

**NORTH WEST COMMUNITY COUNCIL**

**NOVEMBER 14, 1996**

THOSE PRESENT: Councillor Harvey, Chairman  
Councillor Barnet  
Councillor Mitchell  
Councillor Rankin  
Councillor Kelly

ALSO PRESENT: Barry Allen, Municipal Solicitor  
Bill Butler, Manager, Planning Services, Central  
Bill B. Campbell, Manager, Planning Services, Western  
Jacqueline Hamilton, Planner  
Sandra Shute, Assistant Municipal Clerk

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1. **INVOCATION**

The Chair called the meeting to order at 7:00 p.m. with an Invocation. The meeting was held in the Charles Fenerty Room at Sackville Public Library, Acadia School.

2. **APPROVAL OF MINUTES - OCTOBER 24, 1996**

**MOVED by Councillors Kelly and Barnet to approve the Minutes of meeting held on October 24, 1996 as circulated. MOTION PUT AND PASSED.**

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

It was agreed to move item 10.1 - Vernon Kynock proposal up on the Agenda after 7.1 - Minor Variance.

Added Items: Correspondence from Sackville Rivers Association re proposal for management of trails and walkways.

Reports - Waiver of Application Fee - Councillor Rankin

Request for funding from Sackville Seniors Advisory Council

Councillor Barnet: Bianca Court - Storm Drainage

Councillor Mitchell: Watershed property

**MOVED by Councillors Mitchell and Rankin to approve the Order of Business as amended. MOTION PUT AND PASSED.**

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

The Chair advised that the Commissioner of Corporate Services had indicated that with regard to the need for an Auditor General, which had been raised by a resident, Corporate Services would be responding in due course but pointed out there were numerous high-priority projects under way at this time supporting Council and the organization.

As well, the Chair advised that a Memorandum dated November 7, 1996 from the Manager of Real Estate and Facilities clarified the question raised by another resident with regard to the allocation of \$1.7 million during budget deliberations.

5. **MOTIONS OF RECONSIDERATION** - None

6. **MOTIONS OF RESCISSION** - None

7. **CONSIDERATION OF DEFERRED BUSINESS**

7.1 **Minor Variance - MVS-19-19-96 - Lot L-19R2 - Lakeview Avenue - District 19**

With regret, Councillor Barnet advised there had not been any compromise or resolution reached between the two neighbours. He went on to say that he had asked staff if it would be possible to approve the Minor Variance with conditions but staff had indicated this was not possible. Community Council, therefore, would have to deal with the application.

**MOVED by Councillors Mitchell and Kelly to deny the appeal of the Minor Variance.  
MOTION PUT AND PASSED.**

Councillor Barnet said it was with great reluctance that he supported staff's conclusion and he did not think the decision of Community Council would resolve the problem as it was more than just the question of the minor variance. He hoped that the neighbours would take the opportunity to try to work and live together in harmony now that Community Council has made the decision.

At this time, Councillor Barnet left the meeting to attend another meeting.

8. **REPORTS**

8.1 **Vernon Kynock Quarry Proposal - Hammonds Plains**

Councillor Harvey advised, for the benefit of the residents present for this item, that this was not a Public Hearing. At each meeting of Community Council, there was an opportunity for members of the public to raise issues for a limited period on the Agenda. At Councillor Rankin's request at the last meeting, it was agreed to attach some of that time to the Vernon Kynock Quarry Proposal before Community Council dealt with the issue. The agreed-upon time was 30 minutes.

A Staff Report dated November 6, 1996 was before Community Council. Mr. Bill Butler, Manager, Central Region Planning Services provided an overview of the report. The request from Mr. Kynock was for a two-year extension with respect to obtaining necessary provincial approvals for his quarry operation.

Mr. Butler outlined the recommendation of staff and the three alternatives: 1) grant the requested extension to January 1, 1999 or some other date; 2) indicate an intention to discharge the agreement on January 1, 1997; 3) take no action, which is the least preferred.

