

# **HALIFAX REGIONAL MUNICIPALITY**

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## **PENINSULA COMMUNITY COUNCIL MINUTES JUNE 14, 2004**

**PRESENT:** Councillor Sue Uteck, Chair  
Councillor Dawn Sloane  
Councillor Sheila Fougere  
Councillor Jerry Blumenthal

**STAFF:** Mr. Barry Allen, Municipal Solicitor  
Ms. Sherryll Murphy, Legislative Assistant

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**1. CALL TO ORDER**

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

**2. APPROVAL OF MINUTES**

**MOVED by Councillor Fougere, seconded by Councillor Blumenthal that the minutes of the Peninsula Community Council held on May 5, 2004, as distributed, be approved. MOTION PUT AND PASSED UNANIMOUSLY.**

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

**Additions:**

9.3.2 Presentation - Alan Ruffman - Repair - Wharf Like Structure - Salter Street

12.1 Case 00614 - Halifax Municipal Planning Strategy and Land Use By-law Amendment - 5620 South Street (SET DATE FOR PUBLIC HEARING)

12.2 Case 00620 - Development Agreement - Gladstone Street Lands (SET DATE FOR PUBLIC HEARING)

**Deletion:**

At the request of Councillor Uteck, Community Council agreed that item 12.1 be deleted from the agenda and that a special meeting of Peninsula Community Council be held on Tuesday, June 22, 2004 to consider the matter.

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

**4.1 Status Sheet - No Outstanding Items**

Councillor Uteck noted that 6199 Coburg Road had been removed from the Status Sheet in error and requested that it be reinstated.

**5. MOTIONS OF RECONSIDERATION - None**

**6. MOTIONS OF RESCISSION - None**

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

**8. HEARINGS**

**8.1 Public Hearings - None**

**8.2 Variance Hearings**

**8.2.1 Appeal of the Decision of the Development Officer to Refuse a Variance Application at 6091 Cedar Street**

- A staff report dated June 8, 2004 submitted by Steven Higgins, Development Officer, was before Community Council for consideration.

Mr. Higgins briefly reviewed the report outlining the Development Officer's decision to refuse variance application at 6091 Cedar Street.

Councillor Uteck called three times for persons wishing to speak in favour or against the appeal.

Councillor Uteck takes a seat in Council with Councillor Blumenthal assuming the Chair.

**MOVED by Councillor Uteck, seconded by Councillor Fougere that the decision of the Development Officer be overturned and the variance allowed.**

Councillor Uteck noted that residents in the area are in favour of the proposal and want to the property to have a residential use.

**MOTION PUT AND PASSED UNANIMOUSLY.**

Councillor Uteck returns to the Chair and Councillor Blumenthal takes his seat in Council.

**9. CORRESPONDENCE, PETITIONS AND DELEGATIONS**

**9.1 Correspondence - None**

**9.2 Petitions**

**9.2.1 Petition - Councillor Blumenthal - Development Agreement at 1684 Grafton Street**

Councillor Blumenthal submitted three letters of support, as follows, and a petition containing 752 signatures in favour of the application for a Development Agreement at 1684 Grafton Street.

- < Facsimile from Maxine Theriault dated June 14, 2004
- < Letter from the Keg Steakhouse dated June 11, 2004
- < Letter from Maxwell Plum dated June 10, 2004

This information will be referred to staff.

### **9.3 Presentations**

#### **9.3.1 Presentation - Use of Path - 855 Marlborough Woods**

Mr. Rodney Caley, Ritchie Drive, addressed Council with regard to the path at 855 Marlborough Woods making the following points:

- < objects to the erection of fence on 855 Marlborough Woods
- < the fence effectively closes the pathway from Marlborough Woods to Franklyn Street, a path which has been used continuously for at least 50 years
- < a new route has been partially created which is not suitable
- < the new route is steep and is narrow and fenced in near the railroad tracks
- < the exit to road level in Maplewood is very dangerous, steep with tree roots and stumps exposed

Concluding his remarks, Mr. Caley requested that Peninsula Community Council take prompt action to reinstate a safe access from Marlborough Woods to Franklyn Street.

The Chair thanked Mr. Caley for his presentation and noted that the matter would be referred to staff for a report.

