

HALIFAX REGIONAL MUNICIPALITY

PENINSULA COMMUNITY COUNCIL MINUTES APRIL 11, 2005

PRESENT: Councillor Sheila Fougere, Chair
Councillor Patrick Murphy
Councillor Dawn Sloane

REGRETS: Councillor Sue Uteck

STAFF: Ms. Karen Brown, Municipal Solicitor
Ms. Sherryll Murphy, Legislative Assistant

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1. CALL TO ORDER

The meeting was called to order at 7:05 p.m.

2. APPROVAL OF MINUTES

Note was made that Councillor Fougere rather than Councillor Uteck should be identified as the Chair for the February 14, 2005 meeting.

MOVED by Councillor Sloane, seconded by Councillor Murphy that the minutes of February 14, 2005, as amended, be approved. MOTION PUT AND PASSED UNANIMOUSLY.

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

Additions:

12.1 Naming of Park in Honour of Nick Meagher

12.2 Household Pests Addition:

MOVED by Councillor Sloane, seconded by Councillor Murphy that the agenda, as amended, was approved. MOTION PUT AND PASSED UNANIMOUSLY.

4. BUSINESS ARISING OUT OF THE MINUTES

4.1 Status Sheet

4.1.1 Public Participation - Safety Issues Skateboard Park

- An e-mail response dated March 1, 2005 received from staff was before Community Council for consideration.

This matter is to be removed from the status sheet.

4.1.2 Public Participation - Zoning Regulations Pertaining to Rooming Houses and Residential Occupancy

- An information report dated March 2, 2005 was before Council for consideration.

This matter is to be removed from the status sheet.

4.1.3 Location of Reception Following Future Halifax Explosion Memorial Event

- No information has been received regarding this matter to date. This matter will remain on the status sheet.

4.1.4 Sidewalk Accessibility at Barrington Street Superstore

- An extract of e-mail responses from Greg Rice, Design Engineer, dated June 2004 and February 2005, were before Community Council for consideration.

This matter is to be removed from the status sheet.

4.1.5 CN Property Maintenance

- Correspondence dated March 11, 2005 from George McLellan, CAO to Dominique Poirier, Engineering Officer, Canadian National Railway, was before Community Council for consideration.

Note was made that staff of Transportation and Public Works Services have indicated that it does not appear that any funds have been received from CN for grass cutting even though they have been billed. HRM did not maintain the grass at this site during the last grass cutting season.

Councillor Fougere expressed concern that this is a larger issue relative to the maintenance of CN property adjacent to sidewalks and streets. She went on to note that maintenance includes cutting grass and removing garbage.

Councillor Fougere requested that this remain on the status sheet and staff be asked to provide a report as to how they intend to deal with this situation over the coming year, **to which Community Council agreed.**

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 Hearing

8.2.1 Variance Appeal - Decision of the Development Officer to Approve a Variance at 6309 Jubilee Road

- A staff report dated April 1, 2005 was before Community Council for consideration.

Mr. Steven Higgins, Development Officer, briefly reviewed the April 1, 2005 staff report relative to his approval of a variance application at 6309 Jubilee Road. Mr. Higgins indicated that staff is recommending Community Council uphold the decision of the Development Officer.

Mr. Higgins responded to questions from members of Council.

The Chair called for any person who was notified of this hearing, the appellant or others who would be especially affected by the granting of this variance.

Peter Darling, an appellant

Mr. Darling addressed Community Council noting the following:

- he is the owner of the property next door, had only received notification on Friday and the report this evening
- he believes that under the By-Law 50 feet of lot area is required rather than the 33 feet which has been indicated
- he does not understand how the owner could be permitted to tear down the existing dwelling and replace it with a duplex
- expressed surprise that there were three variances approved in the area as he had not received a notice
- suggested that the change in volume and addition of a unit was not in keeping with the conversion requirements of the Land Use By-Law
- noted that the back 1/3 of the building is one storey rather than the two storeys depicted
- increasing the burden on that sideline, will cut off his light

At the request of the Chair, Mr. Higgins clarified the minimum lot area requirement under the Peninsula Centre Area Plan is 33 feet and is a different section than was quoted by Mr. Darling. The proposed construction does not impact on the existing non-conforming lot frontage and the application is not being considered under the conversion clause.

