

HARBOUR EAST COMMUNITY COUNCIL
MINUTES

June 10, 2010

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. Melody Campbell, Legislative Assistant

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1. CALL TO ORDER

Councillor McCluskey called the meeting to order at 6:00 p.m. with the Invocation being led by Councillor Barkhouse.

2. APPROVAL OF MINUTES - May 6, 2010

MOVED by Councillor Nicoll, seconded by Councillor Barkhouse, that the minutes of May 6, 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 01361: MPS Amendment, Dartmouth Bridge Transit Terminal
- 12.2 Speed Bumps - Pelzant Street and John Street - Councillor Smith

MOVED by Councillor Smith, seconded by Councillor Barkhouse, 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 Public Consultations - Hines Road/Howard Avenue

To remain on the status sheet.

4.1.2 Regulations for Quonset Huts and Temporary Garages

Information report received, additional information will be provided. To remain on the status sheet.

4.1.3 Street Parking Close to Nova Scotia Community College

Staff report received. 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 PUBLIC HEARING

8.1.1 Case 15846: Excluding Tattoo Businesses as Home Occupations

- A staff report dated April 22, 2010 was before Council.

Correspondence regarding Case 15846 was received from:
Allana G. Loh

Mr. Darrell Joudrey, Planner, presented Case 15846: Excluding Tattoo Businesses as Home Occupations 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; hearing none the following motion was placed:

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

MOVED BY Councillor Fisher, seconded by Councillor Karsten, that Harbour East Community Council approve the proposed amendment to the Dartmouth Land Use By-law as shown in Attachment A of the staff report dated April 22, 2010, to exclude tattoo businesses as home occupation uses.

In response to a question by Councillor Smith, Mr. Joudrey advised that hair and nail salons or seamstresses do not compare to a tattoo business as tattoo businesses work with live materials (skin, fluid) and that hair and nail salons work with dead materials (hair, nails).

Councillor Fisher expressed concern regarding biowaste disposal, noting that materials such as cotton balls and rubber gloves may contain bodily fluids and/or blood. He added that dental offices have many regulations when disposing of waste and have inspections done by the Nova Scotia Department of the Environment.

MOTION PUT AND PASSED.

Councillor Nicoll advised that there are currently no regulations for tattoo businesses in Nova Scotia and suggested that the Province of Nova Scotia should consider

regulations to tattoo businesses noting that regulations have been implemented in other provinces in the country. Council members expressed concern that there could be a health issue with no regulations in place for tattoo businesses.

MOVED by Councillor Nicoll, seconded by Councillor Karsten, that Harbour East Community Council prepare a report recommending that Regional Council request that Mayor Kelly send a letter to the Province of Nova Scotia requesting the Province implement regulations for tattoo businesses. MOTION PUT AND PASSED.

8.1.2 Case 15867: Rezoning of 385 and 387 Portland Street, Dartmouth

- A staff report dated April 15, 2010 was before Council.

Correspondence regarding Case 15846 was received from:

Greg & Meralynne Gammon

Robert & Sheila Frame

Thomas & Dorothy Deakin

Ms. Jillian MacLellan, Planner, presented the report to Council.

In response to a question by Councillor Smith, Ms. MacLellan advised that there is a requirement for a twenty foot buffer of trees and shrubs or a ten foot buffer of a fence and shrubs.

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.

The following speakers came forward to address Council:

Mr. Thomas Deakin, Dartmouth, advised Council that he lives across the street from the property. He stated that there has been a lot of development since he moved to Dartmouth. He advised Council that he does not support the Land Use By-law amendment for 385 & 387 Portland Street.

Councillor Nicoll retired from the meeting at 6:40 p.m.

Mr. Reid Harrison, Halifax, advised Council that as a former resident of Dartmouth, he was a customer of Cox's Auto Clinic. He added that since leaving Dartmouth he continues to be a customer. He expressed his support for the Land Use By-law amendment adding that the Cox's run a long stated family business and they have contributed significantly to the Community.

