.00 be provided for this purpose by capital borrowing.

MOVED by Alderman Richard, seconded by Alderman Ivany that the matter be deferred for consideration at the next meeting.

Alderman Richard said that his reason for requesting deferment of the matter was that it is his understanding that certain representations are to be made to the Board of School Commissioners by interested home and school associations in the north and northwest sections of the City.

10:15 p.m. His Worship the Mayor retires and the Deputy Mayor assumes the chair.

The motion to defer was put and lost, as follows:

For the motion: Aldermen Ivany, Richard, O'Brien 3
Against the motion: Aldermen Moir, Matheson, Meagher, LeBlanc, Trainor, Connolly, Doyle, H. W. Butler, Black and Abbott 10

After further discussion, the motion was put and passed as follows:

For the motion: Aldermen Matheson, A. M. Butler, Meagher, LeBlanc, Trainor, Connolly, Doyle, O'Brien, H. W. Butler, Black, Abbott and Moir 12
Against the motion: Aldermen Ivany and Richard 2

A formal borrowing resolution for the sum of \$1,000,000 was submitted to give effect to the foregoing resolution of

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MOVED by Alderman Connolly, seconded by Alderman Moir that the borrowing resolution as submitted be approved.

Motion passed.

PROPERTY ACQUISITION - 2432 CREIGHTON STREET

The following recommendation was submitted from the Finance and Executive Committee:

It is recommended that (a) the sum of \$10,700.00 be paid to Mr. Richard Symonds as settlement in full for all claims arising from the acquisition of his property at 2432 Creighton Street; and (b) that consideration of the payment of an additional amount to Mr. Symonds, to offset a home improvement loan on the above property, be given after receipt of an opinion from the City Solicitor as to whether or not the home improvement loan is a lien against the property or against the individual who negotiated such loan.

A report was submitted from the City Solicitor which states in part:

Home Improvement Loans are divided into two categories. Loans involving a repayment schedule of more than five years are the subject of a mortgage and a charge against the property. Loans for a period of under five years, although not technically a charge against the property, as a condition of the loan the borrower is obliged to retire the Loan upon the sale of the property for which the Home Improvement Loan was granted.

In the present case, then, while Mr. Symonds' Home Improvement Loan is not a charge against the property 2432 Creighton Street in the manner of a mortgage, Mr. Symonds is obliged to re-pay the Loan when the property is purchased by the City.

MOVED by Alderman Connolly, seconded by Alderman Matheson that the sum of \$11,773.42 be paid to Mr. Richard Symonds as settlement in full for all claims arising from the acquisition of his property at 2432 Creighton Street, such