

**CHEBUCTO COMMUNITY COUNCIL**

**MINUTES**

**SEPTEMBER 10, 2001**

THOSE PRESENT: Councillor Stephen D. Adams, Chair  
Councillor Linda Mosher  
Councillor Diana Whalen  
Councillor Russell Walker  
Councillor Sue Uteck  
Councillor Sheila Fougere  
Councillor Dawn Sloane

ALSO PRESENT: Barry Allen, Municipal Solicitor  
Paul Morgan, Planner  
Gary Porter, Planner  
Bernard Moe, Planner  
Paul Sampson, Planner  
Steven Higgins, Development Officer  
Sandra Shute, Assistant Municipal Clerk

Regrets: Deputy Mayor Blumenthal

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1. **CALL TO ORDER**

The meeting was called to order at 7:00 p.m. in the Council Chambers at 2750 Dutch Village Road, Halifax.

2. **APPROVAL OF MINUTES - JULY 16, 2001**

**MOVED by Councillor Sloane, seconded by Councillor Walker to approve the Minutes of meeting held on July 16, 2001 as circulated. MOTION PUT AND PASSED.**

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

**MOVED by Councillor Fougere, seconded by Councillor Sloane to approve the Order of Business as presented. MOTION PUT AND PASSED.**

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

4.1 **Status Sheet Items**

4.1.1 **Improvements to Kearney Lake Road**

The following information was before Community Council:

- Letter dated July 27, 2001 from the Minister of Transportation indicating that installation of traffic signals at Highway 102 exit ramps to Kearney Lake Road has been prioritized for consideration of inclusion in the 2002/03 Capital Program.
- Information Report dated July 20, 2001 from Public Works and Transportation providing basically the same information.

4.1.2 **Herring Cove Road Costing of Initiatives**

No further information available at this time. Councillor Mosher, however, requested that since she and Councillor Adams have agreed to provide \$5,000 each from the Capital Account for 2000/01 to be used for capital improvements on the road under the current Capital Project guidelines, that staff be requested to provide an account number to ensure that the community maintains the funds.

4.1.3 **Improvements to Traffic Flow to and from Bayers Lake Business Park**

Councillor Whalen advised that Regional Council had approved \$220,000 for upgrades but, unfortunately, tenders came in considerably higher. A report will be coming to Regional Council next week which will involve turning lanes and synchronization of lights but will not involve sidewalk. She expected that construction would take place this fall. This matter can come off the Status Sheet.

4.1.4 Feasibility of Removing Bed and Breakfasts in the R-1 Zone and Allow in the R-3 zone on Peninsula

An Information Report dated July 10, 2001 was before Community Council.

Councillor Uteck stated that staff was recommending not to move forward and, as well, concerns were received from Department of Tourism and Culture with regard to Bed and Breakfast locations. She indicated her concerns with regard to this issue which included a gap in the system at this time regarding inspections. Staff was trying to formalize a process which would allow the surrounding neighbourhood to know when a Bed and Breakfast is proposed.

**MOVED by Councillor Uteck, seconded by Councillor Sloane to table the report at this time and, with further consultation with staff, the issue may come back at a later date. MOTION PUT AND PASSED.**

4.1.5 Number of Cellular Sites Already Situated on the Peninsula

Councillor Uteck advised that a representative from Health Canada is expected to make a presentation to Regional Council in the near future. In the meantime, she requested that this item remain on the Status Sheet.

4.1.6 Guidelines Re Term "Substantially in Conformance"

An Information Report dated August 24, 2001 was before Community Council.

**MOVED by Councillor Fougere, seconded by Councillor Sloane to thank staff for an excellent report and table same. MOTION PUT AND PASSED.**

4.1.7 1079 Queen Street - Safety Features

No information available.

4.1.8 Possibility of Zoning CN and DND Lands Residential or Recreational

No information available.

4.1.9 Traffic Concerns - West End Mall Area

Councillor Fougere expressed disappointment that the report was not available particularly since the motion in the July 16, 2001 Minutes contained the request for availability at this meeting. The Clerk was asked to follow up.

4.1.10 Community Planning for Mainland South

Councillor Adams advised that he and Councillor Mosher would be meeting with staff to discuss the options sometime in October.

