

CHEBUCTO COMMUNITY COUNCIL

MINUTES

Wednesday, January 5 & 6, 2005

PRESENT: Councillor Linda Mosher, Chair
Councillor Russell Walker, Vice-Chair
Councillor Debbie Hum
Councillor Stephen D. Adams
Councillor Mary Wile

ALSO PRESENT: Mr. Barry Allen, Municipal Solicitor
Mr. Angus Schaffenburg, Planner
Mr. Jim Donovan, Planner (regrets for January 6, 2005)
Ms. Chris Newson, Legislative Assistant

TABLE OF CONTENTS

1.	CALL TO ORDER	4
2.	PUBLIC HEARING	4
3.	NEXT MEETING DATE	21
4.	ADJOURNMENT	21

1. CALL TO ORDER

The Chair called the meeting to order at 7:04 pm in the Halifax West High School, 283 Thomas Raddall Drive, Halifax.

2. PUBLIC HEARING

2.1 Case 00066: Development Agreement, Governor's Brook, Subdivision, Mainland South, Halifax

A supplemental report dated November 18, 2004, was before Community Council.

Mr. Angus Schaffenburg presented the report.

Councillor Adams received clarification from Mr. Schaffenburg that, as per the Department of Environment and Labour's requirements, no development would occur until the upgrades were done to the Roach's Pond pumping station to ensure there would be no degradation from Roach's Pond. Mr. Schaffenburg further clarified for Councillor Adams that the setback from the MacIntosh Run is greater than the 100' required for an RDD zoning.

Councillor Mosher reviewed the guidelines for public hearings. She then opened the public hearing calling for speakers for or against the proposal.

PUBLIC SPEAKERS:

1. Colleen Barren

Inquired why the public hearing was held at Halifax West and not in the community as there were people who would have attended if the meeting had been held in the area.

Councillor Mosher advised that schools, church halls and community centres in the community were considered but due to prior bookings, or lack of a facility large enough to accommodate the anticipated attendance at the meeting, the meeting was unable to go forward in that area.

She added the regular Chebucto Community Council meetings are held in the adjacent Keshen Goodman Library and a previous public hearing on the rezoning of this portion of Mainland South was held at this location.

How much is park and how much is conservation in the parkland set aside in this development. Mr. Schaffenburg responded: 51 acres is parkland and 194 acres is conservation.

2. Tim Leary, Flemming Heights

- ! How old is the current strategy and how does it relate to the forthcoming Regional Plan? This proposal should not go forward until the new Regional Plan is in place.
- ! Rezoning is under appeal, not sure why we are here, appeals have not run out on the zoning issue.
- ! The original Chebucto Community Council is no longer, they changed the zoning and it was a huge mistake. The rezoning should never have been approved.

Mr. Jim Donovan, Planner, explained the Secondary Planning Strategy was dated 1987 and HRM is currently in the process of preparing a Regional Plan to guide future planning efforts. A draft form of that future plan will be available by April 2005 but that document has not reached a point where a comparison may be made with this proposal.

Mr. Barry Allen, Municipal Solicitor, responded that the decision of Chebucto Community Council regarding the rezoning was appealed to the Nova Scotia Utility and Review Board (UARB). The UARB upheld the decision of Chebucto Community Council and now the decision of the UARB is being appealed. In regards to the public hearing this evening, there is no legal obligation for Community Council to delay as the UARB has approved the zoning decision and the application may proceed. The Developer, not knowing the result of the current appeal, will be proceeding at their own risk.

3. Maurice Givner, Halifax

- ! The entire process is undemocratic. A mega project (900 units) was approved in the spring of last year at a Chebucto Community Council meeting with only two Councillors approving. It is inconceivable in 2005 that we have an approval process where two people can approve such a major development.

4. Phil Saunders

- ! The date for this public hearing was chosen to minimize public participation as it is too close to the holiday season and sufficient notification time was not given. There was a large, vocal group at the last meeting when effective notice was given.
- ! The staff report indicates that no decision could be made on the development agreement while there was an appeal in process. Was this false information as there is an appeal in process? People would decide whether to come to this meeting tonight or not on that basis - that **no** decision could be made while an appeal is in process.
- ! Enforce-ability of the development agreement: 1. Severability of all provisions (Section 14) "*any provision of this agreement can be severed if it is found to be unenforceable*

or invalid. This means that at any future date any of these so called perfections can be waived with no penalty. 2. All that is required of the Developer is that they comply substantially with the policy as per the opinion of one Development Officer (page 8, Section 2.1a). The only protection we (the public) have is the opinion of one Development Officer. It (the process) is a sham.

