

CHEBUCTO COMMUNITY COUNCIL

MINUTES

JANUARY 10, 2000

THOSE PRESENT: Councillor Stephen D. Adams, Chair
Councillor Bill Stone
Councillor Russell Walker
Councillor Graham Read

ALSO PRESENT: Barry Allen, Municipal Solicitor
Roger Wells, Regional Coordinator, Planning Services
Maya Ray, Planner
Sandra Shute, Assistant Municipal Clerk

TABLE OF CONTENTS

1.	Invocation	4
2.	Approval of Minutes - December 13, 1999	4
3.	Approval of the Order of Business and Approval of Additions and Deletions ..	4
4.	Business Arising Out of the Minutes	
4.1	Dumping - Harrietsfield and Williamswood and Gate	4
4.2	Traffic Signals on Prospect Road	4
4.3	MPS Dispensation re Provincial and Federal Governments <u>HOSPITAL POINT</u>	4
5.	Motions of Reconsideration - None	5
6.	Motions of Rescission - None	5
7.	Consideration of Deferred Business - None	5
8.	Public Hearings	
8.1	Application by Danalie Enterprises for a Development Agreement to expand a Child Care Centre at 181 Main Avenue, Halifax - Case No. 00182	6
9.	Correspondence, Petitions and Delegations - None	8
10.	Reports	
10.1	Case 00122 - Application for Stage 2 Development Agreement, Parcels BC-4, BC-5, BC-7 and BC-8, Clayton Park West, Phase 4	9
11.	Motions - None	9
12.	Added Items	
12.1	Wheelchair Accessibility - 2750 Dutch Village Road	9

13.	Notices of Motion - None	10
14.	Public Participation	10
15.	Next Meeting Date	10
16.	Adjournment	11

1. **INVOCATION**

The meeting was called to order at 7:00 p.m. with an Invocation at 2750 Dutch Village Road, Halifax.

2. **APPROVAL OF MINUTES - DECEMBER 13, 1999**

MOVED by Councillors Walker and Read that the Minutes of meeting held on December 13, 1999 be approved as circulated. MOTION PUT AND PASSED.

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

Added Items: Wheelchair Accessibility - 2750 Dutch Village Road
 - Councillor Adams

MOVED by Councillors Read and Walker to approve the Order of Business as amended. MOTION PUT AND PASSED.

4. **BUSINESS ARISING FROM THE MINUTES**

4.1 **Status Sheet Items**

4.1.1 **Dumping - Harrietsfield and Williamswood and Gate**

Follow up letter was sent to Department of Transportation on December 30, 1999.

4.1.2 **Traffic Signals on Prospect Road** - No report received.

4.1.3 **Municipal Planning Strategy re Provincial and Federal Governments (**HOSPITAL POINT**)**

Councillor Adams referred to the original request at the November 1, 1999 meeting and the subsequent request for a Staff Report as to why there is not a clause in the MPS that provincial and federal regulations may supersede this document at any time.

Councillor Adams stated there was no report from staff to date; however, he wanted to read something into the record with regard to the project recently approved at Hospital Point.

Councillor Adams then stated that on the evening of Tuesday, December 14, 1999, he made a motion that, in essence, allowed for development to proceed on a property zoned R-2 at Hospital Point in Herring Cove. This development was a commercial project. The motion allowed the project to proceed without the necessity of rezoning. He did this without the written support material requested by the Herring Cove Ratepayers Association. He acknowledged he was absolutely wrong in doing so and, for that, he apologized. The Herring Cove Ratepayers Association is not against the project. In fact, they recognize the importance and significance for not only HRM but for Canada as well; however, they were not pleased with the process and, in fact, were quite disappointed. Additionally, they were not pleased with the lack of communication experienced. As their Councillor, he would make every effort to right this wrong by opening the lines of communication, not only with HRM but with World Wide Fibre and the residents and ensure the process is perfectly transparent. Further, he would make every effort to raise the level of comfort in the community of Herring Cove with regard to this project.

As of today, Councillor Adams advised he spoke to Ron Lowe, a By-law Enforcement Officer, who has been to Herring Cove and delivered information to World Wide Fibre that they are not to proceed with their project outside the time specified in the Noise By-law. As well, he spoke with Mary Ellen Donovan, Municipal Solicitor who will send a letter to the Ratepayers Executive outlining the reasons for allowing this project to proceed. He was also in the process of requesting information from World Wide Fibre regarding future development on the site and future uses for the particular building. This information would reiterate the information found in a November 8, 1999 letter to HRM.

Councillor Adams stated he wanted this read into the record, not only for the information of Community Council, but for the Executive of the Ratepayers of Herring Cove and the residents of Herring Cove. He was confident this project would be, in the end, one that everyone could live with.

Councillor Walker asked what By-laws World Wide Fibre had to follow. In response, Councillor Adams advised that the Municipal Solicitor indicated they had to follow the By-laws but not the zoning.

Barry Allen, Municipal Solicitor, stated there was always a question of degree in which provincial and federal laws interact. As far as hours of operation were concerned, he was sure this would be covered by Mary Ellen Donovan.

