



**APPEALS STANDING COMMITTEE  
MINUTES  
NOVEMBER 12, 2015**

PRESENT: Deputy Mayor Matt Whitman, Chair  
Councillor Stephen Adams, Vice Chair  
Councillor Russell Walker  
Councillor Gloria McCluskey  
Councillor David Hendsbee  
Councillor Brad Johns

STAFF: Mr. Randolph Kinghorne, Senior Solicitor  
Ms. Tanya Phillips, Manager, By-law  
Ms. Sherryl Murphy, Deputy Clerk  
Ms. Cathy Collett, Legislative Assistant

*The following does not represent a verbatim record of the proceedings of this meeting.*

*The agenda, supporting documents, and information items circulated to the Committee are available online: <http://www.halifax.ca/boardscom/SCappeals/151008asc-agenda.php>*

*The meeting was called to order at 10:00 a.m., convened to In Camera at 12:00, re-convened at 12:31 and adjourned at 2:40 p.m.*

**1. CALL TO ORDER**

The Chair called the meeting to order at 10:00 a.m.

**2. APPROVAL OF MINUTES – October 5, 2015**

MOVED by Councillor McCluskey, seconded by Councillor Walker:

**THAT the minutes of the October 5, 2015 Appeals Standing Committee meeting be approved as circulated.**

**MOTION PUT AND PASSED.**

**3. APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS**

**MOVED by Councillor Johns, seconded by Councillor Hendsbee that consideration of agenda item 7.1.1 Appeal of Ahror Mamadiev, Appeal of Revocation of Taxi Driver License #H731 be moved down on the agenda following all other business and the In Camera discussion. MOTION PUT AND PASSED**

**4. BUSINESS ARISING OUT OF THE MINUTES - NONE**

**5. MOTIONS OF RECONSIDERATION – NONE**

**6. MOTIONS OF RESCISSION – NONE**

**7. REPORTS**

**7.1 TAXIS, ACCESSIBLE TAXIS AND LIMOUSINES APPEALS**

**7.1.1 Appeal of Ahror Mamadiev, Appeal of Revocation of Taxi Driver License #H731**

This matter was moved on the agenda following all other business during the setting of the agenda. See page 6.

**8. CONSIDERATION OF DEFERRED BUSINESS**

**8.1 Case #244458, 11810 Peggy's Cove Road, French Village (deferred from June 11, 2015)**

The following was before the Committee:

- Correspondence from Lydia Burchell-Strand giving permission for Ted Burchell and Pam Smith Jones to speak on her behalf at this hearing
- Staff report dated October 27, 2015
- Extract of the Minutes of the June 11, 2015 Appeals Standing Committee

The Chair confirmed that the property owner's designate was present.

Mark Pressor, Compliance Officer, Municipal Compliance, presented the staff report providing a chronology of events leading to this hearing, exhibiting pictures of the property and noting that staff is recommending to demolish the building as the building does not have a proper foundation and is considered structurally unsound.

Members of the Committee sought clarification regarding what work had been done on the building since the last time it was before the Committee.

Mr. Ted Burchell, representing the owner, indicated that the building has been painted, a fence installed and the windows repaired. At the last meeting it was agreed that only materials from the previous use on the site would be stored in the building.

Mr. Adam Sadler, Building Official, in response to a question regarding the structural condition of the building, indicated that the building is safe to use for storage. The building can be used as a boat house, but not for any other use (i.e. a museum or restaurant).

MOVED by Councillor Johns, seconded by Councillor McCluskey:

**THAT the Appeals Standing Committee finds the property to be dangerous or unsightly as per section 3(q) of the Charter and as per section 356 of the Charter, orders demolition of the main building, including but not limited to, the removal of all demolition debris, backfilling of any foundation or crawl space, and disconnecting any and all utility connections to the standard set by each respective utility service provider, so as to leave the property in a neat, tidy, environmentally compliant and safe condition within thirty (30) days after the Order is posted in a conspicuous place upon the property or personally served upon the owner. Otherwise, the Municipality will exercise its rights as set forth under Part XV of the Charter.**

Clarifying what would occur if this motion is defeated, staff advised that the demolition case would be closed and that the necessary work on the building would have to be completed.

