

HARBOUR EAST COMMUNITY COUNCIL
MINUTES
NOVEMBER 28, 2002

PRESENT: Councillor John Cunningham
 Councillor Bruce Hetherington
 Councillor Brian Warshick
 Councillor Condo Sarto
 Deputy Mayor Harry McInroy

REGRETS: Councillor Ron Cooper
 Councillor Jim Smith

STAFF: Ms. Julia Horncastle, Assistant Municipal Clerk

HALIFAX REGIONAL MUNICIPALITY

HARBOUR EAST COMMUNITY COUNCIL 2

NOVEMBER 28, 2002

1.	CALL TO ORDER	04
2.	ELECTION OF CHAIR AND VICE CHAIR	04
3.	APPROVAL OF MINUTES - October 30, 2002 (regular session) November 12, 2002 (special session)	04
4.	APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS	04
5.	BUSINESS ARISING OUT OF THE MINUTES	04
6.	MOTIONS OF RECONSIDERATION - NONE	04
7.	MOTIONS OF RESCISSION - NONE	04
8.	CONSIDERATION OF DEFERRED BUSINESS	
8.1	Councillor Warshick - Off Leash Dog Parks	05
9.	PUBLIC HEARINGS	
9.1	Case 00456 - Rezoning of HRM lands adjacent to 386 Windmill Road, Dartmouth	05
9.2	Case 00510 - Development Agreement for a Day Care at 16 Portland Estates Boulevard, Dartmouth	05
9.3	Case 00467 - Development Agreement for 611 Portland Street	07
10.	CORRESPONDENCE AND DELEGATIONS	
10.1	Correspondence - None	11
10.2	Presentation	
10.2.1	Mike Hanusiak re the Morris/Russell Lake Master Plan ...	11
11.	REPORTS	
11.1	Case 00512: Housekeeping Amendments to Eastern Passage/Cow Bay Land Use By-law (Give First Reading and set public hearing date)	11
11.2	Case 00415: Amendment to the Municipal Planning Strategy for Dartmouth (Wright's Cove)	12
12.	MOTIONS	12
13.	ADDED ITEMS	12

HALIFAX REGIONAL MUNICIPALITY

HARBOUR EAST COMMUNITY COUNCIL 3

NOVEMBER 28, 2002

14. NOTICES OF MOTION 12

15. PUBLIC PARTICIPATION 12

16. NEXT MEETING 12

17. ADJOURNMENT 12

1. **CALL TO ORDER**

The meeting was called to order at 7:00 p.m.

2. **ELECTION OF CHAIR AND VICE CHAIR**

MOVED by Councillor Sarto, seconded by Councillor Warshick, that Councillor Hetherington be appointed as chair of the Harbour East Community Council. **MOTION PUT AND PASSED UNANIMOUSLY.**

MOVED by Deputy Mayor McInroy, seconded by Councillor Sarto, that Councillor Cunningham be appointed as vice-chair of the Harbour East Community Council. **MOTION PUT AND PASSED UNANIMOUSLY.**

3. **APPROVAL OF MINUTES - October 30 and November 12, 2002**

MOVED by Councillor Sarto, seconded by Councillor Warshick, that the minutes of October 30 and November 12, 2002 be approved. **MOTION PUT AND PASSED UNANIMOUSLY.**

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

Additions

Information Report - Traffic on Woodland Avenue, Dartmouth

Deletions

Request by Councillor Smith to defer item 11.2, Case 00415: Amendment to Municipal Planning Strategy for Dartmouth (Wright's Cove Area) to March, 2003

MOVED by Deputy Mayor McInroy, seconded by Councillor Warshick, that the Order of Business, as amended, be approved. **MOTION PUT AND PASSED UNANIMOUSLY.**

5. **BUSINESS ARISING OUT OF THE MINUTES - NONE**

6. **MOTIONS OF RECONSIDERATION - NONE**

7. **MOTIONS OF RESCISSION - NONE**

8. CONSIDERATION OF DEFERRED BUSINESS**8.1 Councillor Warshick - Off Leash Dog Parks**

Councillor Warshick advised staff is preparing a report on this item which will be coming forward to the next meeting. The Councillor advised he has received a number of requests for the establishment of an Off Leash Dog Park and requested staff examine costing for a fenced off area which has access to parking.

9. PUBLIC HEARINGS**9.1 Case 00456 - Rezoning of HRM lands adjacent to 386 Windmill Road, Dartmouth**

- A report prepared for Mr. Paul Dunphy, Director of Planning and Development Services, dated November 5, 2002, on the above noted, was before Community Council.