Hugh Parker, appellant

Mr. Parker submitted his appeal dated April 11, 2005 noting that it was based upon community sentiment, i.e. maintaining the integrity of the neighbourhood and stopping the trend of changing existing single unit dwellings into multiple unit dwellings. Mr. Parker noted the following:

- the predominantly single family area will be adversely affected by this proposal
- area residents (65 voters and 35 homes) are opposed to the development
- work to the was interior completed without a work permit
- garbage, noise, lack of house maintenance are problems experienced with multiple unit dwellings in this area
- he is concerned about the loss of sunlight and an obstructed view of the neighbourhood gardens

John Beeston, appellant

Mr. Beeston indicated that he has lived in the area for 13 years and he is very concerned that the neighbourhood was becoming a high density area. Mr. Beeston asked that the Development Officer comment on the possibility of the property becoming a rooming house. He noted that there was students living in the area and they were very good neighbours. However, the property is owner occupied. Mr. Beeston asked that Community Council deny the variance.

Mr. Higgins clarified that a rooming house, as defined by the By-Law, would not be permitted in this zone. He further noted that the appeal process is a fundamental part of the decision process allowing the community to have input to whether or not the variance should be permitted. Mr. Higgins indicated that staff's approval is on a strictly technical basis and this hearing is not so much a reversal of that decision as it is an opportunity to provide the decision makers with community input.

Michael Bradfield, appellant

Mr. Bradfield addressed Community Council indicating that his home was located immediately behind the property in question. Mr. Bradfield indicated that the unit the applicant is proposing to construct will be very close to his home. Mr. Bradfield went on to note that:

- the proposal will change the nature of the use of the property
- in the 34 years he had lived there the property has had four different owners with only one or two people living there at any given time
- the proposal will allow four people in one unit and a second unit with four bedrooms would result in a minimum of eight persons living where one or two have in the past

- he was pleased that a rooming house could not be located on this property, however, if the property is rented to one person and they in turn rent to students the impact is one of a rooming house
- he would be interested to know if the property were to be used as a rooming house, would the applicant be required to convert back to a single family use
- he was concerned about parking as only two spaces were provided and asked if the backyard could be converted to a parking lot
- as a Professor at Dalhousie he recognizes the larger problem of housing for students being too expensive and noted that 200 beds at Dalhousie were not in use this year

Mr. Higgins, in response to Mr Bradfield's questions, indicated that if the property was unlawfully occupied as a rooming house, the applicant would have to reinstate the property to the lawful two dwellings. He further indicated that only two parking spots are required under the By-Law, however, there is nothing to preclude the applicant from having more. Mr. Higgins went on to note that there is a 35% lot coverage requirement, but that this relates the area of the lot covered by buildings. He indicated the treatment of the remainder of the lot is not prescribed.

Debra Ross, appellant

Ms. Ross addressed Community Council indicating that she:

- had moved into the area last August and lives there with her live family
- is very comfortable in the neighbourhood and enjoys the mixed neighbourhood
- believe that if the situation is not owner occupied, the property will degrade very quickly

Elinor Egar Reynolds speaking on behalf Alyson Carter, appellant

Ms. Reynolds addressed Community Council expressing concern regarding the increase in multiple family dwellings in the neighbourhood. She pointed out that:

- residences that used to house one to five persons, now house up to 15 persons.
- this situation has had a deleterious impact on the neighbour with increased noise, problems with garbage, etc.
- these high density developments put demands on city services and the current zoning and By-laws do not protect the neighbourhood
- it appears that landlords may do what they want without consideration of the existing residences
- this variance is a privilege and should not be granted

Maria Danburgs, a resident within the notification area

Ms. Danburgs noted:

- that she had lived in the neighbourhood for 50 years
- that she presently enjoys the morning sun and looks out over her neighbours' gardens
- that if the additional unit is built, she will have a wall to look at and garbage to contend with
- she is already experiencing parking and garbage problems
- she does not believe there will be just two cars, there will be more cars and thus more problems

Anne Cameron, an appellant

Ms. Cameron addressed Council making the following points:

- the area is a family neighbourhood
- there are plenty of flats which were designed for families
- people have moved in and stayed and there is a mix of ages, various races, and various countries of origin
- the transportation system is good as are the schools
- she has no problem with students, however, the loss of families is a concern
- if families do not continue to live in the area, the schools will disappear and this will negatively impact the existing families

David Payton, a resident within the area of notification

Mr. Payton indicated that he was against the conversion of single family units to rental units, particularly as they will in all likelihood be student rooming houses. Granting this variance will create problems with garbage and noise. Mr. Payton indicated the variance should not be granted. He concluded, the residents are not asking Councillors to do anything, they are simply requesting that what is in place remain in place.