Mr. Burchell indicated that the community has not requested a change in use and would continue with the use as it exists. He went on to note that the work being done on the property is being funded with fundraised money and carried out by volunteers. Mr. Burchell shared that the community would be continuing work on the building and would apply for a permit when required.

**THE MOTION WAS PUT AND DEFEATED.**

**8.2 Case #255322, 1937 Hammonds Plains Road, Hammonds Plains (deferred from September 10, 2015)**

The following was before the Committee:

- A staff report dated October 20, 2015
- An extract of the minutes of the September 10, 2015 Appeals Committee meeting at which time this matter was discussed.

The Chair confirmed that the property owner was present.

Mr. Trevor Oliver, Compliance Officer, presented the report regarding Case #255322, 19347 Hammonds Plains Road, Hammonds Plains providing a chronology of the case activities and noting that there was little change to the condition of the property and violations relative to derelict vehicles continue to exist.

Mr. Thomas Moore, the appellant, indicated that he had moved into the house as of September 17, 2015 and done significant work to the house since that time in order to make it habitable as a winter dwelling. He indicated that his priority at this time was the house. During discussion on the matter it was noted that the Order being discussed had nothing to do with the buildings on the property, but related to the vehicles. Nothing has been done to comply with the order.

Mr. Moore reiterated that his priority was the house and that he had spent the time he would have to get the vehicles in position to cover, on the house. He did note that he would throw a tarp over the vehicles if that would satisfy the order.

In response to a statement regarding the value of the vehicles, note was made that if they were rare imported vehicles as the appellant claimed, it would be anticipated that efforts would be made to protect them. The appellant noted that the two vehicles at the rear of the property had been protected by a temporary garage which has since fallen in.

Clarifying the expected resolution, Ms. Tanya Phillips, Manager, By-law Standards, indicated that the vehicles should be stored together in a temporary shelter. She further noted that if the appellant simply wanted a specific part from a vehicle, he should salvage the part and have the vehicle towed away for disposal.

MOVED by Councillor McCluskey, seconded by Councillor Walker:

**That the Appeals Standing Committee allow the appeal.**

**MOTION PUT AND DEFEATED** (with the effect that the order stands).

MOVED by Councillor McCluskey, seconded by Councillor Hendsbee:

**That the Order be amended to extend the compliance period to 30 days from 15 days.**

**MOTION PUT AND DEFEATED** (with the effect that the order stands).

## **9. CORRESPONDENCE, PETITIONS & DELEGATIONS**

### **9.1 Correspondence**

#### **9.1.1 Correspondence to the Nova Scotia Advisory Council on the Status of Women dated September 18, 2015**

The following was before the Committee:

- Correspondence dated September 18, from the Nova Scotia Advisory Council on the Status of Women and correspondence from Mayor Savage in response dated October 8, 2015.

MOVED by Councillor Hendsbee, seconded by Councillor Johns:

**That the September 18, 2015 correspondence from the Nova Scotia Advisory Council on the Status of Women and the October 8, 2015 response from Mayor Savage be tabled.**

**MOTION PUT AND PASSED.**

### **9.2 Petitions - None**

## **10. REPORTS**

### **10.1 DANGEROUS OR UNSIGHTLY PREMISES: APPEALS**

10:55 a.m. Deputy Mayor Whitman recused himself at this time citing a perceived conflict of interest on item 7.1. and indicating that other responsibilities would require him to excuse himself for the rest of the meeting. Councillor Stephen Adams, Vice Chair, took over the position of Chair.

**10.1.1 Case #261282, PID #41162884, Lucasville (debris)**

The following was before the Committee:

- A staff report dated October 23, 2015

The Chair confirmed that the property owner was present.

Theresa Hickey, Compliance Officer, presented the report regarding Case 261282, PID#41162884, Lucasville providing a chronology of the case activities, pictures of the wood debris on the property, and noting that this case deals with only the wood debris. Ms. Hickey indicated that she believed that the same wood present on the property today, was involved in a case three (3) years ago. She went on to indicate that the property is visible from the adjacent properties, particularly the nearby Baptist Church.