Public Participation on Vernon Kynock Quarry Proposal

Ms. Betty Stacey spoke against an extension. The residents had been promised that there would be no further extensions granted. Hammonds Plains has changed since the Municipal Planning Strategy was first completed in the early 1980's and, at that time, quarries were not an issue. Mr. Kynock could always make another application.

Mr. Stephen Tasker, Chairman, Kingswood Ratepayers spoke against an extension. The landscape of Hammonds Plains has changed tremendously, certainly since the Development Agreement was approved in 1992. If Mr. Kynock had to make another application, then more current information could be presented by both sides to allow for a fairer agreement to be reached with the participation of the people who now make up a great portion of the area.

Ms. Joyce Evans spoke against an extension. When the MPS came up for review two years ago, submissions were made; however, nothing to do with quarry facilities has been handled. She could not see why it was necessary to wait for the new Pits and Quarries Guidelines to go to Cabinet. At the original Public Hearing, the people in opposition had not been permitted to speak until late in the evening and then had been told to hurry up.

Ms. Aileen McCormick spoke against an extension, referred to health issues and asked the justification of another quarry. She recommended that an environmental assessment should be carried out if there was any question of putting a quarry so close to homes and schools.

Ms. Yvette St. George Gillis spoke against an extension and referred to health problems and safety issues. As well, she referred to possible damage to the school, truck traffic, noise and safety for school buses.

Ms. Margo Fraser spoke against an extension and referred to the Pits and Quarries Guidelines. If there was one person within the 800 metres who said no to the quarry, it would not go any further. As she had said no, the residents should not be here tonight. In her opinion, this was harassment and Mr. Kynock was not going to stop until he gets what he wants.

Ms. Rosalind Chancy, President, Hammonds Plains School PTA referred to a notice sent out through the children written by Vernon Kynock's lawyer and took responsibility for having the letter go out. She requested that Community Council consider the children of today and was not in support of the extension.

Ms. Carol Bateman spoke against an extension which, in her opinion, was a tragedy and travesty waiting to happen. The proposed rock quarry would be constructed next to a large

elementary school in one of the fastest growing residential areas in the province. She expressed concern regarding blasting, environmental damage and physical risk to thousands of young children.

Mr. Stephen Taylor circulated and read letters from MLA Bill MacDonald, PC Caucus Office and John Holm, MLA - NDP Party in support of the 800 metre distance to remain in place. There was no will in any provincial government to shorten the distance. He recommended discharging the Development Agreement.

Mr. Blaine Burke stated that as a child he went with his father who worked in a quarry and remembered dust everywhere and how hard it was to breathe. If Community Council allowed the extension, the next stage would be the province and the people would continue to fight at that level to ensure the quarry does not go through.

Ms. Barbara Verge advised she had been actively involved in the appeal process. The MPS has been up for renewal since February, 1995 and many residents made submissions regarding the quarry. She asked why this information was not included in the Staff Report. There was a pending Court case between the Minister of Environment and the developer involving the 800 metre separation distance. The map used in the Staff Report does not show the 12.7 acres of land the school has acquired for expansion.

Mr. Paul Miller, Miller & Associates, representing residents of Hammonds Plains, referred to the letter he had sent to Councillors dated November 11, 1996 previous to the meeting containing his arguments. The matter boiled down now to keeping faith since Western Region Community Council had made the decision to extend until December 31, 1996 and if the provisions were not met by that time the agreement was dead. Municipal Council reiterated Western Region Community Council's support for the 800 metre minimum setback.

Mr. Peter McInroy, on behalf of the developer, stated that this was an application to extend a deadline not for a request to terminate the agreement. The Staff Report should have referred to this. He questioned the legal validity of switching the whole proceeding around from the request for an extension to a recommendation to renegotiate the whole contract. He referred to the Utility Board's decision and the comments made by the Court of Appeal in this respect. The key issues would be decided by Department of Environment and the residents had intervenor status in this regard. He thought the time clauses in the Development Agreement should have been triggered by something other than a resolution of Council. It was ironic that the same residents opposing the quarry were the ones that keep going to higher levels and held everything up which did not allow for control by the developer over time frames. He requested an extension on the basis of fairness and the intent of the original agreement to allow an extension.

