

**DANGEROUS & UNSIGHTLY PREMISES
MINUTES
September 26, 2007**

- PRESENT:** Councillor Dawn Sloane, Chair
Councillor Krista Snow
Councillor Bill Karsten
Councillor Mary Wile
Councillor Robert Harvey
Councillor Brad Johns
Councillor Gary Martin
- REGRETS:** Councillor Gloria McCluskey, Vice Chair
Councillor Becky Kent
- STAFF:** Ms. Shelley Singer, Co-Ordinator, By-Law Support Services
Ms. Angela Jones-Rieksts, Solicitor, Legal Services
Mr. Ed Atkinson, Acting Supervisor, Permits & Inspections
Mr. Trevor Oliver, By-Law Enforcement Officer
Mr. David Henry, By-Law Enforcement Officer
Mr. Scott Hill, By-Law Enforcement Officer
Mr. Cameron Brown, By-Law Enforcement Officer
Ms. Lois Beaton McNamara, Methods and Procedures Analyst
Ms. Jennifer Weagle, Legislative Assistant

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1. CALL TO ORDER

The meeting was called to order at 10:04 a.m. in Council Chambers, 3rd Floor, City Hall, 1841 Argyle Street, Halifax.

2. APPROVAL OF MINUTES - June 21, 2007

MOVED by Councillor Harvey, seconded by Councillor Wile, that the minutes of June 21, 2007, be approved as amended. MOTION PUT AND PASSED.

3. APPROVAL OF THE AGENDA, ADDITIONS AND DELETIONS

Deleted:

6.2 Lands of Florence Koskolos and Nicholas Koskolos, Lot 2, Bayview Lane, Queensland

At the request of Councillor Snow, item 6.1 was moved to the first order of business.

The agenda was agreed upon as amended.

6.1 Lands of Robert Louis Perkins and Darryl David D'Arcy, 4 Kelly Road, Wellington

- A revised demolition report dated September 19, 2007 on the above noted was before the Committee.

Mr. Cameron Brown, By-Law Enforcement, with the aid of a video, presented the report, noting that staff are recommending the demolition of the main dwelling that is without a secure foundation and on which the crib work supports have been compromised, and the removal of all demolition debris.

Councillor Martin arrived at 10:11 a.m.

Mr. Cameron responded to questions of clarification from the Committee.

At the request of Councillor Snow, Mr. Ed Atkinson, Acting Supervisor, Permits & Inspections, provided a brief history of the property prior to the initial complaint for this case of August 14, 2007, noting the following:

- This property was brought to the attention of staff in late 2004 by concerned residents of the area;
- The complaints were investigated and staff worked with the property owner to get permits in place to complete work on the property;
- There was a permit issued to replace the decks, which is valid to August of 2008;

- Staff are concerned with the structural stability of the building and have been monitoring it over time;
- The steel beams are showing signs of fatigue and are becoming twisted.

At the request of Councillor Snow, Mr. Brown provided a brief history of the property prior to the initial complaint for this case of August 14, 2007, noting the following:

- There are a number of prior cases and ongoing concerns and complaints against this property over the past three years;
- There are also ongoing issues with exterior maintenance;
- Staff are concerned with the structural integrity of the crib work, especially since there are children in the area.

Councillor Karsten arrived 10:15 a.m.

Mr. Darryl D'Arcy, property owner, addressed the Committee, noting the following:

- He purchased the property with the intent of renovating;
- He is aware of the fatigued framework and had a structural permit to repair it, but it expired while he was out of town and he didn't have a chance to renew it;
- He is trying to deal with the unsightly issues and improve the property by putting in a foundation;
- He does not feel that he was given sufficient time to deal with repairs and believes that the building should not be demolished;
- He has experienced difficulties in getting information and paperwork from staff;
- He has a lien against the property for \$1,700 for three hours work carried out by a contractor on behalf of HRM;
- He is not able to pay a contractor to complete the work and needs time to complete the work himself.