Ms. Maria Jacobs, Planner, with the aid of overheads, presented the staff report.

Councillor Hetherington, called three times for those wishing to speak either in favour of or in opposition to the rezoning. Hearing none, the following motion was placed.

MOVED by Councillor Cunningham, seconded by Councillor Sarto, that the public hearing close. MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillor Cunningham, seconded by Councillor Warshick, that Harbour East Community Council approve the rezoning of portions of the properties known as PID 00063354 and 00063347 in Dartmouth, from R-2 (Two Family Residential) to C-2 (General Business) Zone, as shown on Map 1 of the staff report dated November 5, 2002. MOTION PUT AND PASSED UNANIMOUSLY.

9.2 Case 00510 - Development Agreement for a Day Care at 16 Portland Estates Boulevard, Dartmouth

- A report prepared for Mr. Paul Dunphy, Director of Planning and Development Services, dated November 5, 2002, on the above noted, was before Community Council.

Ms. Maria Jacobs, Planner, with the aid of overheads, presented the staff report.

In response to Councillor Cunningham, Ms. Jacobs clarified that there would be no addition to the structure but rather an increase in floor area of the house would be dedicated for Day Care use.

Councillor Hetherington read into the record a letter from Mr. Dobson, 18 Portland Estates Boulevard, in opposition to the proposal.

In response to Councillor Hetherington, Ms. Jacobs clarified that the hedge was on the neighbouring property and provision could be made in the development agreement requiring the Day Care erect a fence between it and the abutting property.

Councillor Hetherington called for those wishing to speak either in favour of or in opposition to the proposal.

Ms. Donna Gillis, 10 Portland Estates Boulevard, advised the front of the property is a parking lot and the house has four front doors which alters the look of the neighbourhood. On question regarding whether or not the Day Care could add an additional door, Ms. Jacobs advised that they would not be able to change the look of the house except under the development agreement process. In response to a question as to whether or not there was enough space for the proposed parking, Ms. Jacobs advised she has been on site and there is enough land to accommodate the proposed parking. Ms. Gillis also expressed concern with the Day Care sign.

Mr. Frank Dobson, 18 Portland Estates Boulevard, abutting property owner, stated there has been a change in the neighbourhood and HRM should be protecting the area. He stated the children attending the Day Care are not neighbourhood children. He stated during the summer months the children playing outside disturb the quiet of the neighbourhood.

Ms. Heather Cox, Porters Lake, Director, advised the Day Care has been there for eleven years. She advised the children are from Portland Estates. She stated they do not feel that they have been in any way harmful to the neighbourhood. She stated the community has grown and the Day Care is needed.

Mr. Ed Barrigan, 12 Portland Estates Boulevard, stated as a result of the Day Care he cannot enjoy his property. He expressed concern with the traffic dropping off and picking up children. He noted the front of the property is paved and is not aesthetically pleasing. He advised many of the residents are retired and with the Day Care in the neighbourhood it takes away from the enjoyment of his property. He further noted that he feels the Day Care devalues his property. He requested Community Council not approved the development agreement.

Councillor Hetherington noted there are a number of issues here that need to be addressed

and suggested the public hearing be adjourned to the next meeting to allow time to resolve some of the issues.

MOVED by Councillor Cunningham, seconded by Councillor Sarto, that the public hearing be adjourned to January 9, 2002 to provide opportunity for consultation with the neighbourhood. MOTION PUT AND PASSED.

9.3 Case 00467 - Development Agreement for 611 Portland Street

- A report prepared for Mr. Paul Dunphy, Director of Planning and Development Services, dated November 6, 2002, on the above noted, was before Community Council.

Mr. Mitch Dickey, Planner, with the aid of overheads, presented the staff report.

In response to Councillor Cunningham as to the distance between the wall of the Boston Pizza and the nearest residence, Mr. Dickey advised it was approximately seventy feet from Power Street and three hundred feet from the other homes in the area.

In response to Councillor Sarto, Mr. Dickey advised the properties to the east are zoned R-1, R-1 to the north and P-3 to the west. The Councillor noted the other businesses in the area close at reasonable hours. On further question, Mr. Dickey advised access and egress to Portland Street would be by right hand turn only and there would be a two way entrance off Bruce Street.

In response to Councillor Sarto, Mr. Dickey advised there had not been a traffic study undertaken as the traffic authority had indicated that it was not required.