The time limit for Public Participation having passed, the Chair asked for a decision by Community Council.

Councillor Rankin said he was appreciative of having the opportunity for public input even though this was not a Public Hearing. The issue was whether or not there was a good basis to continue a Development Agreement approved by Municipal Council in 1992. In these types of issues, Council looks to staff for objective criteria. Western Region Community Council approved an extension to the Development Agreement to December 31, 1996 based on reasons of fairness. The applicant asked for an extension in 1995 because he was not able to act on the Development Agreement effectively until May, 1994 when the Court decision upheld Municipal Council's decision. For reasons of fairness, the applicant requested that the clock be put ahead to 1994 for another three years to 1997. Western Region Community Council, however, decided to extend to December 31, 1996. He asked what would be the compelling reason today and said there were members of the community who still did not agree with that fairness. There were concerns with environment, noise, dust, blasting, separation and runoff which were precisely the categories dealt with by a permitted process by Department of Environment.

Councillor Rankin went on to ask if there was a reason today, why the application should be rejected, inasmuch as the original application was approved at a Public Hearing. There was a Land Use By-law existing at present which existed in 1992. The Staff Report states there are no new circumstances why there would not be an application approved today based on the By-law which goes to property rights. While it was politically popular to go by the numbers of people in attendance, he also had to do the right thing in defence of individual rights. In July, 1995 Western Region Community Council made the motion to approve the extension and shortly after it was also agreed to recommend to Municipal Council that the 800 metre separation distance be maintained and that recommendation be forwarded to the province. Mr. Kynock was not being assisted by this Municipality to have the separation distance reduced to something less. Indeed, the Municipality went on record to support the retention of 800 metres. It was the Court of Appeal that indicated it was not the business of the Municipality to check off environmental concerns and the Court of Appeal commented on the environmental protections in the Development Agreement. There was no compelling reason why the Development Agreement should be discharged and the Staff Report listed three alternatives.

**MOVED by Councillor Rankin to grant the extension to January 1, 1999.**

The motion was lost due to lack of a seconder.

Councillor Kelly stated he understood the feelings of Councillor Rankin and the proponent; however, when promises were made he believed they should be kept. He referred to the Minutes of July 26, 1995 which clearly stated that December 31, 1996 was the time frame

and Mayor Ball had stated that if permits were not granted by that time, then the issue would be dead. To be fair, Community Council must stand up to what it believes to be fair and what the public believes to be fair, and Community Council must defend them. He was uncomfortable not being able to support the Councillor for the area; however, it was people first, politics second.

**MOVED by Councillors Kelly and Mitchell that the Development Agreement be discharged as of January 1, 1997.**

Councillor Mitchell stated he was seconding the motion because he liked to stick to his word and he had seconded the motion on July 26, 1995.

The Chair clarified that this would assume that permits would not be received between now and January 1, 1997. He went on to say that he was supporting the motion because the compelling reason, as Councillor Rankin had referred to, was that North West Community Council was the successor body of Western Region Community Council and he felt that North West must follow through on the motion passed on July 26, 1995 unless the permits were obtained as required in the motion.

Further, in clarification, Councillor Rankin pointed out that Mayor Ball, as Councillor Kelly had made reference to him, was a member of Western Region Community Council not in his capacity as Mayor but as Councillor for the former District 5, Herring Cove/Harrietsfield. He pointed out further that there was nowhere in the record of the Western Region Community Council meeting of July 26, 1995 where he himself had made a particular promise that the matter would end.

Councillor Kelly, on the other hand, stated he understood this but because Mayor Ball was the Mayor, when he spoke there was a degree of volume and backup capacity attributed to his statement.

