

HARBOUR EAST COMMUNITY COUNCIL  
MINUTES

October 1, 2009

PRESENT:                   Councillor Gloria McCluskey, Chair  
                              Councillor Lorelei Nicoll  
                              Councillor Bill Karsten  
                              Councillor Jackie Barkhouse  
                              Councillor Jim Smith  
                              Councillor Darren Fisher

STAFF:                     Ms. Roxanne MacLaurin, Municipal Solicitor  
                              Ms. Sherryl Murphy, Deputy Clerk  
                              Ms. Krista Tidgwell, Legislative Assistant

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**1. CALL TO ORDER**

The meeting was called to order at 6:00 p.m. at the Halifax Regional School Board Council Chambers, Alderney Drive, Dartmouth.

The Chair welcomed the newly elected Councillor for District 6, Darren Fisher.

**2. APPROVAL OF MINUTES - September 10, 2009**

**MOVED BY Councillor Barkhouse, seconded by Councillor Smith, that the minutes of September 10, 2009, as presented, be approved. MOTION PUT AND PASSED.**

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

The following items were added to the Agenda:

12.1 Membership Dartmouth Lakes Advisory Board

12.2 Inclusive Playgrounds

12.3 Request for Report Comprehensive Development Districts in Eastern Passage

**MOVED BY Councillor Barkhouse, seconded by Councillor Nicoll, that the Order of Business be approved. MOTION PUT PASSED.**

**4. BUSINESS ARISING OUT OF THE MINUTES**

**4.1 Status Sheet Review**

**4.1.1 Request for Stop Sign - Slayter Street**

This Policy is being reviewed. The item is to be removed from the status sheet.

**4.1.2 Sound Barrier Fence - Woodland Avenue**

No update at this time, the item is to remain on the status sheet.

**4.1.3        Request for Stop Sign - South Ridge Circle**

No update at this time, the item is to remain on the status sheet.

**4.1.4        Accessible Playgrounds**

The Item was considered later in the meeting as an added item. This item is to be removed from the status sheet.

**4.1.5        Lower Commercial Mill Rate - Downtown Dartmouth**

Correspondence dated May 5, 2008 was received. The item is to be removed from the status sheet.

**5.            MOTIONS OF RECONSIDERATION - NONE**

**6.            MOTIONS OF RESCISSION - NONE**

**7.            CONSIDERATION OF DEFERRED BUSINESS - NONE**

**8.            HEARINGS**

**8.1          Variance Hearing**

**8.1.1        Appeal of the Development Officer's decision to approve a variance at 76 Shore Road, Dartmouth**

- A staff report dated September 23, 2009 was before Council.

Mr. Sean Audas, Development Officer, reported to Council that the appellant has withdrawn her claim and no variance hearing was required.

**8.2          Public Hearings**

**8.2.1        Case 01292 - Amending Agreement, 35 and 59 Baker Drive, Dartmouth**

- A staff report dated August 19, 2009 was before Council.

Mr. Joseph Driscoll, Planner, presented the report to Council.

Councillor Karsten asked whether the Order to close one driveway had been honoured.

Mr. Driscoll advised the driveways had been blocked off, however, at some point the blockades were removed.

Councillor Karsten requested clarification as to whether this matter was a separate issue and if it was being pursued by the Development Officer.

Mr. Driscoll confirmed that it was a separate matter and was being pursued through the appropriate channels.

Councillor McCluskey called for those wishing to speak either in favour of or opposed to the proposal and noted that the owner was in attendance at the meeting.

**Mr. Bruce Mitchell, Hollands Grove**, advised that he had expressed concern with the second driveway for the commercial building and was advised it would be closed. Mr. Mitchell noted that he had driven by the property and the barriers were removed. He felt the Community Council should not approve the application until the Land Use Bylaw amending agreement case had been resolved. Mr. Mitchell noted he was not against the second driveway but the procedure being followed.

Councillor McCluskey called three times for any further speakers wishing to speak either in favour of or opposed to the proposal. Hearing none, the following motion was placed:

**MOVED BY Councillor Karsten and seconded by Councillor Barkhouse, that the public hearing close. MOTION PUT AND PASSED.**

**MOVED BY Councillor Karsten, seconded by Councillor Barkhouse, that Harbour East Community Council:**

- 1. Approve the proposed amending development agreement to permit two additional driveway entrances and a pylon sign at a new location as set out in Attachment A of the staff report dated August 19, 2009; and**

- 2. Require the agreement be signed and delivered within 120 days, or any extension thereof granted by Harbour East Community Council on request of the applicant, from the date of final approval of said agreement by Harbour East Community Council and any other bodies as necessary, whichever is later, including any appeal periods. Otherwise this approval shall be void and any obligations arising hereunder shall be at an end.**

Councillor Karsten referred to Mr. Mitchell's concerns and noted he had received emails in this regard. Councillor Karsten expressed concern that Mr. Mitchell's perception was that developers could do as they wished and Community Council would take no action. He noted that perception becomes reality and whether true or false would not want members of the community viewing the Community Council in this manner. Councillor Karsten asked whether staff would have handled the situation in the same manner regardless of the situation, a developer or a single family dwelling.

