



**HARBOUR EAST-MARINE DRIVE COMMUNITY COUNCIL  
SPECIAL MEETING MINUTES  
July 14, 2014**

PRESENT: Councillor David Hendsbee, Chair  
Councillor Gloria McCluskey, Vice Chair  
Deputy Mayor Darren Fisher  
Councillor Bill Karsten  
Councillor Lorelei Nicoll

STAFF: Ms. E. Roxanne MacLaurin, Senior Solicitor  
Ms. Jennifer Weagle, Legislative Assistant

*The following does not represent a verbatim record of the proceedings of this meeting.*

*The agenda, supporting documents, and information items circulated to Community Council are available online: <http://www.halifax.ca/commcoun/east/140714hemdcc-agenda.php>*

*The meeting was called to order at 7:01 p.m., and recessed from 9:10 to 9:20 p.m. Community Council further recessed at 9:35 p.m. to convene In Camera at 9:45 p.m. The In Camera session adjourned at 9:50 p.m. the public session reconvened at 9:51 p.m., with the meeting adjourning at 9:52 p.m.*

**1. CALL TO ORDER**

The Chair called the meeting to order at 7:01 p.m., with the Invocation led by Councillor McCluskey.

**2. APPROVAL OF MINUTES – May 1, 2014**

**MOVED by Councillor McCluskey, seconded by Councillor Nicoll, that the Harbour East-Marine Drive Community Council minutes of May 1, 2014 be approved as circulated. MOTION PUT AND PASSED.**

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

Addition

- 6.1 Request for Report – Splash Pad Eastern Region - Councillor McCluskey

Councillor Karsten requested that agenda item no. 5.1.1 Citizen Nominations to the Port Wallace Community Public Participation Committee be moved to follow agenda item no. 7 Public Participation.

**MOVED by Councillor McCluskey, seconded by Deputy Mayor Fisher, that the agenda be approved as amended. MOTION PUT AND PASSED.**

**4. PUBLIC HEARINGS**

**4.1 Case 18992: Rezoning and Development Agreement for Erindale Estates, Eastern Passage**

The following was before Community Council:

- A staff recommendation/information report dated May 30, 2014
- An Amended Schedule B Concept Plan

Mr. Darrell Joudrey, Planner, Community and Recreation Services, presented Case 18992, an application by Armco Capital Inc. to rezone the lands between Caldwell Road and Cow Bay Road in Eastern Passage from the R-1 (Single Unit Dwelling) and R-2 (Two Unit Dwelling) Zones to the CDD (Comprehensive Development District) Zone.

Mr. Joudrey noted an amendment to Schedule B (Concept Plan) of the Development Agreement (Attachment B), to correct the number of 35' single family lots to 44, and units to 44, as well as the number of 40' single family lots to 74 and units to 74. He clarified that the total number of lots and units remain the same at 141 lots and 160 units. A revised Schedule B was before Community Council.

Mr. Joudrey further noted an additional amendment to section 3.5.1 of the Development Agreement (Attachment B) under Parkland, to replace "1735.43 square metre Neighbourhood Park" with "1735 square metre Neighbourhood Park" and "702.13 square metres linear park parcel" with "702 square metres linear park parcel". He also recommended that "with the construction of boardwalk" be added to the fourth line of section 3.5.1 following the word "connection" and before the word "between". A revised section 3.5.1 was before Community Council.

A copy of Mr. Joudrey's presentation is on file.

Mr. Joudrey responded to questions of clarification from members at this time.

Responding to a question from Councillor Karsten, Mr. Joudrey clarified on the Schedule B Concept Plan the locations of the neighbourhood park and the linear park parcel.

At the request of Councillor Karsten, Mr. Joudrey indicated that the ability to protect the wetlands is included in the development agreement; however, the ability to request to alter or modify the boundary of the wetlands exists through a substantive amendment application. He indicated that such an application would have to go through the public participation process and be brought forward to Community Council again. Mr. Joudrey further clarified at the request of Councillor Karsten that the Nova Scotia Department of Environment reviews for approval the area delineated as wetland.

