

DANGEROUS & UNSIGHTLY PREMISES
MINUTES
October 20, 2005

PRESENT: Councillor Harry McInroy
 Councillor Gloria McCluskey
 Councillor Jim Smith
 Councillor Mary Wile
 Councillor Dawn Sloane, Vice Chair
 Councillor Brad Johns
 Councillor Robert Harvey, Chair
 Deputy Mayor Len Goucher

ABSENT
WITH REGRETS: Councillor Krista Snow

STAFF: Mr. André Noël, Regional Coordinator, By-Law Enforcement
 Ms. Tanya Phillips, Manager, By-Law Services
 Ms. Donna Keats, Legal Council
 Mr. Scott Hill, By-Law Enforcement Officer
 Ms. Tamar Dorey, By-Law Enforcement Officer
 Mr. Wayne Chapdelaine, Fire and Explosion Investigator
 Ms. Jennifer Weagle, Legislative Assistant

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1. CALL TO ORDER

The meeting was called to order at 10:03 a.m.

2. APPROVAL OF MINUTES - September 14, 2005

MOVED BY Councillor Goucher, seconded by Councillor Smith, that the minutes of September 14, 2005 be approved as circulated. MOTION PUT AND PASSED UNANIMOUSLY.

3. APPROVAL OF THE AGENDA, ADDITIONS AND DELETIONS

Deletions: Item 5.4 Lands of 2483736 Nova Scotia Limited, 185 Portland Street, Dartmouth

Item 5.6 Lands of Gary Mugford, 5555 Almon Street, Halifax

Item 4.2.1 Lands of United Gulf Developments Ltd., 25 Brookdale Court, Dartmouth was moved forward to the first item on the agenda.

MOVED BY Councillor Johns, seconded by Councillor Sloane, that the agenda be approved as amended. MOTION PUT AND PASSED UNANIMOUSLY.

4. CONSIDERATION OF DEFERRED BUSINESS

4.2.1 Lands of United Gulf Developments Ltd., 25 Brookdale Court, Dartmouth

Mr. Wayne Chapdelaine, Fire and Explosion Investigator, provided the Committee with an update on the progress of the demolition at 25 Brookdale Court, Dartmouth.

Mr. Chapdelaine advised that he has had several conversations with the property owner and the demolition preparations are progressing well and are three weeks ahead of schedule. The tender for the demolition of the building was awarded last week. United Gulf Developments has received certification that all hazardous materials have been removed from the property. Mr. Chapdelaine advised that he will be meeting this morning with the Community Developer and the demolition company to discuss the demolition. Barrier fencing, which is being installed around the property today, and 24 hour security will be in place for the duration of the project. The demolition is scheduled to start on October 24, 2005 and should be finished by November 23, 2005.

The Committee thanked Mr. Chapdelaine for the update.

4.1 APPEALS

4.1.1 Lands of Sandy & Loyal Gallichon, 36B Kennedy Drive, Dartmouth

! An appeal report dated June 6, 2005 was before the Committee

Neither the Appellants nor their representative were present.

MOVED BY Councillor Johns, seconded by Deputy Mayor Goucher, that the appeal be denied . MOTION PUT AND PASSED UNANIMOUSLY.

4.2 DEMOLITIONS

4.2.1 Lands of United Gulf Developments Ltd., 25 Brookdale Court, Dartmouth

This item was moved to immediately follow the approval of the agenda.

4.2.2 Lands of Louise Stone, 608 Stanhope Street, Halifax

! A revised Demolition Report dated October 7, 2005 was before the Committee.

! An email from the neighbouring property owner dated October 12, 2005 was also before the Committee.

Ms. Tamar Dorey presented a video of the property.

Mr. Clarence Spencer, representative of the Appellant, appeared before the Committee. Mr. Spencer advised that the transfer of title is scheduled to close tomorrow.

Ms. Phillips advised that she had spoken with lawyers representing the prospective purchasers of the property and had provided their lawyer with a copy of the Notice and notification of the appeal hearing.