Councillor McCluskey called three time for any additional 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.

MOVED BY Councillor Karsten, seconded by Councillor Barkhouse, that Harbour East Community Council approve the proposed rezoning of 385 and 387 Portland Street, Dartmouth, from R-2 (Two Family Residential) Zone to the C-2 (General Business) Zone as shown in Attachment A of the staff report dated April 15, 2010 to permit the expansion of Cox's Auto Clinic.

Councillor Karsten advised that the requested rezoning meets the Municipal Planning Strategy criteria. He added that Cox's Auto Clinic has been a long standing family business. The Councillor requested that staff ensure that the buffers and set back are adhered to.

MOTION PUT AND PASSED.

8.2 VARIANCE HEARING

8.2.1 Appeal of the Development Officer's decision to refuse a Variance at 53 Government Wharf Road, Eastern Passage - Separation Distance Reduction

Appeal of the Development Officer's decision to approve a Variance at 53 Government Wharf Road - Lot Coverage Expansion

As notifications originally noted as 7:00 p.m. as the start time of the Variance Hearing for 53 Government Wharf Road, the item as addressed following Item 13 - Notices of Motion. See page 9.

9. PRESENTATIONS, CORRESPONDENCE AND DELEGATIONS

9.1 Presentations - None

9.2 Correspondence - None

9.3 Petitions - None

10. REPORTS

10.1 Staff Reports - None

10.2 Members of Council - None

11. MOTIONS

12. ADDED ITEMS

12.1 Case 01361: MPS Amendment, Dartmouth Bridge Transit Terminal

- A staff report dated April 1, 2010 was before Council.

Mr. Joseph Driscoll, Senior Planner, advised Council that the amendments to the Dartmouth Land Use B-law in Attachment C of the report dated April 1, 2010, were not advertised as a joint public hearing with Halifax Regional Council, therefore is now before Harbour East Community Council to set a public hearing date. He added that Harbour East Community Council can hold the Public Hearing for the Dartmouth Land Use By-law as contained in Attachment C of the above noted report.

In response to a question by Councillor Smith, Mr. Driscoll advised that this Land Use By-law amendment does not have an impact on the Municipal Planning Strategy Amendment that was previously approved at Regional Council.

MOVED by Councillor Smith , seconded by Councillor Karsten, that Harbour East Community Council Give Notice of Motion of Rescission of the motion of April 27, 2010 that Harbour East Community Council give First Reading to consider amendments to the Dartmouth Land Use By-law as set out in Attachment C of the report dated April 1, 2010, and schedule a joint public hearing with Halifax Regional Council. MOTION PUT AND PASSED.

MOVED by Councillor Smith, seconded by Councillor Barkhouse that Harbour East Community Council suspend the Rules of Order; and that the Motion of Rescission be addressed at this time. MOTION PUT AND PASSED.

MOVED by Councillor Smith, seconded by Councillor Karsten, that Harbour East Community Council rescind the motion to give First Reading to consider amendments to the Dartmouth Land Use By-law as set out in Attachment C of the report dated April 1, 2010, and schedule a joint public hearing with Halifax Regional Council. MOTION PUT AND PASSED.

The following motion was placed:

MOVED by Councillor Smith, seconded by Councillor Karsten, that Harbour East Community Council:

1. **Give First Reading to consider amendments to the Dartmouth Land Use By-law as set out in Attachment C of the report dated April 1, 2010, and schedule a public hearing and;**
2. **That the first paragraph of Attachment C, of the staff report dated April 1, 2010, be amended to state: BE IT ENACTED by the Harbour East Community Council that the Dartmouth Land-Use By-law, as enacted by the former City of Dartmouth Halifax Regional Council on the 25th day of July 1978, as amended, is hereby amended as follows.**

MOTION PUT AND PASSED.