Mr. Peter Milser, the property owner, advised that he was downsizing his business in Sackville and storing the wood on this property. He noted that it was his intention to get rid of the bad wood and use the good wood for sheds. Mr. Milser noted that the By-law does allow for the storage of wood outside and that he was working every day to clean up the property. Mr. Milser noted that he was concerned about the status of the containers on the property. He further described efforts to screen the wood from neighbouring properties.

Mr. Milser responded to questions from the Committee regarding the work done to the property in response to the order.

Councillor Johns indicated that the concerns he has heard relate to the length of time the wood has been on the property and indicated that there has been a suggestion that this is environmental racism. He went on to indicate that this property is not a C&D site and there is a concern regarding fire. The Councillor noted that this property had been before the Committee three (3) years ago and there has not been any significant change to the property.

MOVED by Councillor Johns, seconded by Councillor Walker:

**That the Appeals Standing Committee allow the appeal.**

Ms. Phillips responded to questions regarding the use on the property and noted that Mr. Milser had been advised that a permit would be required for the containers and that if a commercial use was being made of the property it would also require a permit. She went on to confirm that only the scrap wood needed to be cleaned up as the good wood is permitted on the property.

**The MOTION WAS PUT AND DEFEATED** (with the effect that the Order stands).

**10.1.2 Case #261226, PID #41162884, Lucasville (vehicles)**

The following was before the Committee:

- A staff report dated October 26, 2015

Ms. Theresa Hickey, Compliance Officer presented the report regarding Case #261226, PID 41162884, Lucasville, providing a chronology of case activities, pictures of the vehicles and noted there were four derelict Volkswagon vans and a makeshift trailer.

In response to a question regarding the vehicles being used as storage, Ms. Hickey indicated that there were parts and bags being stored in the vehicles.

Mr. Milser indicated that he intended to deal with the vehicles and gravel the area. He indicated, in response to a question regarding what efforts he had made to date, that he was somewhat up in the air not knowing exactly what to do and awaiting further information on the status of the container.

MOVED by Councillors Johns, seconded by Councillor Walker:

**That the Appeals Standing Committee allow the appeal.**

**The MOTION WAS PUT AND DEFEATED** (with the effect that the Order stands).

**10.2 DANGEROUS OR UNSIGHTLY PREMISES: DEMOLITIONS - NONE**

**11. MOTIONS - None**

MOVED by Councillor Johns, seconded by Councillor Hendsbee:

**That the meeting convene to an in camera session.**

**MOTION PUT AND PASSED.**

**12. IN CAMERA (PRIVATE)**

*Council may rise and go into a private In Camera session, in accordance with Section 19 of the Halifax Regional Municipality Charter, for the purpose of dealing with the following:*

**12.1 In Camera Minutes – October 8, 2015**

*Motion:*

That the In Camera minutes of October 8, 2015 be approved as circulated.

This matter was dealt with in camera.

**12.2 Legal Advice**

*A matter pertaining to legal advice eligible for solicitor-client privilege.*

**12.2.1 Taxi Licence Appeals**

*Motion:*

To convene to In Camera to address the matter.

This matter was dealt with in camera.

The Committee re-convened in public session at 12:31 p.m.

**7.1.1 Appeal of Ahror Mamadiev, Appeal of Revocation of Taxi Driver License #H731**

The following was before the Committee:

- Staff report dated October 14, 2016
- A detailed appeal brief submitted by Ian S. Joyce of Blois, Nickerson & Bryson, legal representative for the appellant setting out the grounds of appeal relative to the revocation of Taxi Driver License #H731
- Correspondence from Ian S. Joyce of Blois, Nickerson & Bryson, legal representative for the appellant, regarding the intent to bring a preliminary motion seeking the recusal of Deputy Mayor Matt Whitman in light of Metro newspaper article of November 9, 2015.

Earlier in the meeting Deputy Mayor Whitman recused himself citing a perceived conflict of interest.

Mr. Ian Joyce, solicitor for Mr. Mamadiev, the appellant, addressed the Committee introducing his colleague, Mr. Michael Varigan. Mr. Joyce referred to the detailed appeal brief and provided a summary of the primary issues and grounds for the appeal of the Taxi Authority's decision to permanently revoke Mr. Mamadiev's taxi driver's license. He went on to provide personal and work information about Mr. Mamadiev. He indicated that the Taxi Authority had based his decision on the guilty verdict with no consideration of the conditional discharge at sentencing.

