

**HARBOUR EAST COMMUNITY COUNCIL
MINUTES**

March 1, 2007

PRESENT:

**Councillor Jim Smith, Chair
Andrew Younger
Harry McInroy
Bill Karsten
Gloria McCluskey**

REGRETS:

Councillor Becky Kent

STAFF:

**Ms. Angela Jones-Rieksts, Municipal Solicitor
Ms. Chrissy White, Legislative Assistant
Ms. Julia Hornecastle, Legislative Assistant**

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The meeting was called to order at 7:00 p.m.

2. APPROVAL OF THE MINUTES

MOVED by Councillor McCluskey , seconded by Councillor Younger, that the minutes of February 1, 2007 be approved. MOTION PUT AND PASSED UNANIMOUSLY.

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

Additions:

- 12.1 Fence Permit Application #82281, PID #00036095, Civic 69 Jackson Road, Dartmouth.
- 12.2 Case 00817- Site Specific CPS & LUB Amendment and Development Agreement- 32 Primrose Street.
- 12.3 Staff Report re: re-zoning of the Main Street Business District

Deletions:

- 7.1 Eastern Front Theatre
- 9.3.1 Friends of Public Gardens
- 9.3.2 HRM Zoning Requirements

MOVED by Councillor McInroy, seconded by Councillor Younger, that the Order of Business be approved as amended. MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES

- 4.1 Traffic Concerns- No Right Turn Off Thistle on to Slayter, School Street changed to one way, methods to reduce short cutting through School Street

4.1.3 Accessible Playground- Dartmouth

No information received, to remain on status sheet.

5. MOTIONS OF RECONSIDERATION- NONE

6. MOTIONS OF RECISSION- NONE

7. CONSIDERATION OF DEFERRED BUSINESS

7.1 Presentation- Eastern Front Theatre

This item was deferred until the April meeting.

8. HEARINGS

8.1 PUBLIC HEARINGS

8.1.1 Case 00981: Scrap Metal Recycling as a Home Occupation

- A staff report dated January 25, 2007, on the above noted, was before Council.

Ms. Hanita Koblents, Planner, presented the staff report.

The Chair called three times for those wishing to speak in favour of or opposition to the proposed. Hearing none, the following motion was placed:

Moved by councillor Younger, seconded by Councillor McInroy that the public hearing close. MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillor Younger, seconded by Councillor McCluskey, that the Harbour East Community Council approve the proposed amendments to the Land Use By-law for Dartmouth, provided in the report dated January 25, 2007. MOTION PUT AND PASSED UNANIMOUSLY.

- The purchase and Sale Agreement is with Ollive Properties.
- Dexel is the Consultant.

Ms. Angela Jones-Rieksts, Municipal Solicitor advised that the Municipal Government Act dictates who can speak in a public hearing.

Councillor Smith called for those wishing to speak either in favour of or in opposition to the proposed development agreement.

Mr. Cole Webber, Halifax Resident and Member of the Coalition Against Poverty Spoke against the development advising that this development will cause rent to rise increasing the cost of living in Dartmouth.

Mr. Peter Guire, president of Local 83 Carpenters Union spoke against the development advising that he would like to see affordable units incorporated in the building.

Mr. Roland kafka, Resident advised that he would like to see wheelchair accessible units incorporated in the development plan. He also advised that he would like to see affordable units within the building.

Mr. Fred Myers, Murry Hill, Dartmouth advised that he is in support of the development.

Mr. Dennis Colvack, Dartmouth spoke in favour of the development.

Ms. Cap Larson, Halifax spoke against the development. She advised that she would like to see Council approve some affordable units for the building.

The Chair called three times for any ADDITIONAL speakers. Hearing none, the following motion was placed.

MOVED by Councillor Younger, seconded by Councillor McCluskey, that the Public Hearing Close. MOTION PUT AND PASSED UNANIMOUSLY.

1. Approve the development agreement, attached to the January 12, 2007 staff report, including the minor changes to the proposed agreement as shown in Attachment A to this report, to permit an addition to, renovation and conversion of the existing Greenvale School to a multiple unit building at 130 Ochterloney Street in Downtown Dartmouth;
2. Require that the development agreement be signed within 120 days or any extension thereof granted by Council on request of the applicant from the closing date of the property transaction, otherwise, this approval will be void and obligations arising hereunder shall be at an end.

MOTION PUT AND PASSED UNANIMOUSLY.

8.2 VARIANCE HEARINGS

8.2.1 Application for Variance 13614- 88 Shore Road Dartmouth

- A staff report dated February 21, 2007, on the above noted, was before the Community Council.
- A petition was presented on the above noted item.

Mr. Sean Audas, Development Officer, presented the staff report.

In response to questions from Council, Mr. Audas advised:

- If the variance is refused, the project is in violation of the variances that have been approved. The structure would then have to be removed, or more land would have to be purchased on the side to meet the variance.
- The appellant is the Developer, and they have been properly advised of the regulations.
- The Location Certificate is not a full survey plan.
- A fence can be constructed to separate the properties as long as it meets regulations.
- The plan was passed to a surveyor in early October.

- He has a deeded right of way through the back passage,
- He has notified Mr. Audas of discrepancies within the Development Agreement, and that the right of way has been blocked by a gas metre,
- The property was originally only supposed to be three units has been increased to four units,
- A 30 foot overhang has been removed from the area and is off by 1.5 feet.
- He paid for a survey and a Community Standards Officer had visited him advising that he would send a report to the Mayors office, and to his knowledge, this has never been done.