## **10. REPORTS**

### **10.1 Case 00628: Halifax MPS and LUB Amendment, Development Agreement - 5837 Cunard Street and 2372 June Street**

- < A report dated June 1, 2004 from Heather Ternoway, Chair, District 12 PAC, was before Community Council for consideration. The May 18, 2004 staff report is included as an attachment to this report. Also before Community Council was an Information Report dated June 7, 2004 from Allan MacLellan, Chair, Heritage Advisory Committee.

Mr. Gary Porter, Planner, briefly reviewed the request by Amalthea Holdings Limited to amend the Halifax Municipal Planning Strategy and Land Use By-law to enable a development agreement at 5837 Cunard Street and 2372 June Street and request for a development agreement to permit an apartment building, as found in the May 18, 2004 staff report.

**MOVED by Councillor Sloane, seconded by Councillor Blumenthal that Peninsula Community Council recommend that:**

- 1. Regional Council give First Reading to the proposed amendment to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use Bylaw as contained in Attachment A of the May 18, 2004 staff report and schedule a joint public hearing with Peninsula Community Council.**
- 2. Regional Council approve the amendments to the Halifax Municipal Strategy and the Halifax Peninsula Land Use By-law as contained in Attachment A of the May 18, 2004 staff report.**

**and further that Peninsula Community Council Move Notice of Motion for the Development Agreement, as contained in Attachment B of the staff report dated May 18, 2004, to permit a 150-unit building and schedule a joint public hearing with Regional Council. MOTION PUT AND PASSED UNANIMOUSLY.**

**10.2 Case 00605: Application for Development Agreement - 1684 Grafton Street, Halifax**

- A report from Heather Ternoway, Chair, District 12 Planning Advisory Committee dated June 1, 2004, was before Community Council for consideration. The May 21, 2004 staff report is included as an attachment to this report. Also before the Community Council was an Information Report dated June 7, 2004 from Allan MacLellan, Chair, Heritage Advisory Committee.

The following correspondence was submitted relative the this matter:

- Letter dated June 10, 2004 from Alan Ruffman, President, Geomarine Associates Ltd., in support of the staff recommendation to refuse the application
- Letter dated June 11, 2004 from Janet Morris, Tall Trees
- Letter dated June 24, 2004 from Peter Delefes encouraging Community Council to reject the application for 1684 Grafton Street
- Letter dated June 14, 2004 from Alan V. Parish, Heritage Trust of Nova Scotia, in support of the staff recommendation to refuse the application

Mr. Gary Porter briefly reviewed the application for a development agreement at 1684 Grafton Street to allow for a 17 storey hotel/commercial building. Mr. Porter noted that staff is recommending that Community Council refuse the application and not proceed to a hearing.

Staff then responded to questions from members of Community Council.

In response to a question from Councillor Sloane as to who can speak at the public hearing, Mr. Allen indicated that almost anyone who wishes may speak. Mr. Allen noted that under the law, anyone who has can demonstrate an interest may speak.

Councillor Uteck takes a seat in Council with Councillor Blumenthal assuming the Chair.

**MOVED by Councillor Uteck, seconded by Councillor Fougere that Peninsula Community Council move Notice of Motion for the development agreement as found in Attachment A of the May 21, 2004 staff report, to permit a 17 storey, residential/commercial building at 1684 Grafton Street, Halifax and to schedule a public hearing for July 12, 2004.**

Councillor Uteck noted that there was a lack of consistency with this proposed development. The proposal has been before two committees with differing opinions and staff has a third opinion on the matter. Councillor Uteck went on to note that one of the reasons the District 12 PAC recommended refusal of the application was because of a layby. She went on to note that this type of detail could be dealt with within in the Development Agreement. The Councillor further noted that the staff report considered the lack of windows on the south wall to be reasonable given the fact that the adjacent property would likely be developed in the near future and any windows blocked as a result. The PAC cited this lack in their reasons for refusal. Councillor Uteck went on to note that height was not addressed in the PAC recommendations.