With regard to Status Sheet items in general, Councillor Adams advised that Mr. Meech has proposed an Ad Hoc Committee to deal with issues and how best to come forward with a solution. Councillor Walker subsequently advised that Membership Selection Committee has requested that Mr. Meech provide a report with a recommendation.

5. **MOTIONS OF RECONSIDERATION** - None

6. **MOTIONS OF RESCISSION** - None

7. **CONSIDERATION OF DEFERRED BUSINESS** - None

8. **PUBLIC HEARINGS**

8.1 **Case 00035 - Rezoning of Lands at the End of Forward Avenue from R-2 (Two Family Dwelling) to R-1 (Single Family Dwelling), Halifax**

A Staff Report dated July 6, 2001 was before Community Council. Gary Porter, Planner provided an overview of the application with the aid of overheads. Staff was recommending approval of the application.

Councillor Uteck asked for clarification regarding flag lots. In response, Mr. Porter advised that the lots have the required frontage.

Councillor Walker referred to proposed use of Parcel FA-2. In response, Mr. Porter advised he was not sure what it would be used for but it would still exist whether or not the application is approved. The issue before Community Council was the rezoning from R-2 to R-1.

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

Ms. Patricia Manuel, 19 Forward Avenue, one of the applicants, raised the following points:

- She extended thanks to staff, United Gulf Developments and Community Council on the way the rezoning application has proceeded in recent months.
- R-1 is in keeping with the prevailing character of the community.
- The process led to valuable community planning for the area relating to the Fleming Park/Williams Lake Road lands.

Mr. Morris Gibner, 6 Windrock Drive, Halifax raised the following points:

- He expressed concern with effects of blasting in the area.
- He expressed concern with traffic hazards in the area particularly with regard to making a left turn from Williams Lake Road onto Purcells Cove Road and speeding in that area.

The Chair then called three times for further speakers. There were none.

**MOVED by Councillor Sloane, seconded by Councillor Mosher to close the Public Hearing. MOTION PUT AND PASSED.**

Councillor Mosher acknowledged the traffic problems in the area and advised that Traffic Authority is looking into this. The lower density proposed will minimize the traffic impact. There is compatibility with the neighbourhood and she understood the residents were happy with the proposal.

**MOVED by Councillor Mosher, seconded by Councillor Walker to approve the rezoning of the lands of United Gulf Developments Limited located at the end of Forward Avenue, also known as 92 Williams Lake Road, from R-2 (Two Family Dwelling) to R-1 (Single Family Dwelling) as shown on Map 1 of the Staff Report dated July 6, 2001. MOTION PUT AND PASSED.**

#### **8.2 Appeal of the Development Officer's Decision to Refuse an Application for a Variance - 6191/6193 Jubilee Road**

A Staff Report dated August 27, 2001 was before Community Council. Steven Higgins, Development Officer provided an overview of the report and the recommendation that Community Council uphold the Development Officer's decision to refuse the variance.

In response to questions from Councillors, Mr. Higgins also provided the following information:

- A number of properties in the surrounding area contain three or more dwelling units that do not meet the current requirement of the By-law of 5000 sq. ft. lot area. Staff looked at six in response to the applicant's concern over the last few days. Of those

six, none contain a relaxation of the lot size requirements. One had a variance granted in 1989 for sideyard requirements and a couple were approved as a result of the internal conversion provisions of the By-law. As well, one former lodging house was reduced in intensity by downgrading into units.

- He confirmed that the applicant could put on another storey as of right and have seven bedrooms as long as they were contained.
- The applicant was allowed an extra seven days to file an appeal.

The Chair then called for speakers for or against the appeal. He acknowledged receipt of a letter from Fred Tibbet in opposition to the proposed development.