Councillor Adams received clarification from Mr. Donovan that the Development Officer does have the authority to waive protections at his/her discretion as per the MGA (Municipal Government Act). The MGA does limit the Development Officer's authority.

Mr. Barry Allen, Municipal Solicitor, responded to the issue of the provision indicating it is a standard provision in all development agreements as the final development agreement plans have to be in performance which is hard to do. If the development agreement meets the intent of what the Development Officer approves, it is okay. It is rare that a Development Officer would approve something that Council might not have understood at the hearing. Mr. Allen added that a standard provision in development agreements is that the development agreement would not be signed until the decision of the UARB has been concluded and that process has been concluded. There is nothing to stop Community Council from making a decision tonight although the Community Council could make their decision tonight *conditional* upon the UARB's decision or the decision of the Court.

5. Natalie Berkman

The Regional Plan information on the website says that HRM wants to: protect resource land and natural areas, provide transit solutions, protect parkland and trails. Why are we approving a development agreement that will destroy natural resources destroy this beautiful land area with parks and trails and clog the Armdale Rotary? Where will the racoons, coyotes and other animals in the area go? They will be left homeless due to destroyed habitat.

Councillor Mosher clarified that the area has already been approved RDD (as of right) and a development with R1 and R2 homes could go forward with no public hearing. The issue tonight is RDD v. the development agreement.

Mr. Schaffenburg advised the most recent information on traffic volumes approaching the Armdale Rotary shows a decrease from 1995 to 2004 (62,235 cars to 53,257 cars).

Mr. Donovan commented, in regards to the proposed Regional Plan, that planning staff are legally obligated to review any and all proposals submitted under the **current** Municipal Planning Strategies and policies. The proposed Regional Plan, once approved, may have some affect on future development agreements.

6. Martin Willison, Spryfield

- | Uses the Armdale Rotary every day and the traffic data staff quoted is poor and unreliable. He added 1995 showed the highest rotary usage ever but between 1995 to 1996 there was a 25% drop in usage - this does not make sense. The data is misleading: how is the data collected? When? Where? He requested to see the data.

Councillor Mosher commented the traffic data information, sent today from HRM's Traffic Authority, was collected in August and then again in September and October from all feeder roads into the Armdale Rotary. She advised she will give Mr. Willison the staff contact information after the meeting.

7. Nicki Perkins

- | It is short sighted of Community Council to approve this development agreement when there is a proposed Regional Plan coming forward. You should take a good look at the area in today's terms and ask the developer to wait.
- | The development agreement states that the Drysdale Avenue extension will happen within 100 units going up. How long will it take for 100 units to go up?

Mr. Schaffenburg explained with any development the timing depends on the (real estate) market. He added as soon as the first phase of development begins the bridge construction will begin. Under the development agreement, the developer could do a maximum of fifty units per year so it could take two years or longer.

- | Behind Kate Court there is a pile of rubble. Will HRM clean that up or will topsoil be placed on it and called "*parkland*".

Mr. Schaffenburg advised he was not aware of the issue but it would not be accepted parkland as described.

- | Theakston Avenue is not an area built to handle heavy construction - when Keyworth was being built there was disregard for area residents with work progressing at all hours and the police were called. Someone has to be involved with policing the area during construction as there are more homes, children and animals in the area now.
- | Could the developer decide to change the location of the apartment building once development begins?

Mr. Schaffenburg responded that would be a substantial amendment to the development agreement and would have to come back to the decision process for approval. This would include public information meetings and a public hearing. Also, it would have to be consistent

with the policies at that time.

8. Catherine Vaughan

Who will be responsible for the environmental impact on the MacIntosh Run, Collpitt Lake and potential pollution of Williams Lake, the Developer or HRM?

Mr. Barry Allen, Municipal Solicitor, commented the Environmental Protection Act outlines where pollution comes off the land or is created on land the property owner would be responsible and the succession of owners who follow.

Mr. Donovan, Planner, added the development agreement provides safeguards but the Department of Environment and Labour will be responsible for any procedures being in place to ensure the owner will take responsibility. Mr. Schaffenburg further explained that HRM, the Department of Environment and Labour, the Department of Fisheries and Oceans and other agencies all have a role in this and will work together in terms of enforcement.

Does HRM have current statistics on the cleanliness and status of the lakes. Will there be continued collection of data to monitor the health of the lakes?

Mr. Schaffenburg advised data is available now and there is provision for monitoring during construction.

9. Patricia Manuel, Jollimore

Ms. Manuel submitted a written copy of her comments including aerial photos of the granite structure. A copy is available upon request to the Municipal Clerk's Office. Comments were in regards to policy 7.3 of the MSMPS (Mainland South Municipal Planning Strategy) and that Council **shall** protect environmentally sensitive areas. She asked that Chebucto Community Council reject the development agreement.