12.2 Speed Bumps - Pelzant and John Street - Councillor Smith

MOVED by Councillor Smith, seconded by Councillor Fisher, that Harbour East Community Council request a staff report requesting information on installing speed bumps at the three way stop at the intersection of Pelzant Street and John Street in Dartmouth. MOTION PUT AND PASSED.

13. NOTICES OF MOTION - NONE

8.2 VARIANCE HEARING

8.2.1 Appeal of the Development Officer's decision to refuse a Variance at 53 Government Wharf Road, Eastern Passage - Separation Distance Reduction

Appeal of the Development Officer's decision to approve a Variance at 53 Government Wharf Road - Lot Coverage Expansion

- A report dated June 3, 2010, was before Council

Ms. Jacqueline Belisle, Development Technician, presented the report to Council.

Two variance applications are included in the staff report dated June 3, 2010 regarding 53 Government Wharf Road.

1. A variance approval for a separation distance reduction
2. A variance refused for lot coverage expansion

Following the presentation of the report, the following clarification was provided to Council:

- this building is 288 square feet and does require a building permit

- if an accessory building is under 215 square feet it does not require building permits
- if building is on wheels, it does not require a building permits nor would it be permitted on a permanent basis
- building inspectors have assessed the building
- HRM has taken over Government Wharf Road recently
- the road is approximately a foot or two wider than the asphalt
- the setback is accurate

Councillor McCluskey, called for those who were eligible and wished to speak to come forward.

Mr. Steve Purdy, advised Council that he owns the property on 53 Government Wharf Road. He stated that he is currently using the building put on the site for storage. He stated that his main building had been damaged by a fire at a neighbouring property and he is currently in the courts with the neighbouring property owner regarding the damages to his property. He stated that there was a small fire on his property in the past when youth got in to the building and started a fire. He added that the damaged building has not been demolished as he has been in a legal action and that he needs to acquire money for the demolition. He stated that it will cost approximately \$50,000 to demolish the building and move it away and he noted that he currently has \$50,000 in legal fees. He added that when the building is demolished, he anticipated acquiring a smaller building, approximately 29x30, and moving it on site.

In response to a question of Council, Ms. MacLaurin, Municipal Solicitor, advised that court cases can take months to settle. She advised that a temporary variance is not permitted under the Legislation. Mr. Audas, Development Officer, advised Council that a variance goes with the land not with the building.

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

MOVED by Councillor Smith, seconded by Councillor Barkhouse that the hearing be closed. MOTION PUT AND PASSED.

In response to a question by Councillor Fisher, Mr. Audas, advised that the first variance does not violate the land use by-law but the second variance does violate the land use by-law.

MOVED by Councillor Barkhouse, seconded by Councillor Smith, that Harbour East Community Council defer the decision on the variances for 53 Government Wharf Road until a decision is rendered in the current court case.

Councillor Karsten stated that the building is on the property illegally as it does not have a permit.

Councillor Barkhouse stated that Council deal with variances on a one on one basis. She added that this land is not on a main street, but part of a little fishing village and urged Council to approve the deferral.

An amendment was made on the motion as follows:

MOVED by Councillor Barkhouse, seconded by Councillor Smith that the motion be amended to defer the variance decision until the October meeting of Harbour East Community Council. AMENDMENT TO MOTION PASSED.

The motion now reads:

MOVED by Councillor Barkhouse, seconded by Councillor Smith that Harbour East Community Council defer the decision on the variances for 53 Government Wharf Road until the October meeting of Harbour East Community Council. MOTION PUT AND PASSED.

14. PUBLIC PARTICIPATION

No members of the public came forward to address Council.

15. NEXT MEETING - July 8, 2010

16. ADJOURNMENT

The meeting was adjourned at 7:41 p.m.

Information Items

1. Case 01338: Burnside Functional Plan Implementation
2. Quonset Huts & Temporary Garages