Deputy Mayor Goucher and Councillor Sloane commented on the impacts the two accessory structures have had on the neighbouring property, as per the video and the neighbour's email to the Committee. The neighbour indicated in his email that his children are not able to play in their back yard because of debris and broken glass blowing from the structures.

Mr. Spencer indicated he did not have a copy of the inspection report, but that Ms. Dorey read it to him over the phone.

Councillor McInroy requested clarification regarding whether the Order is issued to the property or the property owner, to which Ms. Phillips advised that the Order is issued to the property and whoever holds title to the property is responsible to remedy the issues in the Order.

MOVED BY Councillor McInroy, seconded by Councillor Johns, that the Dangerous and Unsightly Premises Committee issue an Order requiring the demolition of a dilapidated and structurally unsound accessory building and the removal of all demolition debris and backfilling any foundation or crawl space, leaving the property in a neat and tidy fashion within thirty (30) days after service upon the owner/occupant. Otherwise, the Municipality will exercise its rights as set forth under Part IV of the *Act Respecting Municipal Government*. MOTION PUT AND PASSED UNANIMOUSLY.

At this time the Chair invited the prospective purchasers of the property, who were in attendance, to address the Committee. Ms. Gwendolyn MacLean, on behalf of her son, Christopher MacLean, appeared before the Committee.

Ms. MacLean advised that her son intends to demolish the smaller structure. With regard to the larger structure, Ms. MacLean advised that her son would like to rebuild the structure on the site of the existing structure and they will need to speak to Planning and Development Services to determine if they are permitted to do so. They may have to rebuild the structure from the inside out, then tearing down the existing structure.

Ms. Phillips advised that if the Committee chooses to uphold the Order to Demolish, Mr. MacLean would have 30 days, effective from the date of ownership of the property, to complete the demolition of the two structures and remove the debris. If Mr. MacLean required additional time to complete this, due to unforeseen circumstances such as weather, an extension could be negotiated.

Councillor McCluskey inquired whether Order would prevent the new owner from repairing the structure, to which Ms. Phillips advised that if the owner felt that repairs could be undertaken to make the building safe and secure, a Building Official would work with the property owner to identify the deficiencies. Ms. Phillips indicated that in the Building Official's Report it is stated under public safety shortcomings that "Both structures are open, unsecured and pose an injury threat to anyone, including children who may venture by." This issue would have to be explored between the property owner and the building official, if the property owner thought that the building could be salvaged. Ms. Phillips advised that based on the information that is before the Committee today, it does not appear possible that either of the buildings could be salvaged.

Councillor McCluskey further inquired whether the buildings were open and unsecured. Mr. Spencer advised that the buildings were secured with locks, but someone ripped them off, however, the doors are closed. Ms. Dorey confirmed that when she videotaped the property yesterday, there were no locks on building and the doors were closed. She was not aware whether the doors were nailed shut.

Councillor McInroy commented with regard to what extent HRM would want to have in the renovation of a building that was not in compliance with existing by-laws. Staff indicated that the buildings are beyond reasonable condition for use and cannot be remedied. Councillor McInroy indicated that he didn't believe HRM should play a part in allowing one structure to remain to aid the property owner in using a loophole in the current legislation by rebuilding the structure from the inside out.

Ms. MacLean indicated that she had spoken to someone at Planning and Development Services and was verbally assured they could tear down and reconstruct the structure in the same spot.

Ms. Phillips advised that if the Order to Demolish is issued, the property owner would have 30 days to work with the building official to ensure it is safe and secure. If the building is neither safe and secure, nor demolished, within 30 days, HRM will undertake to demolish the building.

MOTION PUT AND PASSED UNANIMOUSLY.

5. APPEALS

5.1 Lands of Peter M. Adams, 98 Boling Green Crescent, Dartmouth

! An Appeal Report dated October 6, 2005 was before the Committee.