Responding to an inquiry from Deputy Mayor Fisher, Ms. Thea Langille, Major Project Planner, Development Approvals, clarified that any future application to alter the wetland would also be subject to Department of Environment approval.

Deputy Mayor Fisher requested clarification with regard to page 3 of the staff report, Enabling Policy, which states Policy UR-13 of the Eastern Passage/Cow Bay MPS states Council's intent to establish a Comprehensive Development District (CDD) through the Land Use By-law. Ms. Langille clarified that the initial application was for a rezoning, which staff did not believe would adequately address the issues in the community, and staff recommended the applicant present their proposal through the establishment of a CDD.

Responding to an inquiry from Councillor McCluskey, Mr. Joudrey clarified that the CDD has enabled staff to negotiate lot size, and reallocate development from the wetland to the developable areas.

At the request of Councillor Hendsbee, Mr. Joudrey clarified that Halifax Water had no issue with water and sewer capacity for this development.

Mr. Joudrey, at the request of Councillor Hendsbee, clarified that a brook near the Cow Bay Road discharges out of the wetlands, and that it would be part of the stormwater management plan for the development. Mr. Joudrey further confirmed at the request of Councillor Hendsbee that this proposal will not be going before the Regional Watersheds Advisory Board.

There being no further questions from members, the Chair invited the applicant or its representative to present.

Mr. Glen Woodford, WSP Canada Inc, representing the applicant, Armco Capital Inc., presented the proposal to Community Council. Mr. Woodford's presentation included:

- Project background
- Project site
- Previous proposal (total lots 84, total units 167)
- Revised proposal following public information meeting
- Current proposed development (total lots 141, total units 160)
- Typical building styles
- Storm drainage design
- Traffic Impact Analysis
- Application support

Mr. Woodford confirmed that if the applicant or a future land owner wished to alter the wetland in the future, appropriate approvals would be required. A copy of Mr. Woodford's presentation is on file.

At the request of Councillor McCluskey, Mr. Woodford indicated the location of the pond on the property, and clarified that the pond will be owned and maintained by Halifax Water. He indicated that Halifax Water requires that there be a road around the pond with a fence.

At the request of Councillor Nicoll, Mr. Woodford clarified that the project is currently under construction and will be done in one phase.

The Chair reviewed the rules for the public hearing at this time, and opened the floor for those wishing to comment on the application.

Mr. Lloyd Jackson, Eastern Passage, referring to page 5 of the staff report relating to Traffic Impact and Access, disagreed with the traffic assessment. He noted that there are two other developments underway north of the proposal off Caldwell Road, and that the totality of development in Eastern Passage should be assessed together. Mr. Jackson commented on the increased traffic that will occur for residents of Caldwell Road, which is already congested at rush hours. Mr. Jackson noted concern with stormwater management for the development, indicating that when property is clear cut and paved, it creates runoff. He questioned whether the runoff could be handled by the one pond. Mr. Jackson suggested that it is not only up to the developers to address water issues, but also up to Council. He referred to recent issues with stormwater management and culverts along Cow Bay Road, and questioned how this development will tie into that issue. Mr. Jackson indicated that Eastern Passage is growing and needs a development plan to allow community to grow in a proper fashion.

Ms. Sherry Burns, Eastern Passage, referring to page 4 of the staff report relating to Compatibility, noted that the report states that "...lot sizes are reduced from the standards of the Eastern Passage/Cow Bay LUB...". Noting that the standard lot frontage in the LUB is 60 feet, Ms. Burns noted that Heritage Hills is an exception, with smaller lot frontages and she finds it to be very congested. She suggested that this proposal is trying to fit a lot of lots into a small space with the reduced lot frontage sizes. Referencing the Schedule B Concept Plan, Ms. Burns pointed out that there are two areas outlined in blue which indicated as optional two unit dwelling areas. She commented that if the lots in those two areas are developed as two unit dwellings, it would bring the total number of units to 205, which is the requested number of lots from the original 2007 application. Ms. Burns advised that it cost her \$6,000 to install a pressure release system in her basement to fix flooding problems.