Referring to the Heritage Advisory Committee report, Councillor Uteck noted that the information contained within the report seemed to be contradictory. She further suggested that the definition of adjacent in the report is subjective. Councillor Uteck went on to note that it was unusual that the Planning Advisory Committee had permitted select participation by the public (i.e. Heritage Trust of Nova Scotia). Councillor Uteck suggested that this was outside the mandate of the Planning Advisory Committee in that they have permitted one public group to have input in a formal setting, without allowing other groups to have input. Councillor Uteck indicated that it would be only fair to have input from the public at large.

Councillor Uteck noted that the staff report recognizes there are no heritage buildings immediately adjacent to the proposal. Staff had no difficulty with the blank south wall given that future development would likely block any windows. Councillor Uteck went on to note that the staff report indicated that the development at street level would appeal to pedestrians.

Referring to the wind effect, the Councillor stated that although staff had requested and received a professional wind study from the developer, Environment Canada data had figured in their position with regard to the impact of wind. Councillor Uteck went on to point out that there is no data from other areas of the CBD to compare whether the wind impact is better or worse at this location.

Councillor Uteck indicated that the development will not cast shadows on Citadel Hill as per the shadow study prepared by the developer. Concluding her comments, Councillor Uteck noted that unlike the PAC, staff were of the opinion that the height of the building was not in keeping with the MPS. The Councillor agreed with staff that the policies cannot be overlooked without broad based public debate, and stressed that is what she is suggesting with her motion this evening.

Councillor Sloane indicated that she believed this proposal should go to the public. She went on to note that there has been no large development in downtown since the 1980's and suddenly there is a surge in this direction. Councillor Sloane stressed that development in the downtown must done right in order that HRM not lose what it now enjoys. Councillor Sloane stated that HRM has to determine how they want the downtown to develop and in order to do that must listen to the public.

Councillor Fougere, agreeing with Councillor Uteck regarding the lack of consistency, noted that the vision of Halifax has changed since the development of the guiding policy. Consequently, public input is a must. Councillor Fougere further requested, in order to give Community Council a better idea of what the development would look like, that staff provide visual representations of the development from a variety of perspectives.

**MOTION PUT AND PASSED UNANIMOUSLY.**

Councillor Uteck returns to the Chair and Councillor Blumenthal takes his seat in Council.

11. **MOTIONS** - None

12. **ADDED ITEMS**

**9.3.2 Presentation - Alan Ruffman - Repair - Wharf Like Structure - Salter Street**

Mr. Ruffman addressed Community Council advising that he had received a letter from HRM advising that the repairs would be complete by June 30, 2004 in time for the Tall Ships.

**12.1 Case 00614 - Halifax Municipal Planning Strategy and Land Use By-law Amendment - 5620 South Street (SET DATE FOR PUBLIC HEARING)**

This matter was deleted during the setting of the agenda. A special meeting of Peninsula Community Council is to be held on Tuesday, June 22, 2004 to consider the matter.

**12.2 Case 00620 - Development Agreement - Gladstone Street Lands (SET DATE FOR PUBLIC HEARING)**

- A staff report dated June 10, 2004 prepared for Paul Dunphy, Director of Planning & Development Services, was before the Committee for consideration.

**MOVED by Councillor Blumenthal, seconded by Councillor Fougere that Peninsula Community Council give Notice of Motion to consider an application by Westwood Developments Ltd. to enter into a development agreement for 6.7 acres of land fronting on Gladstone and Clifton Streets, Halifax and schedule a public hearing for July 12, 2004. MOTION PUT AND PASSED UNANIMOUSLY.**

**13. NOTICES OF MOTION - None**

**14. PUBLIC PARTICIPATION**

**Hugh Pullen, Oakland Road**

Mr. Pullen, speaking in his capacity as President, of the Peninsula South Community Association, addressed Community Council indicating that the variance approved this evening was a major variance and not a minor variance. He went on to suggest that the approval calls into doubt the whole purpose and rationale of the R-2 zoning. Mr. Pullen indicated that he believed Community Council should pass a motion of rescission relative to this matter. He questioned the wisdom of setting aside the rationale for R-2 zoning in area where there is constant pressure for development.

Mr. Pullen then referred to the use of the path at 855 Marlborough Woods and indicated that it was his understanding the owner has suffered considerable vandalism. Although he recognized the loss of the path was an issue for area residents, the property owner certainly has the right to defend his own interests and create a path removed from his property.

