

HARBOUR EAST COMMUNITY COUNCIL  
MINUTES

November 4, 2010

PRESENT: Councillor Gloria McCluskey  
Councillor Lorelei Nicoll  
Councillor Bill Karsten  
Councillor Jackie Barkhouse  
Councillor Darren Fisher  
Deputy Mayor Jim Smith

REGRETS: None

STAFF: Ms. Angela Jones-Rieksts, Municipal Solicitor  
Ms. Melody Campbell, Legislative Assistant

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## 1. CALL TO ORDER

The meeting was called to order at 6:03 p.m. with the Invocation being led by Councillor Barkhouse.

### Election of Chair & Vice Chair

The Legislative Assistant called for nominations for the position of Chair.

**MOVED by Councillor Fisher, seconded by Councillor Karsten, that Councillor McCluskey be nominated.**

The Legislative Assistant called three times for further nominations. Hearing none the following motion was placed.

**MOVED by Councillor Karsten, seconded by Councillor Fisher, that nominations cease. MOTION PUT AND PASSED.**

Councillor McCluskey accepted the appointment of Chair of Harbour East Community Council.

Councillor McCluskey called for nominations for position of Vice-Chair.

**MOVED by Councillor Karsten, seconded by Councillor Fisher, that Councillor Nicoll be nominated as Vice-Chair.**

Councillor McCluskey called three times for further nominations. Hearing none the following motion was placed.

**MOVED by Councillor Barkhouse, seconded by Councillor Karsten, that nominations cease. MOTION PUT AND PASSED.**

Councillor Nicoll accepted the appointment of Vice Chair of Harbour East Community Council.

## 2. APPROVAL OF MINUTES – October 4, 2010

**MOVED by Councillor Nicoll, seconded by Deputy Mayor Smith, that the minutes of October 4, 2010, as presented, be approved. MOTION PUT AND PASSED.**

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

Additions:

12.1 Case 15787: MPS Amendments and Amending Agreement - Russell Lake West

**MOVED by Councillor Karsten, seconded by Councillor Fisher, that the Order of Business, as amended, be approved. MOTION PUT AND PASSED.**

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

**4.1 Status Sheet Review**

**4.1.1 Hines Road/Howard Avenue Consultations**

Information report received, to be removed from the status sheet.

**4.1.2 Commercial Signs - LUB Downtown Dartmouth**

Information report received, to be removed from the status sheet.

**4.1.3 Sculpture Park - Dartmouth Waterfront**

No update, to remain on the status sheet.

**4.1.4 RVs, trailers & boats parking on residential lots**

Staff report received, to be removed from the status sheet.

**4.1.5 Traffic Light Adjustment - Lancaster & Woodland**

No update, to remain on the status sheet.

**5. MOTIONS OF RECONSIDERATION - NONE**

**6. MOTIONS OF RESCISSION - NONE**

**7. CONSIDERATION OF DEFERRED BUSINESS**

**5. MOTIONS OF RECONSIDERATION - None**

**6. MOTIONS OF RESCISSION - None**

**7. CONSIDERATION OF DEFERRED BUSINESS**

**7.1 Variance Appeal Decision: Two separate variances for 53 Government Wharf Road, Eastern Passage - Deferred June 10, 2010 meeting**

The Variance Hearing was held and closed on June 10, 2010 and was now before Council. At the June 10, 2010 meeting a motion was passed to defer decision to the November meeting.

Ms. Erin MacIntyre, Development Technician, advised Council that the property owner requested a time extension to remediate issues on the site. It was noted that there has been a considerable amount of work done on the property. The applicant has requested more time to complete repairs and demolish a building.

**MOVED by Councillor Barkhouse, seconded by Councillor Fisher, that the Variance Appeals for 53 Government Wharf Road be deferred until April 2011.**

It was noted that the Case for 53 Government Wharf Road is to be deferred until April 2011 and reissue permits at that time.

**MOTION PUT AND PASSED.**

**8. HEARINGS:**

**8.1 Public Hearings**

**8.1.1 Case 15841 - Group Homes, Dartmouth**

A staff report dated September 1, 2010 was before Council.

Mr. Darrell Joudrey, Planner, presented the report to Council.