Staff confirmed they are consistent in the manner in which they handle these situations.

#### **MOTION PUT AND PASSED.**

#### **8.2.2 Case 01270 - Amendments to Eastern Passage/Cow Bay LUB and Discharge of Heritage Hills Development Agreement**

- A staff report dated August 28, 2009 was before Council.

Mr. Mitch Dickey, Planner, presented the report to Council.

Councillor McCluskey requested clarification on cash contributions.

Mr. Dickey responded that as part of the Development Agreement the developer is required to develop playgrounds or provide a cash contribution, as well, the developer had to install a trail and bridge. Mr. Dickey noted this has all been completed.

Councillor McCluskey asked how effective a five foot fence would be.

Mr. Dickey advised if a fence is more than four feet above grade than it would be closer to the property line and would provide greater privacy.

Councillor Barkhouse asked whether the planner had an estimate of how many decks are in compliance at this time and how staff would deal with these.

Mr. Dickey advised a survey had been done and showed that approximately 105 to 110 houses had decks of some form. He estimated that around 5% to 10% of these do not conform. He noted that enforcement is complaint driven and that staff is dealing with two complaints at this time. Mr. Dickey advised that all complaints will be addressed.

Councillor Barkhouse asked what the current objective for enrollments are for the Eastern Passage Education Centre.

Staff advised there are approximately 465 students currently at the Centre and projections for 2018 are showing a slight decline to 425 students.

Councillor Barkhouse asked what future land use designation is applied to this site.

Mr. Dickey advised the entire area of the Heritage Hill Development under the MPS is designated as urban residential, therefore the underlining designation allowed a CDD zone to be applied.

Councillor Barkhouse asked whether there is a community facility designation to match the community facility zone.

Mr. Dickey advised there is such a zone and it is typically applied to publically owned properties when an MPS is adopted.

Councillor Barkhouse asked whether Community Council can apply the community facility designation to this school.

Mr. Dickey advised that Community Council has the ability to do a rezoning, but changing the land use designation would require an MPS amendment which is a matter for Halifax Regional Council.

Councillor Barkhouse asked whether the school could be re-designated to be included as a facility under the MPS.



Mr. Dickey advised that if Council were to consider an MPS amendment, which would be required, it certainly could be suitable. Mr. Dickey noted that staff feel this is not necessary.

Councillor Barkhouse asked what the designation was for the three other schools in the area.

Mr. Dickey advised he had spoken with the School Board and the schools are all designated as community facility zones.

Councillor McCluskey called for those wishing to speak either in favour of or in opposed to the proposal.

**Mr. Robert MacPherson, President of Scotia Learning Centre (SLC), representing all private school sites,** advised SLC supports the discharge of the Development Agreement and understands why it is being moved forward to Halifax Regional Council. SLC supports the recommendations by staff with the exception of the P-2 zone on the school site. SLC feels at this time it should be left in its current designation, noting that the status quo brings no additional benefit to the site and takes away nothing from the site. Mr. MacPherson noted that he sees the present zoning as a positive for the community and would hate to see a change made to the schools site that could actually be seen as having a negative impact. Mr. MacPherson provided a brief history into the background of SLC.

SLC builds schools, operate them and leases them back to the Province both in Nova Scotia and New Brunswick. Back in 1999 - 2000 there were 13 P-3 schools in Nova Scotia of which 11 are in Halifax Regional Municipality. SLC owns and operates Portland School as well as the french school in Montebello. All 13 schools in Nova Scotia have residential zoning and the situations is similar in New Brunswick. SLC has recently been awarded two schools, one in Moncton and one in Braxton. SLC is very happy and very proud of their schools and gets positive reports from the principals and students that attended SLC's schools. SLC's desire is to see the schools at a high standard of upkeep and lasting many years. SLC sees the P-2 zone as a very negative impact on their business and would ask the status quo remain. Mr. MacPherson requested a motion be brought forward to recommend that the site remain as CDD.