**Bev Miller, South Street**

Ms. Miller clarified that members of the public could attend the Special Meeting of Peninsula Community Council as observers.

**Eric Turner, Chebucto Road**

Mr. Turner noted that the last time he was before Peninsula Community Council at Public Participation that he had stated the current planning process is bias, discriminatory and exclusive, not inclusive, of meaningful public participation. Mr. Turner went on to propose a motion which he believes will rectify this situation, as follows:

“That this council take immediate action to set up a committee empowered to rectify this situation, by making recommendations to council on ways and means of clarifying, defining and adding quantitative and qualitative measures to the documentation of the public participation process. Thereby, making this process fair, balanced and meaningful to the public participants and lessening the opportunities for abuse and manipulation of the process.”

A copy of Mr. Turner’s presentation is on file.

The Chair noted that Mr. Turner’s presentation will be forwarded to staff for comment.

**Chris Beaumont, Fenwick Street**

Mr. Beaumont requested that Community Council allow input to Case 00614, 5620 South Street, with regard to whether the matter should go to public hearing. He went on to express concern that there was no opportunity for the public to have input to the matter and that he had been unable to obtain a copy of the report prior to this meeting.

Councillor Uteck noted that her reasoning for deleting the matter from the agenda this evening and holding a special meeting was to allow residents an opportunity to review the report and submit written comments. Councillor Uteck noted that the question of public input prior to the public hearing would be forwarded to staff for comment.

**Jennifer Szer, MacLeod Drive**

Ms. Szer addressed Community Council indicating that she respected Mr. Armoyan’s right to protect his property. She went on to note that many other people had lived along the path and she was not aware of whether they had experienced vandalism or not. Ms. Szer indicated that she believed the neighbourhood to be very peaceful and the people who used the path to be law abiding and peace loving. Ms. Szer pointed out that the present path is very dangerous and that many of the aging residents who have in the past used to path to get to the park are now not able to do so. Ms. Szer requested that Community Council examine this path with regard to its safety.

**Joanne Farnick, Lucknow Street**

Referring to the development at 5620 South Street, Ms. Farnick indicated that she had been very involved over the last two years with the development. She went on to indicate that she felt a public presentation was in order. She commented that she was in favour of a public hearing.

**Joan Murphy, Queen Street**

Ms. Murphy addressed Community Council agreeing that a public hearing should be held with regard to 5620 South Street.

**Gary Brist, South Street**

Mr. Brist addressed Community Council expressing concern that the pathway at 855 Marlborough Wood is unsafe. He went on to note that there were gates on either end of the pathway and suggested these gates could block any right of way.

Councillor Uteck noted that Mr. Armoyan has erected these gates and will be closing them once per year to illustrate that the pathway is not a public right of way.

**David Lewis, Brussels Street**

Mr. Lewis noted that he had seen a picture of the fence at 855 Marlborough Avenue in the paper and that it had reminded him that he would like to see two changes to the Fence By-law. The current By-law permits a fence to be six (6) or more feet in height. Mr. Lewis indicated that he would like to see this changed to five and one-half (5.5) feet. He went on to note that he would also like the By-law to require that neighbours be consulted when a fence is removed.

Councillor Uteck noted that she had referred Mr. Lewis's concerns to the By-law Rationalization Committee for review and comment.

**Janet Shute, a resident in the Marlborough Avenue area**

Ms. Shute noted that she lived next door to the fence at 855 Marlborough Avenue. Ms. Shute went on to indicate that she fully appreciates Mr. Armoyan's desire to protect his property from vandalism, however, vandalism continues to occur. Ms. Shute went on to question why HRM does not consider this right of way to be a legal right of way. She went on to indicate that she was very interested in exactly what is the legal status of the path.

Ms. Shute suggested that this was a philosophical disagreement between the rights of private property owners and the public good.

**A resident of Marlborough Avenue**

A resident addressed Community Council commenting that this was not only a discussion of walking paths, but a much larger issue. This is an issue of the quality of our city as a place to live. She went on to urge HRM to create more paths and bicycle paths. HRM has the opportunity to create walking/bicycle paths right around the harbour.

