

HARBOUR EAST COMMUNITY COUNCIL
MINUTES
JANUARY 9, 2003

PRESENT: Councillor Bruce Hetherington, Chair
Councillor Ron Cooper
Councillor Harry McInroy
Councillor John Cunningham

ABSENT
WITH REGRETS: Councillor Brian Warshick
Councillor Condo Sarto
Councillor Jim Smith

STAFF: Mr. Barry Allen, Municipal Solicitor
Ms. Julia Horncastle, Legislative Assistant

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1. CALL TO ORDER

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

Following the call to order, the Community Council observed a moment of silence in memory of the late Jack Thomas, a member of the Harbour East Planning Advisory Committee.

2. APPROVAL OF MINUTES - November 28, 2002

MOVED by Deputy Mayor McInroy, seconded by Councillor Cunningham, that the minutes of November 28, 2002 be approved. **MOTION PUT AND PASSED UNANIMOUSLY.**

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

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

4. BUSINESS ARISING OUT OF THE MINUTES - NONE

5. MOTIONS OF RECONSIDERATION - NONE

6. MOTIONS OF RESCISSION - NONE

7. CONSIDERATION OF DEFERRED BUSINESS

7.1 Councillor Warshick - Off Leash Dog Parks

As Councillor Warshick was not in attendance, the item was deferred to the February meeting.

8. PUBLIC HEARINGS

8.1 Continuation of Public Hearing re: Case 00510 - Development Agreement for a Day Care at 16 Portland Estates Boulevard, Dartmouth

- The public hearing was adjourned on November 28, 2002.
- A supplementary staff report dated December 18, 2002, from Paul Dunphy, Director of Planning and Development Services, was before Community Council.

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

In response to Councillor Cunningham, Ms. Jacobs advised there would be spaces for eight additional children and there would be no change to the existing sign.

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

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

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

- 1. Approve the amended development agreement as shown in Attachment 1 of the supplementary staff report, dated December 18, 2002, to permit an increase in the floor area dedicated to the existing day care in order to allow an additional eight children;**
- 2. Require that 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 UNANIMOUSLY.

8.2 Case 00512: Housekeeping Amendments to Eastern Passage/Cow Bay Land Use By-Law

- A report prepared for Paul Dunphy, Director of Planning and Development Services, dated November 18, 2002, on the above noted, was before Community Council.
- Correspondence from Mr. Kenneth J. Dacey and Associates, dated January 9, 2003, was circulated to Community Council.
- Correspondence from Mr. David Grant, dated January 9, 2003, was circulated to Community Council.

Mr. John MacPherson, Planner, with the aid of overheads, presented the staff report.

Councillor Cooper noted that after subdivision of the cemetery lot, an accessory building or structure would be permitted. The Councillor asked if these would be in association with the

cemetery.

In response, Mr. MacPherson advised it would be in association with the cemetery use for example a shed.

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

Mr. David Grant, representing Bay Haven Villas Inc., advised his clients are a private company and would like to develop the property as a private capitalized system. He stated, in his opinion, the Municipality should not be saying private enterprise should not be involved in senior citizen development. He stated there is a need for seniors housing and the Municipality should not be saying that the capital should be public capital to develop seniors housing.

Mr. Barry Allen, Municipal Solicitor, advised the amendments are trying to address the fact that governments are prohibited from discriminating because of age. The municipal government is restricted from passing a by-law that specifies what groups can be on a street. These amendments are intended to assist people that are in need. The municipality does not have the power to restrict a development based solely on age.

Councillor McInroy noted the amendments affect the P-2 zones.

In response to Mr. Neil Naugle as to whether or not he would be allowed to put a private business in a P-2 zone, Mr. MacPherson advised that he could, noting the municipality does not have the ability to enforce a development that is age based.

In response to Mr. Naugle as to why there is no definition for seniors housing, Mr. Jim Donovan, Planning, advised that matter was under appeal and cannot be discussed at this time.

Mr. MacPherson noted that the only portion of the plan that deals with seniors housing are the P-1 and P-2 zones.

Mr. Ken Dacey, architect, stated there are people in the private sector who are willing to build seniors housing.

It was noted the property is privately owned. Mr. MacPherson advised that the property had been previously used as a community facility.

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

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

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

- 1. Approve the proposed amendments to the Land Use By-Law for Eastern Passage/Cow Bay as shown in Attachment 1 of the staff report dated November 5, 2002.**
- 2. The Harbour East Community Council request staff to examine the definition of “senior citizen housing” in all of the plan areas under the jurisdiction of the Harbour East Planning Advisory Committee as a means of standardizing the definition.**

In response to Councillor Cunningham as to where the definition of seniors housing had come from, Mr. MacPherson advised that it was a definition formulated by staff and it is used in other HRM land use by-laws. He noted the municipality would not be able to enforce a by-law that was age specific. He stated that if it was a privately funded facility the municipality would not be able to administer the by-law.

Mr. Jim Donovan advised the definition that is in the land use by-law is tailored for applications for P-2 zones which permits commercial facilities. He advised staff is recommending seniors housing run by public sector organizations must comply with provincial regulations. He noted the amendment is not intended to define senior citizen housing but only how it is permitted in the P-2 zone.

Deputy Mayor McInroy stated that it has always been the intention that seniors housing be public housing.

MOTION PUT AND PASSED UNANIMOUSLY.

9. CORRESPONDENCE AND DELEGATIONS

9.1 Correspondence - None

9.2 Presentations - None

10. REPORTS

**10.1 Case 00434: Land Use By-Law Amendments, Shipping Containers
(Give First Reading and set public hearing date)**

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

MOVED by Deputy Mayor McInroy, seconded by Councillor Cunningham, that Harbour East Community Council give first reading and set the public hearing for February 6, 2003. MOTION PUT AND PASSED UNANIMOUSLY.

11. MOTIONS - NONE

12. ADDED ITEMS

Councillor Hetherington noted that under the City of Dartmouth a section of Lake Banook was cleared for public skating. The Councillor requested the recreation department be contacted requesting Lake Banook be used for public skating during the winter.

13. NOTICES OF MOTION - NONE

14. PUBLIC PARTICIPATION - NONE

15. NEXT MEETING

The next meeting is scheduled for Thursday, February 6, 2003.

16. ADJOURNMENT

The meeting was adjourned at 8:20 p.m.

Julia Horncastle
Legislative Assistant