Pursuant to the Land Use By-law and based on the Staff Report, Councillor Rankin stated he assumed there would be an opportunity to reapply, if the motion on the floor passed.

**MOTION PUT AND PASSED 3-1.**

The Chair declared a brief recess.

The meeting resumed at 8:25 p.m.

9. **PUBLIC HEARINGS** - None

10. **CORRESPONDENCE, PETITIONS AND DELEGATIONS**

### 10.1 Regional Integrated Trail System

Ms. Joanne Fewer, Regional Development Agency advised that a Halifax Regional Trail concept would be presented to Community Council with the hope of soliciting support for the project. The objective was to enhance the attractiveness of the entire region as a year-round outdoor recreation and tourist destination and connect with the Trans Canada Trail. The Regional Development Agency had identified as a priority the development of a region wide open space plan.

Mr. Eric Burke and Jim Tudor, Trans Canada Trail provided information, by way of maps, on the development of the Trans Canada Trail, the regional picture and the acquisition of abandoned rail lines. Mr. Tudor was also involved with the development of a trail from Eastern Passage to Lawrencetown through the Local Development Agency. The Trans Canada Trail initiative was scheduled to open July 1, 2000 and would stretch for 15,000 km. There would be two phases in Nova Scotia. Most of the trail would be built and maintained by community groups using the trail and money would be obtained through sponsors.

Mr. Dennis Bicknell, Vice-President, Sackville Rivers Association advised that one of the goals of Sackville Rivers Association was to develop a conservation corridor in the area and it was time to develop an implementation plan. By a separate initiative, Sackville Rivers Association has asked to be given the responsibility to manage the trail in Districts 19 to 22. Trails and walkways would attract tourist dollars and it was hoped to develop a whole network of trails throughout Halifax Regional Municipality.

Mr. John Lindley, Woodens River Watershed Environmental organization explained the area his organization covered which would be part of the trail system.

Ms. Sue Matthews provided information on the rails and trails initiative in the St. Margarets Bay area which was driven by a concern by local residents for the safety of people walking and bicycling along the St. Margarets Bay Road. There was both financial support and support in terms of labour available from the community.

Ms. Joanne Fewer summed up by advising that a call for proposals, in cooperation with Recreation and Leisure Services and Policy and Planning Departments, has been put out for a conceptual plan and cost sharing for the consultant's fee has been requested. It was hoped to obtain support from Regional Council in February.

Councillor Mitchell having expressed concern with people on ATV's breaking into homes along the trails, Mr. Tudor explained that ATV's would not be a recognized activity for the Trans Canada Trail. The problem would be an enforcement issue.

Councillors Harvey and Kelly indicated that trails had been recognized both in Sackville and Bedford as a priority. The Chair thanked the delegation for attending and advised that Councillors would be looking forward to the presentation to Regional Council in February.

11. **REPORTS (Continued)**

11.1 **Report from North West Community Planning Advisory Committee**

11.1.1 Application No. PA-SA-001-96-CD - Amendment to the Sackville  
Municipal Planning Strategy to Allow Larger Home Based Businesses  
Within the Rural Residential Area

A Report dated November 8, 1996 from North West Planning Advisory Committee was before Community Council. The recommendation was that the amendments to the Sackville Municipal Planning Strategy to allow larger home based businesses within the Rural Residential area not proceed on the basis that the changes are not warranted at this time.

Jacqueline Hamilton, Planner, provided an overview of the Staff Report, what had transpired at the Public Participation Session, the recommendation and outlined the three courses of action: 1) forward the application on to Regional Council supporting the PAC recommendation; 2) forward the application to Regional Council with an alternative recommendation; 3) refer the matter back to PAC for further review.