10. Wayne Finn

Expressed concern with possible environmental issues if residential oil tanks are not properly installed.

11. Sidney Hughes

Expressed concern with a long period of blasting causing severe damage to the nature of the rock in this area. He asked if sufficient funds would be set aside by the developer for remuneration of the numerous claims that will follow as a result of long term blasting.

Councillor Mosher explained HRM has a blasting By-Law and it would be the blasting company (and their insurance) not the developer who would be responsible for any damage. Mr. Schaffenburg added the blasting By-Law gives stringent control over the size of the blast which should address any potential for disruption to underground water flows. He added the overall hydrology issue is the responsibility of the province (of Nova Scotia).

12. Melanie Dobson

In order to accept this development agreement it has to satisfy the Mainland South Secondary Planning Strategy; does this development agreement satisfy policy 7.3 of that policy (MSMPS) which states “the city *shall protect environmentally sensitive areas*”?

The environmentally sensitive areas have been identified as the barrens but the granite is a very narrow piece of land wedged between two very important water areas and development will have to be done very carefully to protect those areas.

The comment made by Chebucto Community Councillors is that the development agreement *might* be a better way to protect this land than an as-of right. The development agreement, as it stands, does as much damage to the Williams Lake, Collpitt Lake watershed as any as-of -right development would do. The Developer is considering putting an apartment building on that high peak of land; the only sensitive portion of this land is up on that ridge but RDD would not permit that apartment building.

Protection of other waterways, such as the MacIntosh Run, is the same under the as-of-right and the development agreement.

We have shown a willingness to work with the Developer to devise a plan that could provide development in a sensitive way but that has not happened.

Reject the development agreement tonight as it does not protect and does not abide with policy 7.3 of the MSMPS.

The Developer has deeded a huge piece of conservation land but he cannot build on it anyway.

13. Peter Stirling

Lives on Williams Lake and treasures the fact that the lake is fairly potable. He fishes and swims in it and wants to continue to do so.

As Commodore for The Royal Yacht Squadron he advised that daily monitoring of the water and logging of that information is currently being done. If there is a “blip” the sample is sent to the lab at Queen Elizabeth II and appropriate authorities are informed.

Councillor Mosher commented the Royal Nova Scotia Yacht Squadron has been on boil water orders numerous times and asked how it would be determined if the a change in water quality was due to construction? Mr. Stirling responded the Yacht Squadron’s levels are logged and

their standard is higher than the Department of Environment's so they would begin to boil water before the Department of Environment would recommend it.

14. Michelle Raymond

- | Not pleased with wasting her time with the numerous booklets on the proposed Regional Development Plan when a development of this magnitude has gone forth long before the plan is finalized.
- | Not pleased that in many cases lately citizens have been told that their choice is to take the development agreement or as-of-right.
- | Earlier plans in the 1980's contemplated a population of nearly 30,000 in the Mainland South Planning area. The UARB refers to the fact that the population was around 21,000 in 1997. The UARB also refers to the fact that there have been some 2000 new units constructed since then and some 400 serviced lots. The UARB notes population has declined. So, *why* are we offering to build more houses?

Councillor Mosher advised it would not be up to Council or staff to justify why a Developer has made an application. Mr. Schaffenburg commented a developer would not build unless there was a demand for new units. Over the past number of years, units are being built and occupied but the population has stayed the same so the average household size has decreased - a trend throughout Canada.

Councillor Adams asked for clarification on the time frame for the building of the 2000 units she mentioned. Ms. Raymond advised it is on page 3 of the UARB decision. Time frame was around 1997 and was all in Mainland South (Melville/Regatta Point).

The Chair called for a ten minute recess at 8:16 pm.

The Chair reconvened the meeting at 8:28 pm.

15. Cedric Shawbolt

- | What is the difference between the number of actual units that can be developed under this development agreement compared to as-of-right?

Mr. Schaffenburg commented the number of units under the RDD would be about the same but without a subdivision/concept plan from the Developer it would be difficult to provide an exact number. Councillor Mosher once again advised that an as-of-right development is not required to come before Community Council and would not require public participation.

- | The estimated percentage of area for blasting would be the same for an as-of-right or this development agreement?

Mr. Donovan responded the application is made on the current proposal and staff are not able to comment on how the development *may* look as-of-right as that information has not been provided.

16. Lana Wood, Williams Lake Conservation Board (WLCB)

The testimony of Mr. Alan Taylor at the UARB hearing shows that it was his opinion that the application for rezoning failed policy 4.2 and should not be allowed (in regards to traffic). This information was not put in the development agreement, it was raised by the public.