Mr. Scott Hill, By-Law Enforcement Officer, presented a video of the property. Mr. Hill indicated that there is a right-of-way owned by HRM that runs along the back of the property and can be seen in the video.

Councillor McInroy indicated that Mr. Adams' property has been before the Committee previously.

Councillor Sloane commented that the initial complaint was made on July 5, 2005, and the grass is still not cut. It has been dry and the uncut grass could create a fire hazard. Councillor Smith also commented on the amount of time between the initial complaint being laid and the Order being issued (September 9, 2005).

Ms. Phillips advised that the property has been in violation in the past, however, ordering the remedy of long grass only came under the jurisdiction of By-Law Services in the spring of 2005. Mr. Adams is not deemed a repeat offender because this is his first offence for long grass. If he was identified as a repeat offender, he would have been issued an Order instead of a re-inspection report. Ms. Phillips further clarified that the Order required Mr. Adams to remedy the long grass within 7 days and then Mr. Adams appealed the Order. The October 7, 2005 site visit was carried out to determine whether the grass had been cut.

Mr. Peter Adams, Appellant, appeared before the Committee. Mr. Adams indicated that he did speak to Mr. Hill on October 7, 2005 and was not uncooperative as indicated in the appeal report. Mr. Adams also indicated that this type of grass is not capable of growing waist high, as indicated in the inspection report, and is in fact only 18 inches high. He further advised that he had checked assessment values for his property and his neighbouring properties over the past four years, and noted that all of the neighbouring property values had increased, with his increasing the most. Mr. Adams had also spoken with a Lieutenant with the HRM fire department who advised to Mr. Adams that he was not aware of any documentation or policy related to grass length being a fire hazard, and that longer grass retains more moisture than short grass. Mr. Adams advised the Committee that he had started a Freedom of Information request to obtain disclosure from HRM regarding evidence they had against him. Mr. Adams had also consulted with his doctor whether grass length aggravates or causes any medical problems such as asthma and was advised that it does not.

Regarding the issue of the grass being unsightly, Mr. Adams indicated that it is a matter of himself having a different perspective from Committee members. He advised the Committee that the long grass that appears in the video is actually the HRM owned right-of-way, and the grass on his portion of the property has been cut. Mr. Adams indicated that the right-of-way is partly in place to prevent run off into the water course behind his property. He further indicated that he was informed by Mr. Andre Noel, Regional Coordinator, By-Law Enforcement, that it is the responsibility of Mr. Adams to cut the grass on the HRM owned property, as per By-Law S300. Mr. Adams informed the Committee that he had spoken with his surrounding neighbours and none of them had a problem with the uncut grass.

Councillor Smith requested clarification from staff regarding Mr. Adams' assertion that it is not his responsibility to cut the grass on the HRM owned property. Ms. Phillips advised that it is the responsibility of private property owner to maintain the grass.

Councillor McCluskey requested at this time that Mr. Hill replay the part of the video showing the section of grass in question. Mr. Hill confirmed that there is uncut grass in the back yard, as well as the front.

Councillor Sloane commented that grass in dry conditions of that height is a fire hazard and Mr. Adams also has a responsibility to ensure that his property is at the same standard as the surrounding properties.

Councillor Johns requested clarification regarding the distance from Mr. Adams' property to the water and the type of water course. Mr. Adams informed the Committee that the back property line to the edge of the water is approximately 55 to 60 feet. The water course is Bissett Creek, which is approximately 40 feet wide and 20 feet deep. Bissett Creek feeds into Bissett Lake. Councillor Johns requested further clarification regarding the location of the right-of-way. Mr. Adams advised that the right-of-way is between his property and the creek and that the right-of-way is for HRM access to a pumping station.

Mr. Adams showed photos of the property on the overhead projector indicating the proximity of the water to his property and the location of the pumping station. Mr. Adams advised that he obtained the ariel photos from Google Earth and they were taken in 2002.