Councillor McCluskey, Chair, reviewed the public hearing procedures; then opened the public hearing calling for any speakers for or against the proposal to come forward at this time

**Mr. Tim Olive**, Dartmouth, advised Council that he is not speaking against group homes. He is speaking for Alternative Two in the report. He advised that the report does not address balance and fairness in the community nor does it address public input. He stated that the report does not allow for consolidated overview of new and existing homes

prior to approvals. He noted that in 2009 Harbour East Community Council passed a motion regarding regulation of group homes, however, the Council expressed concern regarding the impact on a community if not properly integrated and regulated. He does not believe there is a balance in the community. He added the report noted that a group home is considered a single dwelling which does not require a public hearing. He added that the report states that the home can have up to twelve residents, in that case, no public hearing has to be held. He added that this is not only regarding group homes but it is a larger community issue. He stated that density of group homes in an area, and other types of facilities, with out proper planning and neighborhood involvement could lead to supportive housing overkill. He added that group homes should not be isolated in this amendment as there are many types of supportive housing. He added that this is a concern to all residents in HRM and all options should be considered. He added that the community social service systems are in disarray and that the public has a right to be advised and to have a say and he stated that a fair balance of density of homes must be considered.

**Mr. Harrison**, Dartmouth, advised Council that he has rhetorical questions which just should be considered as this moves forward. He advised that he finds the staff report confusing and that it does not address a problem. He continued with rhetorical questions: Were complaints related to a behavioral problem at one or more group homes? What is or was the nature of the problem? Is this an isolated or wide-spread concern? Will behavioral problems be reduced with smaller group homes adjacent to R1 areas? In other words, might there be behavioral problems in a group home with 6 residents/10 residents? Perhaps 10 residents represent the most efficient service deliver model compared to 6 residents. Who would know? Was the group home industry consulted with? Is this change more enabling for our community to respond to special needs groups or is it more restrictive? Is this problem only being experienced in Dartmouth? When will we start taking a region-wide approach to zoning legislation? Did Community Council consider and intervention with the managers of group homes in question, the offending clients and the local neighbours?

**Mr. Marty Wezler**, Vice President of the Continuing Care Association of Nova Scotia (CCANS), advised Council that there are 53 agencies throughout the Province. He advised that the CCANS has provided a written submission to Council. He added that there is a need for inclusion of small scale residential options. He added that adults should have one bedroom in a home and that each home have a maximum of four residents, with four or less residents being considered as as-of-right. He added that this is currently only permitted in home of three or less adults. He added that after January 1, 2011 all group living options will be licensed and will be considered community homes, distinguished only by the number of residents. He stated that the Department of Community Services has indicated that they will no longer be opening homes of 3 or

fewer individuals, and that they are undertaking a study of how existing small option homes can be expanded to include a fourth resident. He expressed his concern upon listening to some speakers that public hearings be held for the disabled persons rights to live in the community. He urged Council to make provision for community homes of four or less adults with disabilities to be freely located within R-1 neighbourhoods.

In response to Deputy Mayor Smith, Mr. Wezler advised that his homes currently have three or less residents.

In response to a question by Councillor Fisher, Mr. Pyle advised that the amendments in the report only deal with R-1 zones. Small option homes with three persons can remain in R-1 zones, if, when Provincial regulations change to four persons, homes would have to rezoned to R-2.

**Ms. Jackie Purcell**, Coordinator of Residential Facilities for the Province, advised Council that the HRM definition of group homes is different than the provincial definition of group homes. She added that the Province has for at least five to six years asked for service providers, when relocating, to consider five or at times four individuals per home. There is currently work being done with Mr. David Smith and Service Nova Scotia regarding zoning of small option homes. In moving forward with home locations, communities are considered and the number of homes per neighbourhood is also considered.

Councillor McCluskey called three times for any further speakers, hearing none the following motion was placed:

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

Mr. Pyle advised that he is not aware that the Province has come forward to initiate any process with HRM regarding group home issues or zoning. Mr. Pyle advised that he will contact Mr. Smith and will advise Council of any information obtained in relation group homes in a regional capacity.

**MOVED by Councillor Nicoll, seconded by Deputy Mayor Smith, that Harbour East Community Council approve the proposed amendments to the Dartmouth Land Use By-law, as set out in Attachment A of the report dated September 1, 2010.**

Councillor Karsten requested clarification regarding the initiation of the issue and why the recommended amendments are coming forward. Mr. Pyle advised that the actual amendments were initiated by Harbour East Community Council in relation to compatibility of buildings and how they are situated throughout the community.

**MOTION PUT AND PASSED.**

**8.1.2 Case 16480 - Founders Corner Condominiums, Downtown Dartmouth**

A staff report dated October 21, 2010 was before Council.

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

Councillor McCluskey, Chair, reviewed the public hearing procedures; then opened the public hearing calling for any speakers for or against the proposal to come forward at this time

**Mr. Tim Olive**, Dartmouth, addressed Council as a representative of the Dartmouth business community and on behalf of the Downtown Dartmouth Business District. He expressed his appreciation to Harbour East Community Council and HRM Planning staff, in particular Mr. Mitch Dickey, Planner, on a quick resolution to the matter at Founders Square.