On a request from Councillor Kelly for the Councillor for the area to provide input, Councillor Harvey said he was impressed with Mr. Duck's operation and could not see any difference between his property and any other on the street. As well, there had been no complaints from neighbours. The property Mr. Duck is interested in has unique features and the business would fit in there as well. During the process, he learned there was a different perception and expectation of R-6 in District 19 versus District 20. The property in District 20 was viewed more as residential. Initially, he wanted to see if there was some way to accommodate Mr. Duck and his business on the property in question without interfering with anybody else's R-6 property. Staff, however, were reluctant to do a site specific broadening of R-6.

Councillor Rankin said he understood that such things as a pig operation was allowed and, in his opinion, Mr. Duck's proposal would be less obnoxious. If there was any way of doing this from a land use point of view, then he would have no problem. He asked how helpful Community Council could be.

In reply, Ms. Hamilton replied that staff's difficulty with a site specific policy amendment was that the applicant maintained that the site was unique because of the large accessory building; however, staff felt that was a characteristic of several properties in the area and

the R-6 zone would allow this to occur in future development. Staff did not feel the argument was valid and felt that a broader approach was more appropriate. With regard to the pig operation, there could be agriculture and forestry operations; staff felt that the provisions in the R-6 zone were discriminatory toward home based businesses but that it was a general characteristic of the R-6 zone, not specific to the property in question.

Councillor Harvey said that if you limit to one property and establish site specific, then someone else could come forward and seek a site specific change to their property as well. It was this floodgate that the R-6 dwellers in District 20 did not want.

Mr. Michael Duck requested, by way of a letter, the opportunity to address Community Council. Community Council members agreed.

Mr. Michael Duck explained the business he operated out of his home in Middle Sackville which employed seven people, including his wife and himself. As far as his proposal was concerned, he intended to live in the home and carry on business from the garage for approximately three years in an effort to keep overhead down. He realized he could not run the business out of the 3000 sq. ft. garage as the business grew. His long term goal was to move into the Sackville Industrial Park and build a facility to accommodate his future business. He provided information on the property he wished to purchase and what he felt the intentions for use of the property had been previously. The property at present was run down and he intended to repair it. Because he felt this was a unique situation, he was willing to have an evaluation on a yearly basis. He pointed out that out of 20 homes that had been notified of his proposal, only seven homes signed the Petition.

Councillor Kelly asked if there was an opportunity for a Development Agreement on a year to year basis. In reply, Barry Allen, Municipal Solicitor stated the Planning Act would allow a limitation but, unless you have some criteria to judge the length of time, the applicant could reapply. It would be difficult to develop policy to govern something of this sort.

**MOVED by Councillor Kelly to accept the recommendation from Planning Advisory Committee.**

The motion was lost due to lack of a seconder.

**MOVED by Councillors Mitchell and Rankin to refer the matter to Planning Advisory Committee for further review.**

Mr. Butler pointed out that if the application was being sent back to Planning Advisory Committee, then Community Council should provide some direction.

Councillor Mitchell agreed to amend the motion to reflect Option 3 tied to Option 1 - to consider the possibility of a Development Agreement for the specific property only. The seconder agreed.

The Chair called for the question on the amended motion.

**AMENDED MOTION LOST** - tie vote.

**MOVED by Councillors Rankin and Mitchell to defer a decision to the next meeting. MOTION PUT AND PASSED.**

12. **MOTIONS** - None

13. **ADDED ITEMS**

13.1 Sackville Rivers Association Request

A letter dated November 6, 1996 from Sackville Rivers Association was before Community Council requesting support for a proposed management agreement with Halifax Regional Municipality to promote, develop, manage and maintain trails and walkways in Districts 19 to 22.

**MOVED by Councillors Rankin and Mitchell to refer the request to Recreation and Policy and Planning Departments for comment. MOTION PUT AND PASSED.**

13.2 Sackville Seniors Advisory Council Request

A letter dated November 13, 1996 from the Sackville Seniors Advisory Council seeking funding was before Community Council.

**MOVED by Councillors Rankin and Mitchell to request clarification from the Advisory Council as to the amount being requested. MOTION PUT AND PASSED.**

At this point, Councillor Barnet returned to the meeting.