Following Mr. MacPherson's comments, Councillor McCluskey called three times for any further speakers wishing to speak either in favour of or in opposition to the proposal. Hearing none, the following motion was placed:

**MOVED BY Councillor Nicoll, seconded by Councillor Karsten, that the public hearing close. MOTION PUT AND PASSED.**

**MOVED BY Councillor Barkhouse, seconded by Councillor Smith, that Harbour East Community Council:**

- 1. Approve the proposed amendments to the Land Use By-law for Eastern Passage/Cow Bay, as shown on Map 1 and in Attachment A with the exception that the Junior High School, Eastern Passage Education Centre site, located at 93 Samuel Daniel Drive retain its current CDD zone. Further that the provisions of the CDD zone be amended to add P-2 community facility uses as permitted uses.**
- 2. Following the appeal period for the Land Use By-law amendments, discharge by resolution of Community Council, the development agreement for Heritage Hills.**

Staff provided clarification of the motion to retain the CDD zone on the property. Staff advised that the CDD zone, as it stands, does not allow any use except by Development Agreement. By leaving the CDD zone in place and inserting the P-2 use, it allows the school to continue on the property and obtain permits without having to have a Development Agreement. For example, if the school wanted to have a portable in the future, you wouldn't have to do a Development Agreement just to add that portable.

Councillor Barkhouse stressed the importance of protecting the school/property for as long as possible.

Councillor Karsten requested clarification on the second part of the motion with respect to the intent and nature.

Staff advised that if the CDD zone is left on the property and has no Development Agreement, the school becomes a nonconforming use.

Councillor Smith asked if Community Council adds the P-2 designation, as indicated in the motion, does that mean institutional and medical facilities can be held under this agreement as well.

Mr. Dickey advised that with the additional wording Scotia Learning Centre would be able to operate the school, subject to the requirements of the LUB, and they can also get a permit for a daycare, medical offices, government offices or any additional areas should the school become surplus. Mr. Dickey advised this motion only applies to school property which is 11 acres and the school would retain the current CDD zone.

Councillor Fisher confirmed that the school is currently designated as CDD zone.

Councillor Barkhouse reiterated the importance of protecting the school for as long as possible and feels that the motion provides for a different use in the future.

#### **MOTION PUT AND PASSED.**

#### **9. CORRESPONDENCE AND DELEGATIONS**

**9.1 Correspondence - None**

**9.2 Petitions - None**

#### **10. REPORTS**

##### **10.1 Staff Reports**

##### **10.1.1 Case 01299: Amending Agreements - Greenvale School, 130 Ochterloney Street**

- A staff report dated August 20, 2009 was before Council.

Mr. Darrell Joudrey Planner, presented the non-substantive matters to Council.

Councillor Fisher asked for clarification regarding what windows would be removed and if this section would be filed.

Mr. Joudrey advised the four basement windows will be covered by the parking lot and fill would be used.

Councillor McCluskey asked whether this matter would go before Halifax Regional Council and if so, would it come back to HECC. She further asked what would happen if the chimney fell down.

Mr. Joudrey advised the decision regarding the substantial alteration of the chimney removal has to go to Halifax Regional Council and noted that staff will bring this matter with three other substantial amendments. The developer requested the chimney be removed and staff identified it as a substantial amendment. Mr. Joudrey further noted that the Heritage Planning staff had also identified the removal of the chimney as a substantial alteration. Under the terms of the Development Agreement it was the responsibility of developer to come to the Heritage planner and seek advice as to how to restore and maintain the chimney.

**MOVED BY Councillor Karsten, seconded by Councillor Nicoll, that Harbour East Community Council:**

- 1. By resolution approve the proposed amending agreement which deals with the non-substantive matters of the landscaping requirements, as set out in Attachment A of the report dated August 20, 2009;**
- 2. Give Notice of Motion to consider the proposed amending agreement which deals with the substantive matter of changes to the window openings on the existing building, as set out in Attachment B of the report dated August 20, 2009, and schedule a public hearing.**

**MOTION PUT AND PASSED.**

Councillor McCluskey noted that Harbour East Community Council needs to set a date for a public hearing to hear the substantive changes.

Staff advised that once the report is received from Halifax Regional Council then a date would be set.

Ms. Sherryll Murphy, Deputy Clerk, advised that the public hearing can be tentatively set for November 12, 2009, pending Halifax Regional Council's decision.