Councillor McCluskey called three times for any further speakers, hearing none the following motion was placed:

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

Councillor McCluskey expressed her appreciation to HRM Planning staff on their work addressing the issue at Founders Square.

**MOVED by Councillor Fisher, seconded by Deputy Mayor Smith, that Harbour East Community Council:**

- 1. Approve the amendment to the existing development agreement for 66/70 Ochterlonley Street and 37/41 Wentworth Street, as set out in Attachment A of the report dated October 4, 2010, to reflect the inclusion of additional land area to the site; and**
- 2. Require the agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicants, from the date of final approval by Council, and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.**

**MOITON PUT AND PASSED.**

**8.2 Variance Appeal Hearings - None**

**9. CORRESPONDENCE, PETITIONS AND DELEGATIONS:**

**9.1 Correspondence - None**

**9.2 Petitions - None**

**9.3 Presentations - None**

**10. REPORTS:**

**10.1 Staff Reports**

**10.1.1 Case 16161 - Land Use By-law Amendment, 95 Circassion Drive**

A staff report dated October 21, 2010 was before Council.

**MOVED by Councillor Karsten, seconded by Councillor Nicoll, that Harbour East Community Council give First Reading to the proposed amendment to the Cole Harbour/Westphal Land Use By-law, as set out in Attachment A of the report dated October 21, 2010 and schedule a public hearing. MOTION PUT AND PASSED.**

**10.1.2 Recreational Vehicles in Residential Zones**

A staff report dated October 25, 2010 was before Council.

**MOVED by Councillor Karsten, seconded by Councillor Fisher, that Harbour East Community Council not initiate changes to eliminate RV's, trailers, and boats from being parked on private residential lots.**

Councillor Karsten requested clarification of staff noting that when land use by-laws issues are discussed, in some instances there can be variances. Mr. Pyle advised that Councillor Karsten is correct, not all by-laws are the same as they are community based by-laws not regional based by-laws. Councillor Karsten asked that if in some cases by-laws would be more regional and with some being unilateral. Mr. Pyle stated that this is correct. Councillor Karsten stated that Community Councils or Regional Council has no jurisdiction on subdivision or area covenants. Mr. Pyle, advised that the developer or community regulates and controls covenants, and that covenants are not the responsibility of HRM. He added that covenants are a civil issue.

Councillor Karsten stated that when this issue first came forward it was site specific in District 7. He stated that this is an unfortunate situation. He stated that the area is a cul-de-sac with small frontage and that the trailer is esthetically not pleasing which is part of the concern. He added that he gave considerable thought to this issue for community greater good. The Councillor stated that it is unfortunate regarding this lot, but it is not equitable to penalize residents and taxpayers who have good fortune of a larger frontage. He added that he has to find balance as in making decisions in his district.

**MOTION PUT AND PASSED.**

**10.2 Members of Council**

**10.2.1 Amendments to the Dartmouth MPS and LUB to require all applications for beverage rooms, lounges & cabarets**

**MOVED by Deputy Mayor Smith, seconded by Councillor Nicoll that Harbour East request staff to bring forward a report on amendments to the Dartmouth MPS and/or LUB to require all applications for beverage rooms, lounge and cabarets to allow a development agreement process similar to that passed on October 19, 2010 by Regional Council for Quinpool Road. MOTION PUT AND PASSED.**

**11. MOTIONS - None**

**12. ADDED ITEMS**

**12.1 Case 15787: MPS Amendments and Amending Agreement - Russell Lake West**

A staff report dated October 13, 2010 was before Council.

**MOVED by Councillor Karsten, seconded by Councillor Nicoll, that Harbour East Community Council defer Case 15787 to the next meeting of Harbour East Community Council.**

It was noted that this report was deferred to the next meeting as it had been received by members of Council just prior to the meeting.

**MOTION PUT AND PASSED.**

**13. NOTICES OF MOTION - None**

**14. PUBLIC PARTICIPATION**

Mr. Bill MacPhee advised Council that he disagrees with the recommendation that was just approved for Item 10.1.2 Recreational Vehicles in Residential Zones stating that insufficient information was presented to Council and he added that Councillors do not have the information they need to make an informed decision. He stated that here are material issues involved and this matter deserves more serious consideration. He added that in 2008 Community Council requested staff to address the issue of off street parking within in the front yard, at that time staff did not deal with the issue in part because they said due to the complexity of the issue. He stated that if parking within the front lawn is too complex an issue to be addressed, that residents can look toward to troubling times ahead.

**15. NEXT MEETING - December 2, 2010**

**16. ADJOURNMENT**

The meeting was adjourned at 7:25 p.m.

Melody Campbell  
Legislative Assistant