Mr. Donovan explained the UARB hearing was separate from these proceedings. He added staff did receive advice from HRM's Transportation Planning Engineer and there is a clause in the development agreement that limits the number of units to fifty (50) per year to respond to the traffic issue.

In response to Ms. Wood's comments regarding the 1995 spike in traffic data, Councillor Mosher advised the data presented this evening is more relevant. The information and staff contact information will be provided to her at the end of this meeting.

There is a lack of municipal services; fire/police service and bus transportation. These requirements have been outlined and discussed and still staff are saying this development is consistent with policy. It does not make sense.

Mr. Donovan responded staff have consulted with fire services, with school officials and Metro Transit and all comments that came back relative to this application is that the incremental difference would not be such as to create a critical issue in regards to existing service levels to respond to demand. The development could possibly lead to an improvement to services with the updates required.

The UARB hearings indicated that the existing fire protection is inadequate for the population and more development would be a concern.

Councillor Mosher read into the record from page 18 of the UARB decision, Section 75, FIRE PROTECTION SERVICES that "*in order to maintain the present level of services, HRM will require a second fire fighting apparatus and fire fighters to operate at Station 6 at some time in the future.*" Councillor Walker commented the issue of fire service has been addressed.

17. Carmen Pye

MacIntosh Run is a valuable resource that is stressed from years of neglect and abuse. Damage is bound to occur with levels of blasting that will be required for this development. Who is responsible for monitoring the MacIntosh Run water quality during construction and will construction be immediately halted if violations of standards are found to occur?

Mr. Schaffenburg repeated that HRM, the Nova Scotia Department of Environment and Labour and the Federal Department of Fisheries and Oceans will be involved as there will have to be a storm water management plan before any work proceeds and specific measures will be put in place at that time. He added the Nova Scotia Department of Environment and Labour and/or the Department of Fisheries and Oceans will halt development if necessary.

18. Marjorie Willison, Spryfield Residents Association (SRA)

The Spryfield Residents Association (SRA) has discussed development they would like to see in Spryfield and ask that Community Council reject this development agreement and consider these points:

1. Protection of Environmentally Sensitive areas: Ian MacDougall has an alternative design for this area based on the conservation development design. Request the Developer come up with a new design based on a conservation development design.
2. Healthy Housing: Consider diversity: mixed income housing so all socio-economic levels are represented as well as adults of all ages and multi-generation households. 542 of the 870 proposed dwellings will be single family dwellings and there were fewer single family house starts in the recent past so this plan is somewhat aged. HRM needs to look ahead to a better mix of single and multiple family units. Reject this proposal.
3. Friendly Streets and Walkable Neighbourhoods: Plan for fewer cars, have narrow streets and house fronts closer to sidewalks to increase conviviality of neighbourhood. Short blocks are better, cu-de-sacs are okay - a couple end in parkland which would improve walkability. Need more cut-throughs for pedestrians and bicycles. Ask Community Council to reject this plan and ask developer to come up with a design that shows more walkability.

Councillor Adams commented that an as-of-right development could have 100% single family dwellings.

19. Patricia...(Albion Road)

Enjoy the recreational aspect of Williams Lake. It is a great asset to have and hope that some changes can be made to the proposed development so that the lake is not

affected in a negative way and this beautiful little pocket can be preserved. People value the environment more and more. Hope that Council will not approve this development.

20. Andrew Ross, President, Williams Lake Conservation Company (WLCC)

WLCC have been constant and diligent in efforts to have this development agreement modified. WLCC is not opposed to development we are trying to modify this development agreement to protect environmentally sensitive lands. This is a community resource where you can swim, skate and canoe/kayak. We are way behind Canadian and European cities in regards to proper development.

UARB told WLCC that the environmental aspect had to be addressed at the Development Agreement level. Reject this development agreement and make us go back to the drawing board to increase density at the other end and get it off that watershed and granite buttress.

Conservation Lands: those lands at this point are unserviceable. If you want to conserve something, *conserve* that watershed.

Mr. Porter asked for an archeological assessment to be done, that has *not* been done. You should not approve this without considering the report that was just released today, done by the Developer, which indicates that: *There is a moderate to high potential for the study area to contain aboriginal archeological resources.*

This is premature, we are here one week after Christmas to discuss this and the archaeological report in regards to aboriginal claims have not been made available to the Councillors.

21. Regine Maass, Jollimore

Lakes and recreational water bodies have been degraded over the last three decades mostly due to development. We were once able to swim in Whimsical Lake, the North West Arm and the Punchbowl. Martins Pond, connected to Williams Lake, has been closed for swimming due to high bacteria counts. We are losing our natural recreational opportunities.