On further question, Mr. Dickey advised the berm would be built and a fence would go down the middle, noting there would be ten trees on Power Street side and the parking lot side.

Deputy Mayor McInroy expressed concern with people turning left onto Portland Street even though it is not allowed, noting there are other areas that have the same traffic pattern designation but people do not follow this. In response, Mr. Dickey advised the developer has agreed to install sign bases and HRM would install the signs.

In response to Councillor Sarto, Mr. Dickey advised the landscaped area would be twenty five feet wide and the berm would be approximately five feet high and approximately seven feet in width with trees planted on the bank on either side. On further question, Mr. Dickey advised staff did not foresee a drainage problem. He advised environmental services staff had looked at the site noting, there will be on site drainage to capture water from the parking the parking

lot and any drainage or runoff that comes on the side of Settle Street will run into a catch basin.

Councillor Sarto questioned whether there was a limit on the hours of operation of the patio. In response, Mr. Dickey advised there are no restrictions on the outdoor patio noting, Community Council could require that the patio close at 11:00 p.m. Mr. Dickey advised the development agreement would allow the restaurant to be opened twenty four hours, noting the liquor license would close the bar at 2:00 a.m. The Councillor noted the proposed agreement does not specify hours of operation.

Councillor Hetherington called for those wishing to speak either in favour of or in opposition to the proposal.

Mr. Jeff Keohler, Halifax, property owner, spoke in favour of the development noting:

- They are a large Canadian owned dining chain;
- 611 Portland Street is in a commercial area even though it is buffered by residential development
- Major concerns at the public information meetings were centered around the hours of operation of the sports bar and noise;
- The sports bar is not a night club or a dance bar, the focus is on food;
- They will have no VLT's, no dance floor or live entertainment;
- 90% of the business is over the lunch and dinner;
- They have agreed to provide a visual and acoustical barrier around the property to reflect sound away from the residences;
- They will also be beautifying a current eyesore;
- They have aligned their patio and building as far away from the residents as possible;
- An acoustical study indicated that the issue of noise has been addressed;
- They will create approximately sixty full and part time jobs;
- They are installing a storm water management system in compliance with recommendations made by the Dartmouth Lakes Advisory Board.

Mr. Ken Smith, 12 Bruce Street, referenced the minutes of the public information meeting at which the developer had agreed to close at 2:00 a.m. and noted the development agreement is for a twenty four hour operation. He questioned the hours of operation of the patio and the number of people who would be using it and, in his opinion, the patio should be closed at 11:00 p.m.

Mr. Charles Hayward, 24 Settle Street, stated this proposal is across the street from his home. He stated this establishment will be in close proximity to his home and expressed concern that it may affect his quality of life in that it may generate enough noise to disturb the sleep of him and his family.

Mr. Andy Whelan, 8 Power Street, expressed concern with the increase in traffic and the possibility of accidents caused as a result of additional traffic on Power Street. He advised some of the homes are elevated above the berm and fence as some of the streets are uphill from this property. He stated there will be noise generated from the parking lot as a result of people getting in and out of their cars.

Mr. Ed Hayden, 10 Power Street, requested Council reject the agreement as, in his opinion, the proposal does not fit in a residential neighbourhood. He also expressed concern with noise from the patio and the parking lot noting, Crickets Bar was further away than the proposed operation and he could hear noise from it. He stated Council should reject the proposal as he does not feel it is the right proposal for this area and submitted fifty five letters from the residents of Power, Bruce and Settle Streets in opposition to this.

Mr. Brad McCaughan, Deerbrooke Street, stated that he feels this is a good proposal noting, the lot has been vacant for some time and was becoming an eyesore.

Mr. Will King, Acoustical Architect, outlined the process used to determine what noise would emanate from the restaurant over and above the ambient noise produced by the traffic on the surrounding streets and other businesses in the area.

In response to Councillor Sarto, Mr. King advised that the normal noise level in a room is approximately sixty decibels. On further question, Mr. King advised that he did take into account in his study the fact that the residences are higher than the parking area and advised the wall will help block the noise going into the surrounding neighbourhood.

Mr. Jay Munn, spoke in favour of the proposed development stating what was being proposed is better than what was there before.

Mr. Sheldon May, Power Street, stated the bedrooms of his home are approximately 150 feet from the building. He stated he has three children and expressed concern that resulting noise from the business would disturb the neighbourhood.