5. **MOTIONS OF RECONSIDERATION** - None
6. **MOTIONS OF RESCISSION** - None
7. **CONSIDERATION OF DEFERRED BUSINESS** - None

8. **PUBLIC HEARINGS**

8.1 **Application by Danalie Enterprises for a Development Agreement to Expand a Child Care Centre at 181 Main Avenue, Halifax - Case No. 00182**

A Staff Report dated November 19, 1999 was before Community Council. Maya Ray, Planner provided an overview of the application with the aid of overheads. Staff was recommending approval of the application.

On a question from Councillor Read as to the size of the lot, Ms. Ray advised it was 6000 sq. ft. with 60' of frontage. Living area of the house was 1300 sq. ft.

Councillor Read then asked for information regarding traffic concerns on Main Avenue. In response, Ms. Ray advised that Main Avenue was a minor collector. Traffic Services advised that they did not see any traffic problems and agreed with the proposal.

Councillor Read said he would have thought there were exceptional circumstances to suggest that an exception should be made for this and asked for clarification. If this was a standard size house and lot, then what was exceptional about the lot and building to allow going to 37 children. In response, Ms. Ray advised that the number of children permitted was set by the province.

Councillor Read said, however, there were other standards in the MPS for 14 children. In response, Ms. Ray advised that the Implementation Policy specifically refers to provision for larger child care centres by Development Agreement.

Councillor Read commented that the number would almost be tripled. It was like three day cares in one spot.

On a question from Councillor Stone as to the age group for this day care, he was told 3-12 years of age. He then asked about provision of play equipment and was told by the applicant that it was just the area regulated by the province, not the equipment.

The Chair then called for speakers for or against the application.

Ms. Natalie Lynch, Owner and Director of New Beginnings Day Care referred to the tripling in size and said that the requirement was for 30 sq. ft. per child inside. On the upper level of the building, there would be no cooking done so the kitchen would become play space and that was where the extra children would come from. Right now she has space for 17 children downstairs but under the R-2 zoning she was only allowed 14. Without using the kitchen space upstairs for cooking, she got an extra four children. That was how it went to 21 upstairs.

Mr. David Hicks, 10 General Avenue stated his backyard backed onto New Beginnings Day Care. He pointed out there were no mature trees keeping a buffer - just one tree with very few leaves - between the Day Care and the residents of General Avenue. Over the summer, there was garbage coming through the fence. With regard to noise, he asked if there was a noise restriction as far as having 37 children playing outside. This would be more of a problem in the summer when windows are open and no buffer.

Roger Wells, Regional Coordinator, Planning Services advised there was a Noise By-law with respect to this application. Barry Allen, Municipal Solicitor added that if there is anything in the Policy relating to noise in terms of whether or not the application would be granted, it would be up to Community Council to take into account. In general, with regard to the Noise By-law, you cannot make a noise that unreasonably disturbs the peace and tranquility of the neighbourhood. Children were going to make some noise which would be permitted but it could get to the point where it was unreasonable.

Mr. Hicks referred again to the buffer and said a chain link fence was not going to be a buffer zone for his privacy or his neighbours. All three units backing onto the Day Care just have a chain link fence.

Councillor Walker asked how much noise Mr. Hicks had experienced since the Day Care opened. Mr. Hicks acknowledged it was not too bad in the summer but three fold more would be worse.

Ms. Debbie Simmons, 177 Main Avenue said she lived on the crest of a hill and got a lot of garbage on her property but it was not fair to say it all came from the Day Care. As far as noise was concerned, the Day Care did not open until the end of August. She had concern with noise from the Legion across the street which occurred not only during the day but at night and on weekends. The only children out playing during the day would be pre-school children. As far as noise was concerned, she lived behind the trailer park and there was noise from there as well. There was noise from traffic on Main Avenue. The chain link fence was behind her property as well and it was not an issue.

A lady who lives at 8 General Avenue stated there were noise restrictions in the trailer park. Her fiancé worked nights and she was concerned that he would not get enough sleep during the day. She did not think there would be an opportunity to relax in her backyard with children screaming. This happened last summer with only 14 children.

A lady at 139 Rosedale Avenue stated her child attended the Day Care in question and followed Ms. Lynch from another day care when she opened the present one. Since Ms. Lynch left the old day care, there was an increase in noise. She respected the way Ms. Lynch ran the Day Care, her code of ethics and the way she treats the children. The Day

Care followed a strict routine with engineered play outside. She did not think the Day Care opened in its present location until September.

Councillor Stone asked, if the Day Care goes to 37, did she have a problem with putting her child in the Day Care. The lady responded she would not have a problem if there were enough people hired to tend to the children.

Ms. Ray noted that the proposed hours of operation were from 7 a.m. to 6 p.m. Monday to Friday.

Councillor Read asked if the Development Agreement were approved and if the operator changed, would the number change from 37. He was told the Development Agreement would remain with the property owner.

Councillor Stone asked how many more staff members would the Day Care employ. In response, the applicant advised there would be three more full time and one part time.

Councillor Walker asked if the applicant would be willing to construct a private wooden fence as a buffer from the trailer park 6' high. Ms. Lynch agreed. When Ms. Lynch agreed, Mr. Hicks also agreed that would be acceptable.