Councillor Johns indicated to Mr. Adams that he recognizes Mr. Adams' environmental principles, and suggested as an alternative to letting the grass grow, he could perhaps install a berm or hill to prevent runoff. Councillor Johns agreed that the front portion of the grass needs to be cut, but he is flexible with regard to whether the back yard needs to be done.

MOVED BY Councillor Johns, seconded by Councillor McInroy, that the appeal be denied, subject to Real Property and Asset Management and Right-of-Way Services determining responsibility for cutting the grass in the back of the property.

Councillor Sloane indicated that she would not support the motion as it sets a precedent for decisions on other properties. Councillor Sloane indicated that the Committee must maintain the integrity of the by-law and should follow the staff recommendation on this item.

Councillor McInroy clarified that Mr. Adams' assertion that the uncut grass in the back of his property is not on his property and belongs to HRM is the reason for motion.

Councillor Harvey indicated that this instance would not fall under by-law S300 and that the motion would be subject to reinspection. He further clarified that the intent of the motion would still fully apply to the property.

Ms. Phillips offered that By-Law enforcement would contact Real Property and Asset Management, along with Right-of-Way Services, to determine responsibility for the piece of land containing the uncut grass.

Councillor McCluskey congratulated Mr. Adams for his stand on protecting the environment. She commented that it is unfortunate that Mr. Adams is stuck in the standard of the

neighbourhood, as unsightly is in the eyes of the beholder, however, the by-law is in place and the Committee cannot step outside that.

Deputy Mayor Goucher remarked that the property is unsightly and property owners have a duty to their neighbours to maintain their properties. Deputy Mayor Goucher further commented that the length of the grass does not aid in the filtration of pollutants, that it is the root structure that prevents against runoff.

MOTION PUT AND PASSED.

Ms. Phillips will provide an update on discussions with RPAM and ROW Services for the Committee's future reference.

The Chair called for a five minute recess at 11:50 a.m.

5.2 Lands of Gladys T. Ferguson and Murdock E. Ferguson, 621 Old Sackville Road, Lower Sackville

! An Appeal Report dated October 7, 2005 was before the Committee.

Mr. Scott Hill, By-Law Enforcement Officer, presented a video of the property that was taken on October 19, 2005. Mr. Hill indicated that all derelict vehicles have been removed from the property, with the exception of the green van, and there is some metal debris remaining. Mr. Hill further advised that the remaining vehicle did have a license plate, but he was unsure whether it was current. The vehicle, however, had flattened tires and a broken windshield.

Ms. Tanya Phillips advised the Committee that a vehicle is considered derelict if it has any broken or missing parts. Through the Order, the property owner is given an opportunity to either repair or remove the vehicle.

Mr. George Ferguson, representative of the property owners, appeared and displayed photos of the property for the consideration of the Committee. Mr. Ferguson addressed the Committee and responded to questions, during which Mr. Ferguson advised of the following:

- ! The green van, being the only derelict vehicle remaining on the property, was not specified in the order and it cannot be seen from the street.
- ! His family wishes to salvage the aluminum from the van and will dispose of the vehicle after the aluminum has been removed.
- ! The issue of the well in the backyard has been rectified by installing a cement cap on the well. He clarified that the well was not open at the time of the inspection; it was covered with wolmanized lumber. Mr. Hill confirmed that the well cover is now satisfactory.

- ! He had not received the inspection report dealing with the well, and Ms. Phillips advised she would provide a copy of this report to him for his records.
- ! The pieces of metal indicated in the Order are actually tools used by his family's home based construction business. The tools are stored out of sight and are not a danger. They do not have space to store the tools in the accessory building on the property.
- ! The area behind the house is a natural area next to the Old Sackville River and contains no houses. There are houses to either side of the property.
- ! The Order was stapled to the cedar shingles on the house and caused damage to the shingles.
- ! His family has been in this location for 41 years and they take pride in maintaining their property.