Mr. Lloyd Robbins, Quackenbush, Thomson & Robbins, on behalf of the applicant - Renee Abi Daoud - raised the following points:

- There is a seven bedroom apartment on the second floor and going into the attic. In its present condition, he suspected the building would not meet the Building Code. The applicant wants to renovate the building and solve the problem with the seven bedroom apartment and made application for three units. This was denied because there was not 5,000 sq. ft.
- The applicant exceeds all other standards except for the 300 sq. ft. of land. There is 10' on the side of the house when 7' is required. The area of the building is under the lot coverage. The height of the building is fine.
- The applicant has a building permit for as-of-right renovation of the building to raise the roof by approximately 5', staying within the 35' ceiling. If she has a seven bedroom apartment, what she would have is student rentals which would cause management problems with collecting rents, noise issues.
- If the seven bedroom apartment could be divided into two apartments, it would appeal to more people and would be easier to rent without the same density and different occupancy. Someone might rent the units year round.
- He believed the correct interpretation of the clause "violates the intent of the land use by-law" is related to what is historically called "minor variances". When the Municipal Government Act came out, the word "minor" was taken out and replaced with "variance violates the intent of the land use by-law". A minor variance does not violate the intent of the land use by-law. The application was turned down because of a violation of the intent of the land use by-law. He suggested this was not so and it was important for the clause to be understood.
- The intent of the zoning by-law is to be gathered from the Municipal Planning Strategy. He quoted from Section 1.1. of the Residential Environments of the Peninsula Plan. Further sections include additions on buildings. In the present case, that is what is being done and, therefore, not violating the intent of the zoning by-law but applying for a variance within the understanding of the Municipal Planning Strategy and By-law.

- As to whether the proposal is being treated in a different way from similar buildings on Peninsula Halifax, he provided examples by way of pictures and tax assessment records of properties in the Jubilee area. There were many examples of units of three or more permitted on less than 5,000 sq. ft. and at least one has been through a variance process.
- The philosophy that a rooming house being converted to four units as a better use is the same as the application in question being more compatible as three units rather than a seven bedroom apartment, which is almost a rooming house.
- He asked that the appeal be granted and his client allowed to develop three units. He submitted a Petition signed by the neighbours.

In answer to further questions, Mr. Higgins provided additional information as follows:

- Within the R-2 zone, there are a number of sub-areas identified with respect to different lots and characteristics designed to reflect existing circumstances. It is area wide.
- If the variance were allowed, it was difficult to predict what applications might come forward in the future. There are plenty of properties, community wide in the R-2 zone, that are just below. It was conceivable there might be additional applications if the message to the community is that it might be considered.

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

**MOVED by Councillor Uteck, seconded by Councillor Fougere to close the Public Hearing. MOTION PUT AND PASSED.**

Councillor Uteck then raised the following points:

- She had difficulty with whether or not it would be best to allow a three-unit apartment building or seven students. The question was whether or not there would be any further density or infill.
- Considering the surrounding area, however, she supported the Development Officer's decision. The Municipality needs to start abiding by its rules. She did not consider 300 sq. ft. to be a variance as it was almost to the point of being substantial.

Councillor Fougere raised the following points:

- She supported the Development Officer's decision as well.
- Who the property is rented to is a decision by the landlord.
- To call it a seven-bedroom apartment is somewhat of a stretch. All the homes in the area are large. Pictures provided are generally exceptions to the rule.

- She agreed that the division of large family homes into smaller apartments is an encouragement of what continues to happen in the South End. One way or another these homes will be rented to students because they are so close to Dalhousie.
- To allow variances that continue the growth of units will continue with the deterioration of the area.

Councillor Mosher raised the following points:

- She expressed concern with opening the floodgates. If the applicant is concerned about seven bedrooms, then it can remain at four bedrooms and a sitting area.
- She supported the Development Officer's decision.
- Seven bedrooms could equate to less people than with two units.

Councillor Adams raised the following points:

- If you look at the integrity of the neighbourhood and how the neighbourhood could be best served, three units could be better than seven bedrooms.
- Considering the other information presented, there were minor variances approved with lot sizes less than what is under consideration. He would vote to overturn the decision of the Development Officer.

Councillor Uteck asked if there was an opportunity for the applicant to appeal the decision of Community Council. In response, Mr. Barry Allen, Municipal Solicitor replied that the decision rested with Community Council - there was no opportunity for appeal.