Mr. Brian McBarron, Eastern Passage, reminded members to, as per the Invocation read at the beginning of the meeting, to look out for residents over profit.

Mr. Gary Oake, Eastern Passage, questioned how the stormwater drainage from the development would affect where he lives on Briarwood Drive. He noted that the stormwater currently drains into the wetland on the property.

Mr. Bryn Jones-Vaillancourt, Eastern Passage, noted concern with the traffic impact study. He indicated that the study only considered one intersection, although there is more than one intersection that is affected by peak flow traffic. Mr. Jones-Vaillancourt noted further concern with stormwater management policies, commenting how development in the Russell Lake area affected Old Ferry Road and the Harbour Trail in Woodside, despite a stormwater management plan being in place. He indicated concern that the Watershed Advisory Board had not had an opportunity to offer recommendation on the proposal. Mr. Jones-Vaillancourt questioned how the lack of vegetation post-construction will affect the wetlands in terms of runoff. He inquired whether the 702 square metre linear park will only consist of a boardwalk or if there will be other improvements on that parcel of land.

Mr. Dale Wilson, Eastern Passage, questioned whether water sampling has already been done to have baseline data available, considering that the developer has already broken ground. He noted that the same developer ran a holding pond in Heritage Hills, although when pyretic slate is present, if the stormwater is not neutralized, it will carry through the holding pond into the wetland. Mr. Wilson commented that the developer would have gone through due diligence and was aware of the development permitted on the property when it was purchased, and now the community will pay the price through small lot housing and the issues that come with that. He questioned why the Watershed Advisory Board had not been consulted on the proposal. Mr. Wilson commented that development has been allowed to continue unabated in the community without addressing the wellness issues of community,

such as the need for sports and recreation facilities, emergency services, arts and culture facilities, and public transit, which are set out in the Municipal Planning Strategy. He questioned the threshold for how big the community gets before receiving these services. Mr. Wilson asked that a recorded vote be held.

Mr. John Bennett, Eastern Passage, questioned whether there is anything to guarantee that the development will not create further water problems for the area. He questioned whether the developer could be required to insure properties downstream of the development that have never been flooded before. Mr. Bennett commented on the mud, sand and dirt that is carried into houses and onto properties in the area with truck traffic from the ongoing area developments. He noted concern that if the developer comes back in a few years and wants to develop the wetland, that that would be permitted.

Mr. Craig MacDonald, Eastern Passage, indicated disagreement with the traffic impact study, noting that it currently takes 5-6 minutes to get through the traffic lights at Hornes Road and Cow Bay Road, and is worse in rush hour traffic. He noted concern that the stormwater management plan was not looked at by the Watershed Advisory Board. Mr. MacDonald indicated that he has had over \$40,000 in damage done to his home over the years from an inadequate stormwater management system. He commented that residential development does not generate the taxes to support itself.

Mr. Clarence Lucas, Eastern Passage, indicated that he owns two homes on Cow Bay Road, one of which is 60 feet from the development. He noted that he currently doesn't have a water problem on his properties. Mr. Lucas commented that he believes the developer is trying to transfer the development capacity of the wetland area for development now, and will come back to develop the wetland at a later date. He indicated that when blasting takes place, seams are opened up and lands are drained. He noted that the brook currently has a heavy flow in heavy rains, and the brook will not be able to handle the water flow. Mr. Lucas noted further concern that with 35 foot lots, there will not be enough room for fire trucks to get between the houses in the event of a fire.

Mr. Jim MacDonald, Eastern Passage, indicated that he owns property on Cow Bay Road and Hornes Road. He noted concern that many developments with stormwater management plans have been approved in the past, and went on to cause water problems despite the plans. He questioned where is the guarantee to property owners against flooding and to maintain property value. Mr. MacDonald advised that there is currently a drainage ditch between Briarwood Subdivision and Hornes Road, installed by the developer of the Briarwood Subdivision, which backs up in heavy rains from Hornes Brook. He suggested that the wetland should be deeded to Halifax Water or Ducks Unlimited to ensure its protection.