Mr. Joyce further indicated that Mr. Mamadiev has always been considered a fit and proper person noting that this had been Mr. Mamadiev's first offence. He went on to refer to the pages 14-24 of the report referring to the letters of reference and the findings of the psychological evaluation undertaken by Mr. Mamadiev. Mr. Joyce held that this incident alone does not deem Mr. Mamadiev as not fit and proper in light of these references, evaluation findings and the conditional discharge of his charges.

Mr. Joyce indicated that Mr. Mamadiev has, after evaluation, been identified as having a low risk to offend. He further stated that Mr. Mamadiev was a person of good character as upheld by the discharge of the Nova Scotia court. He went on to note that the conditions of the court required that Mr. Mamadiev attend a rehabilitation program. Mr. Joyce pointed out that Mr. Mamadiev had sought out such a program prior to being required to by the court.

Councillor Hendsbee questioned whether the Taxi Authority had any latitude when reaching a decision in this case, for example, could Mr. Mamadiev's license have been suspended for a significant period of time or revoked for a lesser period of time.

Mr. Kevin Hindle, Supervisor, Regional Licensing, indicated that he was aware of the conditional discharge noting, however, that Mr. Mamadiev had been found guilty of the charge, he did commit the act.

The Committee discussed whether or not Mr. Mamadiev's license should be revoked permanently.

Mr. Kinghorne, Solicitor for the Appeals Committee, indicated that the test in this particular case is whether the driver is fit and proper to drive a taxi as noted by Mr. Joyce. He went on to indicate that this is not a matter of whether the public feels safe, but whether this Committee believes the public will be safe.

Following a further discussion, Mr. Kinghorne advised that the Committee could revoke the license with the condition that the appellant be permitted to re-apply for a license. Mr. Kinghorne went on to point out that the revocation of the license is not punishment. The revocation deals with the Committee's view on whether the appellant is a fit and proper driver. Mr. Kinghorne advised that the Committee would have to first place the motion to allow the appeal, defeat this motion and make a second motion.

MOVED by Councillor Johns, seconded by Councillor Hendsbee:

**That the Appeals Standing Committee allow the appeal.**

Ms. Andrea MacNivan requested the opportunity to voice concerns that the Committee may have not heard.

Mr. Kinghorne clarified Ms. MacNivan's role and noted that the usual procedure for someone wishing to intervene would be to make that request early on in the meeting prior to all the evidence having been given. He noted that in this instance the case has been heard and the motion placed on the floor. Mr. Kinghorne further suggested that Mr. Joyce should be provided an opportunity to review and comment on any input from the public.

The Committee adjourned at this time to clarify how to move forward on this matter

Following a five (5) minute break the meeting reconvened with the Solicitor indicating that the Committee may allow the individual to speak or deny that request. He went on to note that the issue in regard to this request is one of time and should the Committee determine they will hear from the member of the public, they may wish to adjourn to allow the appellant's lawyer an opportunity to review and respond to the comments.

MOVED by Councillor Hendsbee that Ms. MacNivan be permitted to speak.

As there was no seconder to the motion, the motion was defeated.

The main motion, as follows, was now on the floor:

MOVED by Councillor Johns, seconded by Councillor Hendsbee:

**That the Appeals Standing Committee allow the appeal.**

**MOTION PUT AND DEFEATED** (with the effect that the order stands).

MOVED by Councillor Johns, seconded by Councillor Walker:

**That Mr. Mamadiev's license is revoked and Mr. Mamadiev may apply for a taxi license as of September 3, 2016.**

**MOTION PUT AND PASSED.**

**13. ADDED ITEMS - None**

**14. NOTICES OF MOTION - None**

**15. DATE OF NEXT MEETING**

The next meeting of the Committee will be held on December 10, 2015 beginning at 10:00 a.m. in the Council Chambers, 3<sup>rd</sup> floor, City Hall, 1841 Argyle Street, Halifax

**16. ADJOURNMENT**

The meeting adjourned at 2:40 p.m.

Sherrill Murphy  
Legislative Assistant