Councillor Wile commented that she believes there is more that can be done to make the property tidier, and it is the obligation of property owners keep their property orderly and neat.

Councillor Johns requested clarification from Ms. Phillips regarding whether the property would be deemed as a repeat offender if the Committee moves that the Order to Remedy be upheld at this meeting and the same issues are complained about again in the future. Ms. Phillips advised that if the Committee upholds the Order, the property owners would be required, within the next few days, to tidy the property. Staff would discuss with the property owners which items are outstanding issues, if the issues are not rectified within a timely manner, HRM would undertake to remedy the issues. The property owners would be repeat offenders if a new complaint were lodged against the property. This case would not be brought back to the Committee, By-Law Enforcement would deal with property owner do ensure compliance.

Councillor Johns also inquired as to what activity is allowed to occur on property, being zoned R1. Ms. Phillips advised she did not have that information at this time.

Councillor Johns further inquired how long the property owners would have to salvage the aluminum from the van and remove the van from the property. Ms. Phillips advised that the Order is now expired and would be upheld. Staff would speak with the property owners to determine an appropriate time line before HRM would assume responsibility to remove the van from the property.

MOVED BY Councillor Johns, seconded by Councillor McCluskey, that this matter be deferred to the January 19, 2006 meeting of the Dangerous and Unsightly Premises Committee.

Councillor Smith indicated he would not support the motion since the initial site inspection took place two months ago on August 19th and he did not feel that a three or four month extension would be reasonable. The issues complained about are a concern to the neighbours and the property owners must obey the zoning of the property.

Councillor Johns pointed out that the property owner has complied with the removal of all the other vehicles listed in the Order.

Councillor Sloane indicated that the property owners have had ample time to deal with the issues. She also inquired where the property owners would store the remnants of the van when they disassemble it for the aluminum and the possibility that this could pollute the waterway.

Councillor Harvey indicated that Mr. Ferguson is a leader in the protection of the Sackville River. Councillor Harvey advised that he represented the area, which is an older section of Sackville, for 16 years and had never noticed any problems with the property. Councillor Harvey also indicated that there are many businesses that predate the Municipal Planning Strategy which are regarded as non-conforming and that he would be supporting the extension.

Councillor McCluskey indicated that she would be prepared to grant an extension since there is only one vehicle remaining.

MOTION DEFEATED (4 in favour, 4 against)

MOVED BY Councillor Sloane, seconded by Councillor Wile, that the Committee accept the staff recommendation to refuse the appeal and uphold the Order to Remedy Dangerous or Unsightly Conditions. MOTION DEFEATED (4 in favour, 4 against)

A discussion ensued between Committee members and staff regarding the result of the tie votes and the decision on this matter was deferred to the November 17, 2005 meeting of the Dangerous and Unsightly Premises Committee.

5.3 Lands of Abdalla Es-Sayyed, 10 Donovan Street, Lakeside

! An Appeal Report dated October 6, 2005 was before the Committee.

Mr. Scott Hill, By-Law Enforcement Officer, presented a video of the property.

Mr. Abdalla Es-Sayyed, Appellant, appeared before the Committee. Mr. Es-Sayyed advised that he purchased the property in May 2005 and did not move into the home until June 2005 due to sewage problems. Mr. Abdalla indicated that he did not feel that the video portrayed an accurate picture of the property. He commented that his neighbours informed him that the debris has been on the property for ten years and were thankful of the work he has been doing to improve the property. Mr. Abdalla informed the Committee that he had to fix some major problems such as the sewage problem, the installation of a trench to prevent flooding, and interior and exterior repairs to make the house habitable before he could attend to the debris.

Mr. Abdalla advised that his neighbours informed him that they had placed the complaint about the previous owner of the property, and not Mr. Abdalla. Mr. Abdalla's neighbour requested that he not remove the fence because he uses the fence to secure his dogs and Mr. Abdalla's neighbour was planning on replacing the fence himself.