Councillor Uteck noted that there is a concept already in process which envisions walking paths right around the harbour.

**Rebecca Jamieson, Fenwick Street**

Ms. Jamieson addressed Community Council indicating strongly support previous two speakers regarding the Marlborough Avenue pathway. Ms. Jamieson encouraged Community Council to give consideration to the broader issues raised.

Ms. Jamieson, commenting on the deferral of 5620 South Street, indicated that she had tried to obtain a copy of the report today without success. Ms. Jamieson stated that she hoped this matter would not go forward with undue haste.

**Evelyn Cameron, Queen Street**

Ms. Cameron addressed Council indicating that she was glad the 5620 South Street development going to be resolved. Ms. Cameron went on to note that she was distressed with the proposal for towers on the waterfront and indicated that she would like to see limited development on the waterfront.

**Meg Fetterico, Milton Lane**

Ms. Fetterico, referring to the pathway on Marlborough Avenue, noted that her concern was with the broader issues and the possibility that this particular case will be precedent setting. She went on to note that she had witnessed two older men who routinely used the previous pathway who were unable to navigate the steep portion of the path. Ms. Fetterico noted that the dog run type fencing could place those using the path in a dangerous situation.

**Mark Poirier , Halifax Urban Greenway Association**

Mr. Poirier noted that the Association is working on the development of a system of public trail along the CN Railway cut between the Armdale Rotary and Point Pleasant Park. Mr. Poirier went on to provide detail with regard to the work of the Association and the historical background to this trailway. Referring to the pathway under discussion this evening, Mr.

Poirier stressed that HRM must satisfy the safety issues brought forward. A copy of Mr. Poirier's presentation is on file.

**Mr. Alan Ruffman, Ferguson's Cove Road**

Mr. Ruffman requested that staff review the Municipal Act to confirm that only those notified may speak with regard to a minor variance.

Mr. Ruffman asked if a public information meeting was required on 5620 South Street since this is such a different proposal than any other that has been put forward.

Mr. Ruffman suggested that the right of way at Marlborough Avenue should be defended by City staff and/or the Legal department given that it has been place for many years. Mr. Ruffman noted that he believed similar rights of way have been defended in Nova Scotia.

Mr. Ruffman expressed concerned that the intersection at Veterans Way and Robie Street, Veterans Way and Summer Street, and Summer Street at Sackville Street have been changed to allow for a continuous right turn with a Yield sign only. Consequently, it is difficult for anyone in a wheelchair or pushing a carriage to get across the street. Mr. Ruffman recommended that all three of the intersections become a three way stop.

Concluding his remarks, Mr. Ruffman referred to the lack of sidewalk from the Superstore to the foot of Hollis and Barrington Street and recommended that it be placed in the budget for next year.

**Mr. McCurdy, Tower Road**

Mr. McCurdy noted that controversial public hearings, such as the one which may be held with regard to 5620 South Street, should not be held during the summer months when people are away on vacation.

Councillor Uteck noted that given the shortness of the construction season in Nova Scotia, delaying the public hearing would be unfair.

**Leslie Armstrong, Halifax**

Ms. Armstrong requested that a corner of the public gardens be opened in which graduates could take their pictures.

Councillor Sloane advised that unfortunately this would not be possible. She went on to note that the official opening of the Public Gardens was scheduled in less than two weeks and there is still a significant amount of work to be done.

**Professor Peter Wade, Ritchie Drive**

Professor Wade indicated that he has been using the Marlborough pathway since 1951 to access Point Pleasant Park. He indicated that he believed there was a need for a public access principle relative to this situation.

**Graham Hicks, Halifax**

Mr. Hicks noted that the moving of Upper Water Street toward the dockyard has gone quite well. He noted that the sidewalks had been installed for the most part, however, he asked when the sidewalk to connect to the Casino would be installed.

Councillor Sloane noted that she had believed that the sidewalk was to be installed. However, with the proposed changes relative to the Cosgwell Exchange over the next two years, this sidewalk has been delayed.

**15. NEXT MEETING** - Monday, July 12, 2004

**16. ADJOURNMENT**

There being no further business, the meeting adjourned at 8:20 p.m.

Sherryl Murphy  
Legislative Assistant