It is time that we learned from our past mistakes and protect our natural resources. Centennial pool could no longer be supported and now we are losing our lakes too. Once the quality of the lakes is gone, they are lost forever. We have two great lakes left in HRM and other places would do *everything* possible to protect them.

The topsoil is only 8 inches deep, to grow a lawn you will have to use fertilizer and pesticides which should not be used at all.

22. Rick Grant

- He indicated he was the official *Mover* of the Mainland South Secondary Planning Strategy and represented the City at the Municipal Review board regarding the Municipal Planning Strategy.
- His concerns include the intent and interpretation. 1. Interpretation: when that strategy was planned - 9 years of citizen involvement and 36 hours of public hearings went into it - and **“SHALL” was meant to be mandatory/compulsory** and not the current interpretation that staff has given it. 2. Intent: had to be defined to Council very carefully. Where is the information that was given at the public hearing and what was meant by the **INTENT**. For example: the intent was for the Williams Lake Road to be completed as a proper roadway before this would be developed and that the Herring Cove Road would be completed past Cowie Hill. This has not been done.
- Original concept and this concept do not match. Extra large housing lots is one issue. Mainland South Planning Strategy indicated multi units and where they would be most effective. They are most effectively used where they are not intrusive to vision - not sitting on top of a hill. I have information stored somewhere and suggest staff review that information.
- We tried our best and it was a long, hard journey. We knew the change (Regional Plan was coming) when we put in the strategy and that is why the five year review was included. It has not been followed.

23. Alan Ruffman

Requested clarification on the five year limit on the proposed development agreement.

Mr. Schaffenburg responded the process could take 24 years from the date registration of the development agreement in speaking of the time in which the developer has to commence the development agreement/date of registration and completion of the project.

Pages 6-20 of the staff report: Where is Schedule “A” - the legal agreement?

Mr. Schaffenburg responded staff does not provide the legal agreements to council as the length was up to 10 pages. It is a legal description. Mr. Barry Allen, Municipal Solicitor, responded that the important matter for the Chebucto Community Council for this hearing is to consider the lands that will be affected by development. There are two ways to describe the land, one is the legal description attached to the development agreement and the other is in the plans that have been presented. There does not seem to be a question as to what lands are included in the proposed development.

Suggest Item “K” be added to the development agreement under 2.3: that the bridge across MacIntosh Run/Drysdale Road shall be built as an arch design with no construction and no disturbance below the high water mark on either side of the MacIntosh Run. The Section for detailed plans include Item “F”, the developer shall

submit the proposed Drysdale Road bridge design six months prior to development commencing. Look at other two bridges across MacIntosh Run, you cannot get a boat through those bridges.

Schedule "H" shows two roads that have no bearing whatsoever on this development. Those roads are noted in the staff report and have not had approval by Council, they have no reason to be on those plans. Schedule "H" should be struck.

24. Janet Chopra, Halifax

Interested in development and how developer came up with this plan when environmental area and watershed were not taken into consideration. If there is a better way to design the area, why did they not do this? This development does not make good sense to the future, maybe only financial sense? It is good to have architectural diversity in housing but that pales in comparison to preserving/protecting the quality of the lakes and long term affects on the environment.

25. Ann von Maltzahn

Public Hearing in February 2003 we submitted a petition of 1404 signatures and asked the then Chebucto Community Council not to rezone and not to approve the development agreement. This remains the same sentiment of the people.

Councillor Mosher confirmed a copy of the February 2003 petition was before Community Council this evening.

- This type of proposal does not provide environmental protection of Williams Lake, and Collpitts Lake. Mandate of the WLCC is to protect Williams Lake. We have very accurate records taken over the last three summers by Professor Dobson. We need clean water to continue to flow into Collpitt Lake and Williams Lake.

26. Graham Read, Armdale

The public has been battling this ill conceived development proposal for nearly a decade.

The public, for almost two decades, has also been asking for a review and update of the Mainland South Municipal Planning Strategy. They were to be reviewed every five years. These reviews never happened even after frequent requests from public. No start on detailed planning strategy for Mainland South. A development moratorium, brought in last year, should have been spread to all areas, especially the rural areas.

Traffic: data shows dips but problems we experience occur at rush hour. There could well have been an increase during peak hours, the numbers in the chart are not clear. I can attest that it has become more difficult to get onto side streets due to traffic. Inbound and outbound traffic counts, raise a concern with me.