Mr. D'Arcy responded to questions of clarification from the Committee at this time, noting the following:

- He purchased the property three years ago;
- The current use of the property is a cottage/storage;
- There is no power at the site;
- There are temporary deck supports in place until the foundation is repaired.

MOVED by Councillor Johns, seconded by Councillor Snow, that the Dangerous or Unsightly Premises Advisory Committee issue an Order requiring the demolition of the main dwelling that is without a secure foundation and on which the crib work supports have been compromised, and the removal of all demolition debris, leaving the property in a neat and tidy fashion within thirty (30) days after service upon the owner/occupant. Otherwise, the Municipality will exercise its rights as set forth under Part XV of the *Act Respecting Municipal Government*.

At the request of Councillor Karsten, staff clarified that the difference between the initial staff report and the revised report was an error in the alternatives section.

MOTION PUT AND PASSED.

4. CONSIDERATION OF DEFERRED BUSINESS - None

4.1 Appeals - None

4.2 Demolitions - None

5. APPEALS

5.1 Lands of Douglas Campbell and Catriona Campbell, 54 Melody Drive, Halifax

- An appeal report on the above noted dated September 19, 2007, was before the Committee.
- Correspondence and photo from the property owner was distributed to Committee members.

Mr. Trevor Oliver, By-Law Enforcement, with the aid of a video, presented the report, noting that the violation is overgrown grass and staff are recommending that the Committee refuse the appeal and uphold the Order to Remedy of July 3, 2007 to mow the overgrown grass throughout the property.

Staff responded to questions of clarification from the Committee at this time, noting that the grass is approximately 70 cm in length and all properties in the vicinity are mowed on a regular basis.

Ms. Catriona Campbell, Appellant, addressed the Committee, clarifying that a side view of her property in the video showed a section of her property that was mowed by her neighbour. Ms. Campbell noted the following:

- She feels that the term “unsightly” is a very vague legal term;
- She has reviewed case law from across Canada concerning grass length where orders to mow were overturned as unconstitutional;
- Her family appreciate the small eco system existing in the long grass, such as a variety of insects and plant life;
- An appeal for grass maintenance was granted by the Committee in 2006 for St. Peter’s Parish in Dartmouth;
- She likes the look of the long grass and is conserving resources such as water, gas, and electricity by not cutting it.

MOVED by Councillor Snow, seconded by Councillor Johns, that the appeal be refused.

Councillor Harvey noted several other appeals that were granted by the Committee allowing unmowed grass.

Councillor Karsten commented that each case is weighed individually on its own merit.

Ms. Angela Jones-Reiksts, Solicitor, commented that the Committee is quasi-judicial, and does act in a judicial capacity. She noted that the Committee has to keep in mind that there is case law that natural gardens are not deemed unsightly, unless it can be proved that it is just overgrown grass and weeds and could be deemed a fire hazard or a danger to the public. Ms. Jones-Reiksts noted that freedom of expression, under the Charter of Rights and Freedoms, should be taken into account by the Committee when making decision.

The Committee discussed the appeal at this time, noting the following:

- Long grass is not the norm in the neighbourhood;
- The appeal relating to unmowed grass at St. Peter's Parish was granted around the stone wall area of the property only because it is a dangerous location to mow;
- Property owners need to be courteous to neighbours that maintain their properties;
- There need to be limits on what property owners are forced to conform to;
- Concern that the long grass may create a fire hazard with the recent dry weather.

Staff clarified at the request of the Committee that the Fire Safety Act contains regulations surrounding flammable grass, and this case is mainly an unsightly issue at this time.

MOTION PUT AND PASSED.

Councillor Johns commented that the initial complaint was logged in June, and this matter is only before the Committee in September. He requested that staff look into tracking complaints so that if the same complaint is logged next year on this property, the complainant will not have to wait that long to have the issue remedied.

5.2 Lands of Jessica Jane Meenwig (Blok), 48 Atlantic View Drive, Sambro Head

- An appeal report on the above noted dated September 19, 2007, was before the Committee.