The Chair called three times for additional speakers for or against the application. There were none.

MOVED by Councillors Walker and Stone to close the Public Hearing. MOTION PUT AND PASSED.

MOVED by Councillors Walker and Stone to approve the Development Agreement to expand a Child Care Centre at 181 Main Avenue, Halifax as attached as Appendix A to the Staff Report dated November 19, 1999 with an amendment to allow the addition of the following into the Development Agreement: that a 6' high wooden privacy fence be installed the whole of the rear yard facing the trailer park to separate the property from the trailer park. Further the applicant be given one hundred and twenty (120) days to sign the Development Agreement from the date of approval by Council, or the date of any other approvals required to sign the Agreement as the case may be, unless an extension thereof is granted by Council at the request of the applicant; otherwise, this approval will be void and obligations arising hereunder shall be at an end. MOTION PUT AND PASSED.

9. **CORRESPONDENCE, PETITIONS AND DELEGATIONS** - None

10. **REPORTS**

10.1 **Case 00122 - Application for Stage 2 Development Agreement, Parcels BC-4, BC-5, BC-7 and BC-8, Clayton Park West, Phase 4**

A Staff Report dated December 28, 1999 was before Community Council. Councillor Stone stated that since Community Council has been through this proposal in the past and as he has gone through the proposal with staff and felt staff has included all the items of concern, such as landscaping, storm runoff, drainage and the use of the land, he did not think there was a necessity for a presentation from staff.

Councillor Read referred to page 4 of the Development Agreement, Section 4.3, second line and asked for clarification as it appeared there was a word missing. In response, Mr. Wells advised that the word "years" was left out.

MOVED by Councillors Stone and Read to approve a Stage II Development Agreement, included as Attachment I to the Staff Report dated December 28, 1999, to permit the construction of commercial uses, including a large format retail store, retail/office building and service commercial buildings, on Parcels BC-4, BC-5, BC-7 and BC-8, Clayton Park West, Phase 4, Halifax, (such approval being contingent on the expiration of the appeal period for the Stage I Development Agreement applicable to the lands, or the outcome of any appeal). Further that the applicant be given one hundred and twenty (120) days to sign the Development Agreement from the date of approval by Community Council, or the date of any other approvals required as the case may be, unless an extension thereof is granted by Community Council at the request of the applicant. Otherwise, this approval will be void and obligations arising hereunder shall be at an end. MOTION PUT AND PASSED.

It was noted that the typographical error referred to by Councillor Read would have to be corrected.

11. **MOTIONS** - None

12. **ADDED ITEMS**

12.1 **Wheelchair Accessibility - 2750 Dutch Village Road**

Councillor Adams advised that he understood there is wheelchair accessibility for this building but it is limited. Individuals wishing to attend Public Hearings or public meetings are not able. He requested a staff report to determine a way to make 2750 Dutch Village Road accessible to individuals in wheelchairs after normal working hours.

It was noted that this concern had been raised previously at a Community Council meeting.

**MOVED by Councillors Stone and Read that a report be requested in this regard.
MOTION PUT AND PASSED.**

13. **NOTICES OF MOTION** - None

14. **PUBLIC PARTICIPATION**

Ms. Christine Ellis Mabey, 8 Hemlock Road referred to the World Wide Telecommunications project and asked who the governing body is under federal regulations for this project and what federal regulations they are required to follow. She asked for clarification regarding road access as well.

In response, Councillor Adams advised that road access was the jurisdiction of the provincial Department of Transportation. The federal governing body was Industry Canada. He provided contacts: David Mulcaster, Executive Director 426-3458 and Alan McGillivray, Ottawa 613-998-4298. He advised he spoke with both these gentlemen today.

Mr. Peter Pelham, 100 Hebridean Drive, Herring Cove raised the following points:

- At the last Community Council meeting, he outlined violations for both the Municipal Planning Act and Municipal Planning Strategy for Mainland South and the Plan for District 5/18 Herring Cove area. At that time, he indicated that the Ratepayers were requesting no advancement beyond Council level with regard to the World Wide Fibre project.
- The request of the Ratepayers to have written information from the federal government that the municipal authority has been usurped which never did come to fruition.
- At the meeting of Regional Council on December 14, 1999, Council voted, on the advice of Mary Ellen Donovan, to advance the project.
- He received two calls from residents in the area after December 13/14 about work starting on the project with noise, heavy vehicles and compressors. The majority of the people who live within 600' of the site, up until 7:00 p.m. on Christmas Eve had their lives disrupted with noise, heavy vehicles and general construction noise not even within the allowed time for construction. If the legal process had been followed, they would have been made aware of the approved hours of operation.
- He listened to the noise at the site after 10:00 p.m., standing 600' away.
- He referred to articles and comments by Councillors Read and Adams in the Chebucto News, quoted from same and made comments.

15. **NEXT MEETING DATE** - February 7, 2000.

16. **ADJOURNMENT**

On a motion from Councillor Stone, the meeting adjourned at 7:55 p.m.

Sandra M. Shute
Assistant Municipal Clerk