MOVED BY Councillor McCluskey, seconded by Councillor Sloane, that a sixty (60)day extension be granted. MOTION PUT AND PASSED UNANIMOUSLY.

Councillor Johns left the meeting at 12:56 p.m.

Ms. Phillips advised that the Order is specific about the items that must be removed from the property and the fence is the only outstanding issue.

Councillor Smith commented that HRM provides refuse pickup twice per month. He further inquired what Mr. Abdalla will do with the fence during the sixty day extension. Mr. Abdalla advised he will discuss the issue of the fence with the neighbour and if his neighbour will not replace it within the sixty days extension, he will remove the fence himself.

Mr. Abdalla also advised that his neighbour's phone number is written on his Notice of Appeal form if By-Law Enforcement wishes to speak with him directly.

5.4 Lands of 2483736 Nova Scotia Limited, 185 Portland Street, Dartmouth

Deleted during the approval of the agenda.

5.5 Lands of Marion Elizabeth Clyke, 5651 Bloomfield Street, Halifax

An Appeal Report dated October 6, 2005 was before the Committee.

Mr. Scott Hill, By-Law Enforcement Officer, presented a video of the property.

Ms. Marion Clyke, Appellant, appeared before the Committee. Ms. Clyke advised that her neighbour had told her on three occasions that he will be replacing the fence. Ms. Clyke also indicated she had tried to contact Ms. Phillips several times and her calls were not returned for some time. Ms. Clyke indicated that she feels there is nothing wrong with the fence, and she cannot afford to make repairs to the fence or have it removed.

Councillor Sloane inquired whether Ms. Clyke had discussed with her neighbour splitting the cost of the fence. Ms. Clyke informed the Committee that her neighbour had asked her permission to remove the fence to put up a new one, and advised he would be willing to pay for the fence.

Councillor Harvey pointed out that if her neighbour does install a new fence Ms. Clyke will only have to replace the fence along the end of her property, as there is a new fence in place on the opposite side of her property.

Councillor Wile suggested that Ms. Clyke even off the top and paint the fence, to which Ms. Phillips indicated would constitute repairing the fence and would be acceptable. Ms. Clyke remarked that a friend may be able to build her a new fence in the spring of 2006. Councillor Harvey recommended that Ms. Clyke confer with her neighbour before undertaking repairs to ensure that he will not be demolishing the fence anytime soon.

MOVED BY Councillor Sloane, seconded by Councillor Wile, that the appeal be deferred to the April 20, 2006 meeting of the Dangerous and Unsightly Premises Committee.

Councillor Sloane indicated that due to the end of painting season approaching, this matter should be defer to the April 2006 meeting. This would also allow time for the neighbours to take action on the fence, if they still intend to do so.

Councillor Smith noted that it would not take much time to saw off the top and paint the fence. He indicated that he believed that a deferral to April 2006 would be too lenient.

Councillor McCluskey inquired whether the top of the fence must be even according to By-laws, to which Ms. Phillips clarified that they would look at what is the standard of the neighbouring properties. Councillor McCluskey also inquired whether there were any boards missing from the fence, to which Mr. Hill informed the Committee that there are some boards missing from the portion of fence at the front of the property.

Councillor Sloane, with the agreement of the seconder, amended her motion as follows:

MOVED BY Councillor Sloane, seconded by Councillor Wile, that a sixty (60) day extension be granted to the December 15, 2006 meeting of the Dangerous and Unsightly Premises Committee.

5.6 Lands of Gary Mugford, 5555 Almon Street, Halifax

Deleted during the approval of the agenda.

6. DEMOLITIONS - None

7. ADDITIONS - None

8. NEXT SCHEDULED MEETING - November 17, 2005

The next meeting of the Dangerous & Unsightly Premises Committee is scheduled for Thursday, November 17, 2005, at 10:00 a.m. in Council Chambers.

9. ADJOURNMENT

The meeting was adjourned at 1:32 p.m.

Jennifer Weagle
Legislative Assistant