- ! Page 5 of staff report references we would not get the 245 acres of holding space if the proposal were refused. The holding zone restrictions would still be in place. Seems to be blast it, flatten it. New by-law seems to give some protection but we need better planning. We should plan a new MPS for Mainland South.
- ! Number of units possible for as-of-right would be far fewer than in this proposal.
- ! We the public do not agree that the proposed development agreement would give environmental protection. We should ensure that Williams Lake and Collpitts Lake do not suffer like Chocolate Lake and the Punchbowl.

27. Bill Meagher

- ! Clarification on the process regarding the original zoning change being under appeal, will decision on this agreement be deferred pending that outcome?

Mr. Barry Allen explained the present legal status of process is that the decision of the UARB has upheld Chebucto Community Council's re-zoning decision. Chebucto Community Council is free to make a decision tonight or could say agreement could be signed at future date.

- ! Which Councillors will be voting on the development agreement tonight considering there are two new Councillors and Councillor Adams was absent for the last public hearing.

Councillor Mosher explained all five Councillors present this evening will be able to vote.

- ! Will the public be advised as to when that vote will be taken?

Councillor Mosher advised the vote depends on whether the matter is concluded this evening or continued to tomorrow night.

28. Jonathan Burgess

- ! Concern with impact on the environment particularly on the lakes.
- ! Impact on views due to apartment buildings, water quality and fish habitat. Only a brief description was provided of how monitoring of these issues will be done. We should have a plan in place now before development goes through that will allow us to monitor that water quality. Possible heavy metal runoff, oil spills, etc. are not mentioned. Not acceptable that HRM says it is the responsibility of the Department of Environment as they only act *RESPONSIVELY*. What can be done in a *PROACTIVE* way to make sure we do this monitoring so we have an early monitoring if there is a problem.

Mr. Schaffenburg commented that HRM will be proactive in the protection of water by directing storm water away from Collpitt Lake to MacIntosh Run. The development agreement will

provide for storm water going to MacIntosh Run and the Engineers will provide detail. Most of the dwellings/parking structures will have the water going toward MacIntosh Run. At the back end of the dwellings, the cleaner runoff will go toward Collpitt Lake. We try as good shepherds of the environment to have that under our control and the control of the Department of Environment to make sure that the water is as good as it can be from an urban development.

29. Ms. Hartland (River Road)

Commented she is a lifelong resident of Spryfield and has dealt with a flooding situation from MacIntosh Run on River Road. This development will add to the flooding as the water will have no place else to go. Concern that they will be washed down the runs and someone else will take over.

30. Kathleen Hall, Williams Lake Conservation Company

The UARB considered the effect of rezoning on the environment and concluded there would be little protection in the rezoning application. She asked Council to consider paragraph 84 of the UARB report. Mr. Schaffenburg just spoke to this point and he was misleading as Mr. Porter said the effects of diverting water from the lands, now going into MacIntosh Run, is probably not good and it will probably have some affect on the water levels of Collpitt Lake and Williams Lake.

Has Mr. Schaffenburg not understood yet that once they have blasted, water will pour down the 100' cliff. There will be a serious problem when water is diverted as there is already a lack of water sources in Collpitt and Williams Lake. The UARB said, the time to protect the environment is through the development agreement. This has not been done. We have asked Community Council to reject this proposal and have a better plan to protect the lakes.

The density could be increased at the back of the site. The development agreement does not seem to care about the water quality. I am imploring that you do. It is vital to our future.

Not only important that the development agreement be consistent but respect the reasons for the opposition from the public. We have been repeating this year after year. We are serious about the future of our lakes. It is the duty of the elected representatives to make wise decisions that will have a positive effect on our futures. You have the chance to make a positive decision now. You can say in years to come that you did the right thing.

The Native issue is critical. There is no Native representation here tonight, you have not even seen the preliminary (archeological) study.

The Environmental Protection Act indicates the province would be responsible for dealing with pollution of the lakes but they only deal with contamination not pollution and they cannot be relied upon.

31. Alana Kerr

A lot of comments here tonight regarding water quality and the Department of Environment being largely responsible to maintain this. The fact remains that the Department of Environment only responds when complaints are made. It is a reactive process not proactive. It is hard to prove the source of contamination. Some things just cannot be fixed after, they have to be prevented. We need to monitor before. We should look at development in terms of potential problems we can foresee. We have a lot of people from WLCC and we try to pacify them by saying that it will be dumped in MacIntosh Run. That is not acceptable, the lakes further down will be impacted. Consider watersheds on both ends of this development. Ensure no one gets flooded and there is water where needed.

32. Connie Berman

Works with people immigrating/emigrating to Nova Scotia and when asked why they chose Nova Scotia they respond it is because of the environment, the trees, and greenery and the opportunities that still exist here to swim, hike and enjoy nature in the middle of the city.