Mr. David Darragh, Eastern Passage, commented that the community of Eastern Passage as a whole has to be addressed. He indicated that the community has not been treated fairly for 25 years in terms of water problems. Mr. Darragh commented that there are many people in the community that are frustrated with the situation and have given up pressing for change.

Mr. Tom Birchell, Eastern Passage, referring to the Alternatives set out on page 6 of the staff report, suggested that Community Council should be concerned about the precedent set with the concept of transferring density. He noted that transferring density through air rights and ground rights has caused problems across Canada. Mr. Birchell indicated concern that the development will impact the wetland, through displacement of water by construction of foundations.

Mr. Paul Pettipas, CEO of the Nova Scotia Home Builders Association, and resident of Bedford, spoke on behalf of the residential sector, and as a past developer and lawyer, and commented that he sees this as offering more protection than the as-of-right development option. He noted that the developer could buy back the wetland from the Department of Environment, but with the CDD, a request to develop the wetland would have to get through Council. Mr. Pettipas spoke in support of the development, referencing the Regional Plan goal of increasing density in areas with serviced land and public transportation. He indicated that the homes in this development will offer affordability to potential home

owners. Mr. Pettipas advised that 35 foot lots are common across Canada. He noted that people talk about traffic problems in the third person, although all drivers are a part of the problem.

Mr. Chris Lowe, Eastern Passage, advised that the wetlands are not far below his foundation and he is still unclear as to where the water will go from this development. He suggested that as a show of good faith the developer could donate the lands to the community or Ducks Unlimited, and he would feel more comfortable that the wetlands will not be developed. Mr. Lowe commented that the two-lane road was built for so many cars, and needs three lanes to handle the increased traffic.

Mr. Carl Webber, Eastern Passage, advised that he lives adjacent to the wetlands. He noted agreement with the issues raised by other residents during the public hearing. Mr. Webber indicated concerns with further increasing traffic in the area, noting that traffic is already very congested. He encouraged Councillors to look after need of residents, not just the developers' needs. Mr. Webber commented on the social and environmental problems that go with overcrowding.

Ms. Wanda Cory-Hannna, Eastern Passage, referring to the Schedule B Concept Plan, indicated that there is only one way in and out of Kaleigh Drive, and this could be a public safety issue in the event of an emergency if the road becomes blocked. Ms. Cory-Hanna indicated that the few times that it has rained since clearing of the development site began, she has had considerable water in her backyard that she has never had before.

The Chair called three times for any further speakers. There being none, he invited staff to respond to any issues raised during the public hearing.

Ms. Langille clarified that the terminology in the staff report referring to the standard for single family dwelling lots in the Eastern Passage/Cow Bay Land Use By-law refers to the lot frontage that is applied to lots in the R1 zone. She noted that the Comprehensive Development District (CDD) option allows flexibility for lot frontage sizes for single unit dwellings.

Ms. Langille pointed out that section 5.1(b) of the Development Agreement outlines that "Consideration of two unit dwellings within the identified areas on Schedule B (Optional Area for Two Unit Dwellings) provided the ratio of 70:30 is achieved and all other provisions of this agreement are adhered to". She clarified that this would not be an increase to the total number of units, but a change to the layout of the units, and would have to keep within that ratio. She further clarified that as a non-substantive amendment, an application would have to be made for review by staff and consideration by Community Council. Ms. Langille advised that the Development Agreement locks the total number of units at 160, and the developer cannot exceed that number.

Ms. Langille advised that the Watersheds Advisory Boards underwent a restructuring and the mandate of the consolidated Regional Watersheds Advisory Board is to look at policy approaches, as opposed to individual planning applications.

Ms. Langille commented on the specifics of the design of the parkland, noting that it has been reviewed by the parkland planner as a part of the application review, and design details will be further reviewed closer to construction.