13.3 Waiver of Application Fee - District 22 - Timberlea

Councillor Rankin explained that this was a situation of a property in Timberlea in a C-2 zone to allow auto repair which was not permitted as a use; however, other uses such as welding shops were permitted. Inasmuch as this meant general applicability, Community Council was being asked to waive the \$600 application fee.

Mr. Bill B. Campbell, Manager, Western Region explained the previous Municipal PAC had a policy to allow the waiving of fees in specific circumstances where an applicant was making an application to change a Bylaw which had broad applicability and would not only affect the person's property or when the Municipality made an error. Staff saw merit in the application and recommended that the fee be waived.

**MOVED by Councillors Rankin and Mitchell to waive the \$600 fee with regard to this application. MOTION PUT AND PASSED.**

13.4 Storm Drainage Easement - Bianca Court

Councillor Barnet, having referred to the fact that he had brought up this concern at an earlier meeting but that it was not resolved, again explained the situation with regard to a drainage easement between existing homes and the new development on Bianca Court. There was the potential for a complete blockage of the system. The issues were more than just the silt in the corridor; there were unlandscaped lots, construction garbage and exposed foundations. He was requesting that staff act with diligence to resolve the issues.

**MOVED by Councillors Barnet and Kelly that staff be requested to take immediate action with regard to this situation. MOTION PUT AND PASSED.**

13.5 Watershed - Hatchet Lake

Councillor Mitchell requested that a request be sent to the Chief Administrative Officer asking that staff start the process to transfer 200 acres of watershed property at Hatchet Lake over to the Prospect Road and Area Recreation Association.

**MOVED by Councillors Mitchell and Kelly to send a request to Mr. Meech in this regard. MOTION PUT AND PASSED.**

14. NOTICES OF MOTION

Councillor Barnet gave Notice of Motion for the next meeting that North West Community Council support the location of the new tire recycling facility within the boundaries of the jurisdiction of North West Community Council.

15. PUBLIC PARTICIPATION

Ms. Elizabeth Publicover expressed concern with visibility of electric wheelchairs, particularly when making attempts to cross busy roadways, and suggested that they should have to be equipped with some sort of high pole and a flag so that drivers would see the wheelchairs more readily. She also expressed concern that the wheelchairs do not have

seat belts, are not licenced or inspected. She suggested that Community Council might wish to look into the possibility of having wheelchairs regulated as she was concerned for the persons having to use them. She also suggested that Community Council might wish to host a meeting with people in wheelchairs and people who drive.

Following discussion, it was agreed that a letter would be written to the Canadian Paraplegic Association with regard to this safety concern.

Mr. Wayne MacPhee raised the following points:

- He asked if there were figures on recovery rates for recreational facilities within HRM. In reply, Councillor Barnet said that all facilities were expected to break even. If there was a surplus, however, it would be included in the following year's budget. If there was a deficit, they would have to figure out how to generate the necessary funds. He pointed out that the budget documents should be available in the Library and every facility should be itemized. If Mr. MacPhee had any problems obtaining the information he wanted, he could advise.
- He referred to various newspaper articles with quotes from the Mayor, and asked if there was a procedure in place where the Mayor is not running the whole show. In reply, the Chair explained things were done differently in the former Halifax County. Now there was a Mayor with an independent mandate - elected across HRM whereas the Halifax County Mayor was elected by the Councillors.

16. **NEXT MEETING** - Thursday, November 28, 1996  
Sunnyside Mall, Bedford

Councillor Mitchell advised that there would be a Staff Report on the agenda for the next meeting with regard to Myra Beach at Blind Bay and he expected that there would be members of the public wishing to speak on this issue. He recommended Public Participation on this item and that it be limited to 30 minutes. It was agreed not to entertain unlimited discussion on this issue and to limit Public Participation to 30 minutes.

17. **ADJOURNMENT**

Meeting adjourned at 10:00 p.m.

Vi Carmichael  
Municipal Clerk