We offer a city where lakes, trees and unpolluted swimming areas are available. I implore you to think very hard regarding the responsibility you have to affect the future of this environment.

I thank the people who have put thousands of hours to bring these points to your attention. There are informed and educated people in this area and they know more than you do as this is not your area of expertise. They have tried with devotion and selflessness on behalf of all of us. At the very least, you could discuss it further.

33. Chris Allison

194 acres being donated for conservation land, was it rezoned as well? As of right development does not include that land.

Mr. Schaffenburg responded that the 194 acres was not rezoned and is under the interim growth control and not able to be developed at this time.

If as-of-right can only be done on the 156 acres. How can number be same or bigger if lot sizes have to be the same?

Mr. Schaffenburg explained the open space for as-of-right is only 5% of land area excluding street. This development agreement is preferable to as-of-right.

As-of-right development is preferable to this development agreement. Believe the

developers can work with the community to design a neighbourhood that will meet the needs of all involved.

Concerned that clean water will be directed to Collpitt Lake which means dirty water will be directed to MacIntosh Run. The MacIntosh Run river is a migratory fish way protected under the Federal Fisheries Act. Adequate monitoring of the water quality in MacIntosh Run is required but this development agreement does not specify this.

Ask that Community Council do not approve this development agreement.

Councillor Mosher advised due to time constraints the public hearing would continue tomorrow evening, Thursday, January 6, 2005 at the Halifax West High School, 283 Thomas Raddall Drive, Halifax. She advised if there were any persons remaining who would like to comment they are asked to sign the SPEAKERS LIST and they will be given an opportunity to address Community Council tomorrow evening. Councillor Mosher advised only those persons on the list for tomorrow night will be able to speak. Written submissions will be accepted until 7:00 pm on Thursday, January 6, 2005.

Councillor Mosher announced the public hearing was adjourned for this evening at 10:00 pm, to be reconvened tomorrow evening, Thursday, January 6, 2005 at 7:00 pm.

Thursday, January 6, 2005 continuation of public hearing.

Councillor Mosher called the continuation of the public hearing for Case 00066: Development Agreement, Governor's Brook, Subdivision, Mainland South, Halifax, to order at 7:00 pm in the Halifax West High School, cafeteria, Thomas Raddall Drive, Halifax.

Councillor Mosher reviewed the guidelines/procedures for public hearings.

One written submission from Dr. Taggart was received and circulated to the Councillors.

Councillor Mosher called for the first speaker on the SPEAKERS LIST to come forward.

1. **Ms. Dawn Underwood** was not present at 7:02 pm.

2. **Ms. Rebecca O'Brien** was not present at 7:02 pm.

3. **Ms. Erin Hodge, Spryfield**

Not a member of any organization nor expert of any kind. She is disillusioned with process and disappointed discussions are continuing on this development.

This area of true natural beauty, a jewel among houses and concrete, this property should not be touched in any way. This development agreement does not fit where it

is proposed. It is not what we want and fails to meet all previous standards set out in the MPS. We have a responsibility to our community, province, country, that we RESPECT those things that need to be respected. We have entrusted in you (Councillors) a deeper responsibility. There are lots of experts who have made points/presentations on water quality, etc. Chris Taggart, an expert in water quality, tabled a letter, there is a lake similar to Collpitt Lake/ Williams Lake that has been degraded so badly you cannot get it back.

4. **Mr. Alex Busby** was not present at 7:06 pm.

5. **Mr. John Fahey, Flemming Heights**

Indicated he read the entire development agreement and - SHALL PROTECT ENVIRONMENTALLY SENSITIVE AREAS - is clear. A member of past Council spoke saying the MPS *shall* protect the environment and they meant **shall**. This development agreement does not do that.

Contrary to the information provided the traffic volume has not gone down.

There is not a huge crowd tonight, 32 to 0 speaking against this development agreement. Send the Developer back to revise this plan and send some Environmentalist too so we do not have to have another public hearing.

Suggestion for the next development agreement is that it should have a bond larger than \$20,000 for possible future environmental issues.

6. **Ms. Theresa Snow**

Indicated the Councillors have heard the issues; damage to environment, lakes and water ways that extensive blasting would cause, increase of traffic, lack of existing municipal services, moderate damage during development. Unless these concerns are addressed before development takes place, the tax payer will be paying the cost to fix these things. Do we want our children to pay for something that we could "prevent" now? Hear these remarks before you make a decision.

7. **Ms. Dawn Underwood, Williams Lake Conservation Company (WLCC)**

Concern with adverse affects this development agreement will have on the watershed, Williams Lake and Collpitt Lake. This development agreement does not comply with policy 7.3 which indicates the city SHALL protect the environment. This development agreement wants to blast the most environmentally sensitive part of this area for an apartment building. You cannot do that and protect the environment at the same time. Chebucto Community Council has a legal requirement to protect the land. Send this development agreement back to the developer and let them bring forward something else.