Ms. Cynthia Gas, Resident of Fairbank Street, spoke in opposition of the variance questioning responsibility for the violation. She noted that a petition has been submitted on this subject.

Ms. Marie Coler, 87 Fairbank Street spoke in opposition of the variance. She advised that she would like to see noise and dust regulations imposed on developers for long term developments. She expressed concern with the disregard of the environment throughout this development by cutting down the trees on the street. She expressed concern with the price of the fines, and suggested that the fine be increased.

Ms. Gretchen Polcan, 82 Shore Road spoke in favour of the variance, stating she believes it would be good for the community. She advised that the development is a nice balance for community and surrounding neighbourhoods because it is spiking the assessments of properties in the areas.

Mr. Jamie McNeil, Solicitor for Ms. Adams advised that there was no intention on the part of the Developer to disregard the rules and regulations regarding development.

Mr. David Hampson, 91 Fairbank Street, Builder spoke in favour of the variance. He advised that the assessments of the surrounding properties have increased significantly and advised that any violations were not done intentionally. There was never any intentional disregard and they have done everything to comply.

Mr. Brian McA’Nulty and Ms. Mary Adams, Property Owners noted that they have

MOVED by Councillor Younger, seconded by Councillor McCluskey, that the public hearing close. MOTION PUT AND PASSED UNANIMOUSLY.

At this time, Councillor Smith called for a 10 minute recess. When Council re-convened, the following motion was placed.

MOVED by Councillor McCluskey, seconded by Councillor Younger that the Harbour east Community Council overturn the Development Officers decision and approve the variance request.

Councillor McCluskey advised of the difficulty of this situation. She advised that she feels for all parties, and has decided approve the variance request.

Councillor Karsten advised that he feels for all parties involved, and understands the difficulty of the situation, but he approves the variance request.

Councillor Younger expressed sympathy for the Pellerines, but, advised that there was not enough evidence presented supporting an intentional violation of the Land Use By-Law.

Councillor McInroy voted against the variance, as he believes there is sufficient evidence that there was intentional disregard for the Land Use By-Law. He advised that Council should not condone this type of violation.

MOTION PUT AND PASSED.

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS

9.1 Correspondence- None

9.2 Petitions- none

9.3 Presentations

10.1 Case 00993: Amending Development Agreement- Beazley Lanes

- A staff report dated February 15, 2007 was before the Community Council.

MOVED by Councillor Younger, seconded by Councillor McCluskey that Harbour East Community Council:

- 1. Approve, by resolution, the non-substantive amendment to a development agreement, as shown in Attachment A (the second development agreement), to allow for a longue on the premises.**
- 2. Require the amending agreement be signed within 120 days or any extension thereof granted by Council on request of the applicant from the date of final approval by Council and any other bodies as necessary whichever approval is later, including applicable appeal periods, otherwise, this approval will be void and obligations arising hereunder shall be at an end.**

In response to questions from Council, staff advised:

- Food is served in the beverage room,
- A development agreemet is in effect until it is discharged by the municipality and the owner. There are no time constraints.

MOTION PUT AND PASSED.

11. MOTIONS-NONE

12. ADDED ITEMS

12.1 Fence Permit Application #82281, PID #00036095, Civic 69 Jackson Road, Dartmouth.

- A staff report dated February 21, 2007, on the above noted, was submitted.

- There are not other fences on the east and west side.

Councillor Smith called for those wishing to speak either in favour of or in opposition to the proposed Permit Application.

Robert Sealy, Property Owner advised that he has applied for an eight foot fence for privacy and safety purposes. He advised that he is submitting a building application within the next 30 days to build a single family home.

Councillor Smith called three times for any additional speakers. Hearing none, the following motion was placed:

MOVED by Councillor Younger seconded by Councillor Karsten that the public hearing close. MOTION PUT AND PASSED.

MOVED by Councillor Karsten, seconded by Councillor Younger that the Harbour East Community Council not approve the application #82281 to issue a Construction Permit for a fence in excess of 6.5 feet at #69 Jackson Road, Dartmouth.

Members of Council provided comments on the motion, noting:

Councillor Karsten advised that the municipalities regulations on fence height are reasonable and believes no valid reason has been presented.

Councillor McInroy advised that he is not in favour of the motion. He advised that Mr. Smith provided sufficient reasoning for an application for an increase in fence footage.

Councillor McCluskey advised that she is will vote against the motion.

Councillor Smith advised that he is in support of the motion. He advised that he is a resident in the area in question, and advised that the apartment building is question is reputable and has never had any complaints. Unless the By-law is adjusted he will not support a fence height extension.

1. Give first reading to the proposed amendments to the Dartmouth Community Planning Strategy and Land Use Bylaw as provided in attachment C, and schedule a joint public hearing with Harbour east Community Council.
2. Approve the proposed amendments to the Dartmouth Community Planning Strategy and Land Use By-law as provided in attachment c; and
3. Give notice of Motion to consider the proposed development agreement in Attachment D and schedule a joint public hearing with Regional Council.

MOTION PUT AND PASSED UNANIMOUSLY.

12.3 Staff Report re: re-zoning of the Main Street Business District

MOVED by Councillor Younger, seconded by Councillor McCluskey, that a staff report regarding the re-zoning of the Main Street Business District be submitted to Harbour East Community Council. MOTION PUT AND PASSED.

13. **NOTICES OF MOTION- NONE**
14. **PUBLIC PARTICIPATION- NONE**
15. **NEXT MEETING**

The next meeting will be April 5, 2007.

16. ADJOURNMENT

The meeting adjourned at 9:45 p.m

Chrissy White
Legislative Assistant