Ms. Joan Mills, 17 Settle Street, expressed concern with the hours of operation but stated she feels it is an improvement for the area as the property has been an eyesore.

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

MOVED by Councillor Cunningham, seconded by Deputy Mayor McInroy, that the public hearing close. MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Deputy Mayor McInroy, seconded by Councillor Warshick, that the

Harbour East Community Council:

1. **Approve the development agreement as shown in Attachment 1 to the report dated November 6, 2002;**
2. **Require that the development agreement be signed within 120 days or any extension thereof granted by Council on request fo the applicant from the date of final approval by Council and any other bodies as necessary whichever is later, including applicable appeal periods, this approval will be void and obligations arising hereunder shall be at an end.**

Councillor Sarto stated there are issues here such as traffic and the impact it will have on surrounding streets as well as the infringement on the tranquility and quality of life in that neighbourhood. He stated he feels the business is a good fit but not for that particular area stating it should be located on a site that is completely surrounded by commercial. the Councillor stated that many of the suggestions put forward at the public information meetings was not incorporated in the agreement. The Councillor stated the commercial business in the area close at a reasonable hour. He stated the business is not compatible with the surrounding area noting, many of the residents are seniors and young families and should be entitled to the peace and tranquility of the neighbourhood. The Councillor stated he was not supporting the proposal.

Without a vote being taken on the motion, the following motion was placed.

MOVED by Councillor Sarto, seconded by Councillor Cunningham, that the Boston Pizza portion be required to close at 1:00 a.m. on Sunday, Monday, Tuesday and Wednesday, 2:00 a.m. on Thursday, Friday and Saturday and the patio be closed at 10:00 p.m.

In response to Deputy Mayor McInroy, Mr. Dickey advised the applicant would have the right to come back with a minor amendment and request later opening hours if required. He stated a minor amendment would not require a public hearing but the property owners within 250 feet would be notified and Council would receive public input.

MOTION PUT AND PASSED.

Motion as amended.

MOVED by Deputy Mayor McInroy, seconded by Councillor Warshick, that the Harbour East Community Council:

1. **Approve the development agreement as shown in Attachment 1 to the report dated November 6, 2002;**
2. **That the Boston Pizza portion be required to close at 1:00 a.m. on Sunday, Monday, Tuesday and Wednesday, 2:00 a.m. on Thursday, Friday and Saturday and the patio be closed at 10:00 p.m.**
3. **Require that the development agreement be signed within 120 days or any extension thereof granted by Council on request for the applicant from the date of final approval by Council and any other bodies as necessary whichever is later, including applicable appeal periods, this approval will be void and obligations arising hereunder shall be at an end.**

MOTION PUT AND PASSED.

10. CORRESPONDENCE AND DELEGATIONS

10.1 Correspondence - None

10.2 Presentation

10.2.1 Mike Hanusiak re the Morris/Russell Lake Master Plan

Mr. Mike Hanusiak, Clayton Development, made a presentation to Community Council regarding the Morris/Russell Lake Master Plan and the initiation of development applications for Portland Hills and Russell Lake. A copy of the presentation was provided to staff to provide direction on how this process can proceed and how they can make application and consult with the public.

MOVED by Councilor Sarto, seconded by Councillor Warshick, that the request be referred to staff for a process to see how this can be done. MOTION PUT AND PASSED UNANIMOUSLY.

11. REPORTS

11.1 Case 00512: Housekeeping Amendments to Eastern Passage/Cow Bay Land Use By-law (Give First Reading and set Public Hearing Date)

- A report from the Harbour East Planning Advisory Committee, dated November 18, 2002, on the above noted, was before Community Council.

MOVED by Councillor Warshick, seconded by Councillor Cunningham, that Harbour East Community Council give First Reading to the proposed amendments to the Land Use By-Law for Eastern Passage/Cow Bay and schedule a public hearing for January 9, 2003. MOTION PUT AND PASSED UNANIMOUSLY.

11.2 Case 00415: Amendment to the Municipal Planning Strategy for Dartmouth (Wright's Cove)

This item was deferred to March, 2003 under the approval of the Order of Business.

12. MOTIONS - NONE

13. ADDED ITEMS - NONE

14. NOTICES OF MOTION - NONE

15. PUBLIC PARTICIPATION - NONE

16. NEXT MEETING

The next meeting is scheduled for Thursday, January 9, 2003.

17. ADJOURNMENT

The meeting was adjourned at 10:05 p.m.

Julia Horncastle
Assistant Municipal Clerk