We are not against development, we are for *good* development. The Developer generously agreed to give a portion of the land to the city as parkland/conservation land. The developer cannot use that land so he is giving it to us - he is not protecting the area we want protected. He can take that area back and give us the area that will protect the watershed. It is designated environmentally sensitive. WLCC has attempted to meet with the developer but he has not been available.

Councillor Adams asked for Ms. Underwood's definition of an environmentally sensitive area. Ms. Underwood advised it was not her definition but that definition outlined in the development agreement and includes wetlands - 7.1 refers to it, tree cover, exposed bedrock - areas of most sensitivity, hydrology in that area is very sensitive and that bedrock is crucial to that water quality and health of Collpitt Lake. The slopes are also environmentally sensitive.

Ms. Rebecca O'Brien was not present for the second call at 7:18 pm.

Mr. Alex Busby was not present for the second call at 7:19 pm.

8. Mr. Robert MacPherson, Manager, Kimberley Lloyd Developments, Ltd.

- Mr. MacPherson read from a prepared text which is on file in the Municipal Clerk's Office.

Mr. MacPherson indicated Kimberley Lloyd respects the opinions heard tonight. Kimberley Lloyd feels the development agreement is a responsible plan for a mixed use residential area. He added he was available for questions after the meeting.

Councillor Mosher called a third time for those persons on the Speaker's List who had not presented to come forward at this time. The speaker's were not in attendance and it was **MOVED BY Councillor Walker, seconded by Councillor Adams that the public hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.**

MOVED BY Councillor Adams, seconded by Councillor Walker that a decision on Case 00066: Development Agreement, Governor's Brook, Subdivision, Mainland South, Halifax be deferred to Monday, January 10, 2005 pending updates from staff on the following concerns raised during the public hearing. The information is requested for Monday, January 10, 2005:

1. **Clarification as to the rationale for the spike in the Armdale Rotary traffic data for 1995. Also, for 2001-2004. Clarification on the methodology used and data.**
2. **What is the setback from the MacIntosh Run and any other water course under RDD.**

3. **Clarification on a statement made regarding 2000 new units referenced in the UARB report: Where did those units come from and what is the time frame?**
4. **Clarification on the number of units permitted under RDD as this particular development agreement indicates 870. What would the total density be for housing units.**
5. **What is the role of the provincial departments; Department of Environment and Labour, Department of Fisheries and Oceans as well as HRM's Environmental Engineer group.**
6. **What is the net effect on the water course in respect to the volume of water in MacIntosh Run and Collpitt Lake.**
7. **Clarification on the reference to native artifacts and a report that was prepared.**
8. **Comparison of this environmentally sensitive area to other environmentally sensitive areas in HRM.**

Councillor Adams added a question/answer format for the above clarifications would be acceptable.

Councillor Walker requested the three e-mails received today be included as part of the public record. Councillor Mosher also requested the e-mails circulated yesterday be included as part of the public record.

Mr. Angus Schaffenburg responded to some of the concerns raised:

- he has spoken to Mr. Bob Ogilvie regarding the native artifacts and has a copy of the preliminary report. The report indicates that the property in question is moderate to high in possibility of containing artifacts. Subsurface testing will be required and bridge construction will be monitored to ensure artifacts are not present. If artifacts are found work will stop and the heritage division will be contacted immediately.
- The setback from MacIntosh Run (Z19 map) is part of the Land Use By-Law of Mainland South. Part of 1973 study shows 1 in 100 flood area and requires that you not build in that area. There are no setback requirements from other water courses. The Land Use By-Law for R1 and R2 do have setbacks of rear yard of 8'.
- In regards to the RDD units; residential development district allows single detached and duplex as-of-right, with no further public process. HRM does not have a subdivision plan on file so there is no plan that shows the number of units you could do as of right.

Councillor Adams requested the rule of thumb for building lots per acre that would include allowance for roadways. Mr. Schaffenburg responded probably four lots with 4-5% of that

allotted for open space under the MGA (Municipal Government Act). Councillor Hum received clarification that Councillors could contact staff for any additional questions that may arise during review of the information prior to next Monday's meeting.

MOTION PUT AND PASSED UNANIMOUSLY.

3. NEXT MEETING - Monday, January 10, 2005, 7:00 pm at the Keshen Goodman Library, 330 Lacewood Drive, Halifax.

4. ADJOURNMENT

The meeting adjourned at 7:31 pm.

Chris Newson
Legislative Assistant