Mr. David Henry, By-Law Enforcement, with the aid of a video, presented the report, noting that the violation is for overgrown grass and staff are recommending that the Committee refuse the appeal and uphold the Order to Remedy of July 27, 2007 to mow the overgrown grass on the property. He clarified that he has had email communications with the appellant and was presented with a Power of Attorney to deal with the daughter of the appellant while the appellant is out of the province. Mr. Henry indicated that the appellant wishes to maintain a natural habitat on the property and has knowledge of the plant and flower species throughout the yard.

Councillor Snow left the meeting at 10:56 a.m.

The Chair noted that neither the property owner nor their representative are in attendance.

Staff responded to questions of clarification from the Committee at this time, noting the following:

- Six inches is the acceptable height for grass;
- The wood and pallet debris reported in the initial complaint has been cleaned up in a neat and tidy fashion.

MOVED by Councillor Johns, seconded by Councillor Martin, that the appeal be refused. MOTION PUT AND PASSED.

5.3 Lands of H. William James O'Brien and Gillian O'Brien, 6430 Young Street, Halifax

- An appeal report on the above noted dated September 19, 2007, was before the Committee.

Mr. Scott Hill, By-Law Enforcement, with the aid of a video, presented the report, noting that the violation is a lack of exterior maintenance to the roof of the accessory structure and staff are recommending the Committee uphold the Order to Remedy dated August 29, 2007 to repair the decayed and deteriorated roof, soffit, and fascia of the accessory structure. Mr. Hill clarified that the initial complaint was for three derelict vehicles, and staff have determined the vehicles are not derelict. He also clarified that staff have not been able to determine the owner of the rotten fence in the initial complaint.

Councillor Martin left the meeting at 11:00 a.m.

Mr. Harrison W. O'Brien, property owner, questioned the number of visits to his property, noting that he did not receive a copy of the appeal report.

The Committee agreed to provide Mr. O'Brien with an opportunity to review a copy of the report.

Mr. O'Brien, after reviewing the report, indicated the following:

- He has hired a mason to complete the repointing of the structure, and was advised by the mason that the repointing needs to be completed before the repairs to the soffit and the roof takes place;
- Masonry work cannot be completed in wet weather, and the mason is continuing and progressing with the work as the weather allows.
- He was not given a completion deadline by staff;
- Materials to repair the roof are stored in the garage pending completion of the repointing;
- The garage was already under repair at the time of the initial complaint.

Mr. O'Brien requested an extension of the Order to Remedy.

Responding to questions of clarification, Mr. Hill confirmed that he has noted progress with the repointing. He also clarified that since staff are unable to determine an owner for the deteriorated fence, they are not able to issue an order.

MOVED by Councillor Karsten, seconded by Councillor Harvey, that the Dangerous or Unsightly Premises committee grant a sixty (60) day extension of the Order to Remedy. MOTION PUT AND PASSED.

6. DEMOLITIONS

6.1 Lands of Robert Louis Perkins and Darryl David D'Arcy, 4 Kelly Road, Wellington

This item was moved to the first order of business. See page 3.

6.2 Lands of Florence Koskolos and Nicholas Koskolos, Lot 2, Bayview Lane, Queensland

This item was deleted from the agenda. See page 3.

7. ADDITIONS

MOVED by Councillor Johns, seconded by Councillor Karsten, that the Dangerous or Unsightly Premises Committee request an information report to Regional Council highlighting what constitutes a derelict vehicle, for the information of all members of Council. MOTION PUT AND PASSED.

8. NEXT SCHEDULED MEETING

The next meeting of the Dangerous or Unsightly Premises Committee is scheduled for 10:00 a.m. on Thursday, October 18, 2007 in Council Chambers, 3rd Floor, City Hall, 1841 Argyle Street, Halifax.

9. ADJOURNMENT

The meeting was adjourned at 11:17 a.m.