At the request of Councillor Nicoll, Mr. Joudrey clarified that once development rights are transferred from one area to another, those rights are extinguished.

At the request of Councillor Karsten, Ms. Langille clarified that section 3.3.1 of the Development Agreement sets out the permitted uses of the lands, including "A maximum of 122 single unit dwellings (with reduced frontages) and a maximum of 38 two unit dwellings as illustrated on Schedule B".

Responding to an inquiry from Deputy Mayor Fisher, Mr. Joudrey clarified that if the Development Agreement is refused, the as of right development potential of 122 units will remain.

The Chair invited the developer or its representative to address issues raised during the public hearing.

Mr. Woodford, commented that as an engineer he has done a lot of work on stormwater design, has prepared flood studies for municipalities across Canada, and written storm drainage criteria manuals. He assured that he takes stormwater planning and flooding issues very seriously, and commented on how stormwater design standards have changed significantly in the last few decades. Mr. Woodford indicated that the subdivision lot grading by-law has made a large difference in reducing flooding issues. He indicated that calculations and materials used have also changed, and many of the drainage problems today are from stormwater management systems that were developed prior to the current regulations.

Mr. Woodford clarified that the current bridge on Cow Bay Road will be replaced with a new bridge 6 feet high 16 feet wide. He that fire services are a part of the staff review process, to ensure emergency access and turning radius, as well as hydrant placement and water pressure. Mr. Woodford clarified that the spacing between houses in the proposed development is 12 feet minimum.

Mr. Woodford commented on the traffic impact study, clarifying that the study looked forward to 2018 and considered a certain amount of growth in the area.

Mr. Woodford confirmed that the proposed stormwater system will not be directly connected to the deep water storm sewer system, although run off from the wetland will drain into that system. He clarified that the plan is to have swales along the backs of lots to prevent drainage onto existing properties.

Mr. Woodford apologized for dirt and mud on local streets due to construction, and confirmed that the contractor is responsible for street cleaning, and he will enforce this with the contractor.

Mr. Woodford confirmed that there is acidic slate in the area and testing has been done. He indicated that if testing reveals levels over the acceptable limit, the slate will be removed from the site.

Mr. Woodford indicated that during construction, the contractor has pumps on site to prevent flooding during construction.

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

The Chair clarified, on advice provided from the Solicitor, that section 18(3) of Administrative Order One Respecting the Procedures of Council, sets out that "The requirement for recorded votes for all motions applies to Regional Council and does not apply to Committee of the Whole Council, Community Council or Boards and Committees of Regional or Community Councils." He indicated, however, that a Councillor may request that their position be recorded in the minutes.

Community Council recessed at 9:10 p.m., reconvening at 9:20 p.m.

**MOVED by Councillor Karsten, seconded by Councillor Nicoll, that Harbour East-Marine Drive Community Council approve the proposed rezoning of lands at Caldwell Road and Cow Bay Road from the R-1 and R-2 Zones to the CDD (Comprehensive Development District) Zone as shown in Attachment A of the May 30, 2014 staff report.**

Ms. Roxanne MacLaurin, HRM Senior Solicitor, clarified at the request of the Chair, that the process for this application is set out on page 4 of the staff report, and involves holding the public hearing this evening for the Land Use By-law (LUB) amendment and Development Agreement. Community Council at a later date, when the LUB amendment is in effect, will be provided with a supplemental report, at which time it may consider approval of the Development Agreement. She noted that an appeal mechanism to the Nova Scotia Utility and Review Board exists for both decisions of Council. Ms. Thea Langille, Major Project Planner, HRM Development Approvals, added that if the proposed amendments to

the LUB are approved by Community Council this evening, an ad will be placed in the newspaper this Saturday giving notice of the 14 day appeal period; if there are no appeals, then the supplementary report for the approval of the development agreement would be brought back to Community Council in September.