**MOVED by Councillor Uteck, seconded by Councillor Fougere to uphold the decision of the Development Officer. MOTION PUT AND PASSED 4-3.**

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

### 9.1 **Presentation - Update - Wentworth Estates/Bedford South Master Plan**

Mr. Paul Morgan, Planner provided an update on the Master Planning process which ultimately led up to a draft Municipal Planning Strategy and Land Use By-law being reviewed by various committees and input from the public. After difficulties arose, subsequently Clayton Developments stepped in and has taken over the financial position and has options to buy out or has bought out a number of property owners. Clayton Developments has proposed a number of changes. Regional Council has recently authorized retention of a consultant, SGE Group, to look at engineering and financial aspects. Clayton Developments' proposal is a revised plan that was first developed by Wallace Macdonald and Lively.

Mr. Dick Miller, President and Mr. Mike Hanusiak, Vice President, Strategic Planning, Clayton Developments were in attendance.

During the course of his presentation, Mr. Mike Hanusiak provided the following information:

- He provided information on the properties purchased by Clayton or property options to date and the agreement with others to speak on their behalf on a Concept Plan.
- Clayton has assumed the lead role in the future development of the area in question.
- He provided information on the changes in the proposal put forward by Wallace Macdonald and Lively.
- Clayton reviewed the two Plans that have jurisdiction over the area and the public documentation existing since Wallace Macdonald and Lively were first engaged.
- Staff have been provided with a phasing plan which indicates incremental development in the south and north moving together eventually coming to a point where the interchange will be required.

Councillor Whalen indicated she was pleased with the involvement of Clayton Developments. Previously, multiple landowners were involved. She felt the proposal was on track with full coordination and cooperation and more focus. She attended the North West Planning Advisory Committee meeting recently where the presentation was also made and felt that the Committee members were cautiously optimistic. She intended to have an Open House and invite the people who previously attended Open House sessions. Clayton Developments will be assisting her in this regard.

## 10. **REPORTS**

### 10.1 **Case 00337 - Application to Amend the Stage I and II Development Agreements for Clayton Park West, Phase 4 to Permit a Licenced Lounge in Conjunction with an Existing Restaurant**

At the July 18, 2001 meeting of Community Council, an amendment to the Stage I Development Agreement for Clayton Park West Phase 4 to allow for a lounge within an existing (Swiss Chalet) restaurant was approved. The appeal period following this decision expired on August 4, 2001.

A Memorandum dated August 9, 2001 was before Community Council from Planning and Development Services advising that Community Council was now in a position to approve an amendment to the Stage II Development Agreement. Paul Sampson, Planner provided information in this respect.

**MOVED by Councillor Whalen, seconded by Councillor Walker to approve the amending Stage II Development Agreement, attached as Appendix B to the Staff**

**Report dated May 31, 2001, to permit the use of the lands for a licenced lounge in conjunction with an existing restaurant (Swiss Chalet); and**

**Require that the amending Development Agreement be signed within 120 days, or any extension thereof granted by Community Council on request of the applicant, from the date of final approval by Community Council and any other bodies as necessary, whichever is later; otherwise, this approval will be void and obligations arising hereunder shall be at an end.**

**MOTION PUT AND PASSED.**

**10.2 Case 00368 - Application for a Stage II Development Agreement for Glenbourne Subdivision, Phase 4B**

A Staff Report dated August 24, 2001 was before Community Council. Paul Sampson, Planner provided an overview of the application with the aid of overheads and advised that staff was recommending approval.

Councillor Walker asked how many more stages were yet to come for the Glenbourne development. In response, Mr. Sampson advised there were four left. There was currently an application to combine the four into one application which he expected would come forward this fall.

**MOVED by Councillor Whalen, seconded by Councillor Mosher to approve the Stage II Development Agreement, presented as Attachment II to the Staff Report dated August 24, 2001, to permit the subdivision of twenty-four lots for single unit dwellings in Glenbourne Subdivision, Phase 4B; and**

**Request that the Development Agreement be signed within 120 days, or any extension thereof granted by Community Council on request of the applicant, from the date of final approval by Community Council and any other bodies as necessary, whichever is later; otherwise, this approval will be void and obligations arising hereunder shall be at an end.**

**MOTION PUT AND PASSED.**

**10.3 Case 00318 - Request for an Amendment to the Halifax Municipal Planning Strategy, Land Use By-law and Development Agreement - Robie/Cunard/West Streets**

A Staff Report dated August 29, 2001 was before Community Council. Gary Porter, Planner was in attendance for this item.