Merle Mclsaac, a resident within the area of notification

Mr. Mclsaac addressed Community Council in opposition to the variance expressing concern over the trend towards the development of rooming houses in the neighbourhood. He noted that the problems associated with these rooming houses is ruining the quality of life. Mr. Mclsaac pointed out that if action is not taken in this regard, this Community Council will have to take responsibility for presiding over a period of time when this neighbourhood became something much less than it had been.

Alan Ruffman, Halifax

Mr. Ruffman addressed Community Council noting that he did not live within the 30 metres nor had he received notification of the variance hearing. Mr. Ruffman read from section 236 of the Municipal Government Act and commented that the Act was silent as to who can speak at the hearing. Mr. Ruffman then referred to Mr. Barry Allen's opinion dated April 23, 2002 and indicated that if he was not permitted to speak, he would like Community Council to ask for another legal opinion with regard to who can speak at Variance Hearings.

The Chair indicated that Community Council is in the position of developing policy for HRM and although the Act does not speak to those that can speak, HRM policy does outline who can speak. She went on to note that Peninsula Community Council has chosen to follow the HRM policy in order to ensure the good conduct of the meeting.

In response to a question from Mr. Ruffman as to where the policy was written, Councillor Fougere responded that she was not aware that this was a written policy. She went on to explain that Peninsula Community Council has followed this policy since its inception and will continue to do so.

Mr. Ruffman requested that Community Council make a ruling on the use of the policy.

Councillor Fougere noted that as Chair she had made the ruling and requested that Mr. Ruffman take his seat.

Mr. Cesar Sela, representing the owner

Mr. Sela addressed Community Council noting that the zoning on the property is R-2. He went on to note that R-2 permits up to four flats. The proposal for this property is two flats. Mr. Sela went on to explain that the proposed addition meets all the Land Use By-Law requirements and only the existing portion doesn't meet the requirements. He further advised that the owner of the building intends to move into the four bedroom and to use the three bedroom as an income property. Mr. Sela offered to provide any additional information to the neighbours regarding the proposal.

Suellen Bradfield, appellant

Ms. Bradfield indicated that she was very glad to hear the developer would be willing to provide information relative to the proposal. She went on to indicate that she understood the addition was to be to the rear rather than above the existing dwelling. Ms. Bradfield further noted that she had not been aware the dwelling would be owner occupied.

Providing some clarification, Mr. Higgins stated that under the Land Use By-Law a duplex is defined as two units horizontally separated, while a vertically separated unit is defined as being semi-detached. He went on to note that the sketch attached is designed to show the

area of the variance rather than the orientation of the development. Mr. Higgins agreed that there had been some mis-communication. He went on to note that staff are available to discuss with area residents the application and the external plans are also available for review.

Councillor Sloane asked if the variance is denied, will the applicant have an opportunity to re-apply.

Mr. Higgins indicated that although there is nothing specific in the Act which would preclude an applicant from re-submitting, staff would take the decision of this Community Council as the final decision.

Councillor Fougere noted that once the matter has been resolved by Community Council there is a time period before which Community Council may consider the matter. Councillor Sloane requested that staff clarify this issue before the next meeting of Community Council.

The Chair called three times for persons wishing to speak. Hearing none, it was **MOVED by Councillor Sloane, seconded by Councillor Murphy that the variance hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.**

MOVED by Councillor Sloane, seconded by Councillor Murphy that Peninsula Community Council overturn the decision of the Development officer to approve the variance and allow the appeal.

Following a further discussion, the **MOTION WAS PUT AND PASSED UNANIMOUSLY.**

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS

9.1 Correspondence - None

9.2 Petitions - None

10. REPORTS

10.1 Staff Reports

10.1.2 Case 00725: Rezoning of the Lands of Scotia Fuels Limited

- A staff report dated March 29, 2005 was before Community Council for consideration.

MOVED by Councillor Murphy, seconded by Councillor Sloane that Peninsula Community Council give Notice of Motion to consider the proposed rezoning of the subject lands, identified on Map 1 attached to the March 29, 2005 staff report, from the R-2 Zone to the C-3 Zone, and schedule a public hearing for May 9, 2005. MOTION PUT AND PASSED UNANIMOUSLY.