Councillor Karsten discussed the application, and commented on feedback received by way of the public hearing. He commented on how stormwater design standards have changed over the years for the better. Councillor Karsten noted that concerns voiced at the December 2013 public meeting focused on stormwater and is confident that these concerns have been addressed in the stormwater plans, through thorough review of the plans and discussions with professionals in the field. He indicated that the developer responded to concerns from residents with regard to the previous application design for the subject lands being largely two unit dwellings (duplexes) by changing the design to largely single unit dwellings. Councillor Karsten clarified that this application is asking for 122 single unit dwellings, which is an increase of 35 units over the previously approved 87, and for 38 two unit dwellings, an increase of 4 units over the previously approved 34. He noted that this keeps with the Regional Plan direction of increasing density.

Councillor McCluskey indicated that she does not have any concerns about the wetland being developed, as the applicant would have to come back to Council for approval to do so. She did note concern with flooding in the area, and questioned whether flood protections could be included in the development agreement.

Ms. Langille advised that flooding was a concern which arose at the public meeting and has been included in the comprehensive review process for planning applications. She indicated that staff believe the proposed development agreement before community council addresses those concerns. Councillor McCluskey indicated that it may be helpful to have an engineer go over the technical aspects of the review to address flooding concerns with Community Council, before Community Council approves the development agreement. Ms. Langille clarified that this would be the Development Engineer and she could inquire about having them available at the meeting when the supplemental report comes forward.

Councillor Nicoll suggested that when the supplemental report comes forward for the approval of the development agreement, a clause be included that there be no development of the wetland. The Chair clarified that will be dealt with when the supplemental report comes forward, and no motion is required at this time.

Deputy Mayor Fisher commented that large lots are not sustainable, and smaller lots are the way of the future. He noted that Council has no control when it comes to as of right development, but they do have input into development agreements. The Deputy Mayor assured that he would never support any development on the wetland.

Councillor Hendsbee spoke in support of the application. He commented that HRM should be looking at the transfer of the wetlands to the Halifax Water Commission for conservation. Councillor Hendsbee indicated that he sees it as a part of the stormwater management plan for regulation, monitoring and control. He further suggested that Eastern Passage deserves a Metro Transit Terminal.

**MOTION PUT AND PASSED.**

**5. IN CAMERA**

**5.1 PERSONNEL MATTER**

**5.1.1 Citizen Nominations to the Port Wallace Community Public Participation Committee**



Community Council agreed during the approval of the agenda to move this item to follow Public Participation. Refer below.

**6. ADDED ITEMS**

**6.1 Request for Report – Splash Pad Eastern Region - Councillor McCluskey**

**MOVED by Councillor McCluskey, seconded by Councillor Karsten, that Harbour East-Marine Drive Community Council request a staff report on the possible installation of a splash pad for the Eastern Region. MOTION PUT AND PASSED.**

**7. PUBLIC PARTICIPATION**

No members of the public came forward for public participation.

**5. IN CAMERA**

Community Council rose at 9:35 p.m. to go into a private In Camera session, in accordance with Section 19 of the Halifax Regional Municipality Charter, for the purpose of dealing with the following:

**5.1 PERSONNEL MATTER**

Citizen and Councillor appointments to boards and committees in keeping with the Public Appointment Policy adopted by Regional Council in August 2011, to be found at <http://www.halifax.ca/boardscom/documents/Citizenrecruitmentpolicy.pdf>

**5.1.1 Citizen Nominations to the Port Wallace Community Public Participation Committee**

The In Camera session adjourned at 9:50 p.m. the public session reconvened at 9:51 p.m., at which time the following motion was ratified:

**MOVED BY Councillor McCluskey, seconded by Councillor Nicoll, that Harbour East-Marine Drive Community Council recommend to Regional Council the appointment of four (4) eligible applicants to the Port Wallace Public Participation Committee. MOTION PUT AND PASSED.**

**8. DATE OF NEXT MEETING – Thursday, July 31, 2014, 6:00 p.m., Nantucket Room, Dartmouth Sportsplex, 110 Wyse Road, Dartmouth**

**9. ADJOURNMENT**

The meeting was adjourned at 9:52 p.m.

Jennifer Weagle  
Legislative Assistant