**MOVED BY Councillor Karsten, seconded by Councillor Nicoll, that the public hearing date be tentatively set for November 12, 2009, pending Halifax Regional Council's decision. MOTION PUT AND PASSED.**

**10.2        Members of Council**

**10.2.1     Former Dartmouth City Hall - Museum**

**MOVED BY Councillor Karsten, seconded by Councillor Fisher, that Harbour East Community Council recommend to Halifax Regional Council that the Dartmouth Heritage Museum be given exclusive right to the use of the former Dartmouth City Hall building, the purpose of which is to have a permanent museum and create a “Cultural Cluster”. MOTION PUT AND PASSED.**

Councillor Karsten noted that this matter is to be forwarded to Halifax Regional Council for consideration, including the original documentation that was presented to Community Council from the Dartmouth Museum Society and an extract of this minute.

**11.        MOTIONS - None**

**12.        ADDED ITEMS**

**12.1      Membership Dartmouth Lakes Advisory Board**

**MOVED BY Councillor Barkhouse, seconded by Councillor Nicoll, that Harbour East Community Council take action to fill the existing vacancies on the Dartmouth Lakes Advisory Board and extend the terms of existing members for a term to March 31, 2010 and further that Community Council approve an amendment of the Terms of Reference to allow that a quorum is 50% of serving members at any given time. MOTION PUT AND PASSED.**

Councillor Karsten requested clarification with respect to the Board wishing to participate in the visioning exercise. He also requested the visioning exercise be done with the other water advisory groups.

Ms. Murphy advised that the Clerk’s Office is planning to do a visioning exercise with Bedford and Sackville Water Boards and Dartmouth Lakes had agreed to participate in the visioning exercise at their meeting last night. Ms. Murphy provided an update that there is a celebration planned for former Chair, Audrey Manzer and HECC will be receiving the information.

## **12.2 Inclusive Playgrounds**

Councillor Karsten advised this item had been on the status sheet for a number of years and noted that a report had been tabled with Halifax Regional Council in May of 2005. Councillor Karsten suggested that this matter could be dealt with through a meeting of the Harbour East Community Council Councillors and instructed the Clerk to set up a meeting between the members of HECC and Mr. Blair Blakeney.

## **12.3 Request for Report Comprehensive Development Districts in Eastern Passage**

**MOVED BY Councillor Barkhouse, seconded by Councillor Karsten, that Harbour East Community Council request staff prepare a report regarding an amendment to the MPS process relating to the review of policies pertaining to comprehensive development districts in Eastern Passage. MOTION PUT AND PASSED.**

In response to questions, staff agreed the report would come back to Harbour East Community Council before going to Halifax Regional Council.

## **13. NOTICES OF MOTION - None**

## **14. PUBLIC PARTICIPATION**

Margot Young, Planner with Environmental Design and Management Limited (EDM) planners for Francis Fares, provided an update on the King's Wharf project. Ms. Young noted the agreement was delayed in getting signed. EDM is now playing catchup. Ms. Young thanked staff for their helpfulness. Ms. Young noted the project has a number of different times lines and provided an update to some of those:

- Infill is underway under the Federal Government Natural Waters permit.
- Phase One infill is completed with Phase Two infill almost complete.
- Demolition is underway on the property and is ongoing.
- Mr. Audas's group is handling the street design which has been approved and is well underway on Kaye Street.

Updates on the model suite were as follows:

- HECC should receive their invitations shortly
- the model suite and sales office will be opening on October 15<sup>th</sup>
- the model suite is located on the second floor

- the model suite has not been signed off on yet, currently waiting for building permits
- the ground floor will have models and illustrations of the building
- the safety and development agreements are required in detail and are to come back to HECC
- HECC and Halifax Regional Council will be the first to view the model suite
- Ms. Young or Mr. Francis Fares can be contacted with any questions
- slight change in phasing of the Development Agreement; buildings A and B will be coming on first

Ms. Young noted this will all be before Harbour East Community Council next month.

Councillor McCluskey thanked Ms. Young.

Mr. Kurt Pyle, Acting Supervisor, Planning Applications, advised this proposal for Dartmouth is a different approach than typically taken with development. In the past staff has done a development agreement for everything at one time. With this agreement, each block will have detailed drawings and agreements for each phase. Mr. Pyle indicated that in the end it is going to be a very positive approach for Dartmouth because improvements can be made as the development proceeds.

**15.            NEXT MEETING - November 12, 2009**

**16.            ADJOURNMENT**

The meeting adjourned at 7:31 p.m.

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Information Items

1. Inclusive Playground
2. Stop Sign Request - Slayter Street and Cherry Street
3. Petition - Downtown Dartmouth Business Commission
4. Undersized Lots