**MOVED by Councillor Sloane, seconded by Councillor Uteck to recommend that Regional Council:**

1. **Give First Reading to the proposed amendments to Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law as contained in Appendix A of the Staff Report dated August 29, 2001 and schedule the Public Hearing for October 9, 2001;**
2. **Move Notice of Motion to consider approval of the proposed Development Agreement, attached as Appendix B to the Staff Report dated August 29, 2001 to permit a 49-unit building and schedule the Public Hearing jointly with Chebucto Community Council on October 9, 2001;**
3. **Approve the proposed amendments to Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law as contained in Appendix A of the Staff Report dated August 29, 2001.**

**MOTION PUT AND PASSED.**

Contingent upon the approval by Regional Council of the Municipal Planning Strategy and Land Use By-law amendments and the coming into effect of said amendments, Community Council will consider:

1. Approval of the proposed Development Agreement with the condition that the building be no more than four storeys in height on West Street and contain a maximum of 46 units, and
  2. Require that the proposed Development Agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever is later; otherwise, this approval will be void and obligations arising hereunder shall be at an end.
- 10.4 **Case 00381 - Application for a Stage II Development Agreement, Clayton Park West - Phase 4R (Blocks B, Y, X and A-B)**

A Staff Report dated September 5, 2001 was before Community Council. Bernard Moe, Planner provided an overview of the application with the aid of overheads and advised that staff was recommending approval of the application. He indicated a number of minor typographical errors would be corrected by staff prior to signature.

**MOVED by Councillor Whalen, seconded by Councillor Mosher to approve the Stage II Development Agreement for Blocks B, Y, X and A-B, Phase 4R, Clayton Park West, as provided in Attachment 1 of the Staff Report dated September 5, 2001; and**

**Require the agreement be signed within 120 days or any extension thereof granted by Council on request of the applicant from the date of final approval by Council and any other bodies as necessary, whichever approval is later, including applicable appeal periods; otherwise, this approval will be void and obligations arising hereunder shall be at an end.**

**MOTION PUT AND PASSED.**

**10.5 Dedication of Horseshoe Pits in Memory of Bill Fenton**

Councillor Sloane indicated her proposal to have the horseshoe pits at the George Dixon Centre, Gottingen Street dedicated in memory of Bill Fenton. She requested guidance on how to go about doing this.

Councillor Fougere indicated she had been successful in a dedication in her District and that Debbie Chambers from the Councillor Support Office had been the staff person who assisted her with this effort.

**MOVED by Councillor Sloane, seconded by Councillor Walker that the request be forwarded to Councillor Support Office and request that Debbie Chambers also look after this request to ensure that the dedication takes place. MOTION PUT AND PASSED.**

**10.6 Councillor Appointment to Membership Selection Committee to November, 2002**

**MOVED by Councillor Whalen, seconded by Councillor Mosher to continue the tenure of Councillor Walker as Chebucto Community Council's representative on Membership Selection Committee to November, 2002. MOTION PUT AND PASSED.**

Councillor Mosher requested that staff provide a report on the pre-existing nature of the two former Community Councils as Deputy Mayor Blumenthal was a member of Membership Selection Committee by virtue of his appointment by Peninsula and Western Region Community Council and Councillor Walker for Chebucto Community Council.

Councillor Walker pointed out that there are two large Community Councils but the other three Community Councils only have three members each but have the same representation on

Membership Selection Committee. He requested that the report also deal with the issue of representation.

**MOVED by Councillor Mosher, seconded by Councillor Walker that a report be requested as indicated above. MOTION PUT AND PASSED.**

11. **MOTIONS** - None
12. **ADDED ITEMS** - None
13. **NOTICES OF MOTION** - None
14. **PUBLIC PARTICIPATION** - None
15. **NEXT MEETING DATE** - Monday, October 1, 2001
16. **ADJOURNMENT**

On a motion from Councillor Mosher, the meeting adjourned at 8:35 p.m.

Sandra M. Shute  
Assistant Municipal Clerk