10.2 District 12 PAC

10.2.1 Amendment to District 12 Planning Advisory Committee Terms of Reference

- A report from the District 12 Planning Advisory Committee dated March 30, 2005 was before Community Council for consideration.

MOVED by Councillor Sloane, seconded by Councillor Murphy that Community Council endorse the recommendation of the District 12 PAC to amend the Terms of Reference of the Committee to provide for one additional member and request staff to forward the matter to Regional Council with a recommendation regarding the proposed amendment. MOTION PUT AND PASSED UNANIMOUSLY.

10.2.2 Case 00544 - Zoning Review - R-2A and R-2AV Zoned Properties

- A report dated March 30, 2005 from the District 12 Planning Advisory Committee was before Community Council for consideration.

MOVED by Councillor Sloane, seconded by Councillor Murphy that Community Council endorse the recommendation of the District 12 PAC to urge that, whether or not Case 00644, the R-2A and R-2AV zoning review for the Church, Harvey and South Streets area proceeds, the overwhelming support expressed by the Community to allow townhouses on the northeast side of Harvey Street be considered and further that staff provide a report in this regard. MOTION PUT AND PASSED UNANIMOUSLY.

11. MOTIONS - None

Councillor Murphy assumes the Chair and Councillor Fougere takes a seat in Community Council.

12. ADDED ITEMS

12.1 Naming of Park in Honour of Nick Meagher

- This matter was added during the setting of the agenda.

MOVED by Councillor Fougere, seconded by Councillor Sloane that staff provide an information report on how to have the unnamed park at the corner of Dublin Street and Chebucto Road named in honour of the late Nick Meagher, who was the longest serving Alderman in the former City of Halifax.

Councillor Fougere requested that the report include how this can be accomplished, whether there is an existing process and any costs which might be associated with this project.

MOTION PUT AND PASSED UNANIMOUSLY.

12.2 Household Pests

- This matter was added to the agenda during the setting of the agenda.

MOVED by Councillor Fougere, seconded by Councillor Sloane that staff provide a report regarding whether or not the 13 recommendations found on pages 9 and 10 of the correspondence from Mr. Roch Longuepee dated March 22, 2005 to the Nova Scotia Department of Environment and Labour regarding pest infestations, a copy of which has been provided to the Manager of Legal Services, can be addressed through By-law M-100 Respecting Standards for Residential Occupancies. MOTION PUT AND PASSED UNANIMOUSLY.

Councillor Fougere resumed the Chair and Councillor Murphy takes his seat in Council.

13. NOTICES OF MOTION

14. PUBLIC PARTICIPATION

George Covach, Co-Chair, University Neighbourhood Watch Association

Mr. Covach addressed Community Council making the following points:

- he feels privileged to live on Edwards Street in the South end
- he has witnessed a change in the neighbourhood
- internal conversion of single family dwellings to student housing has become common
- this represents a trend which is quite inconsistent with the Peninsula Centre Plan given the stated objective is the maintenance of Peninsula Centre as a predominantly low-rise residential neighbourhood with emphasis on housing accommodation for family households

Mr. Covach briefly reviewed with Community Council sections of the Peninsula Centre Area Plan which support the position of the Association. In closing, Mr. Covach submitted a report entitled "Housing Occupancy Working Group Report, April 2005" prepared by the University Neighbourhood Watch Association. He requested that Council take immediate action by placing a temporary freeze on building permits and variance requests that will result in an increase in the density of rental units that are clearly inconsistent with the Municipal Planning Strategy.

Community Council agreed that this information be forwarded to both Planning and Development Services and the Regional Planning for consideration and a report.

Beverly Miller, Halifax

Ms. Miller addressed Community Council and requested that Peninsula Community Council ask staff to provide a report with respect to changes which can be made to the Land Use By-Laws in the R-1, R-2, R-2A, RC-1 and RC-2 zones on the Peninsula to address de factor rooming houses in these zones. Ms. Miller further requested that pending the receipt and implementation of the staff report, a moratorium be placed on as-of-right development in these zones. She indicated that development could still proceed by development agreement. Ms. Miller referred to precedence for such action including the present moratorium on development during the Regional Planning process. Ms. Miller submitted a document dated April 11, 2005 detailing her comments.

Ms. Miller referring to the legal opinion provided by the Municipal Solicitor relative to whom may speak at a variance hearing, noted that her question regarding where in the MGA it specifically set out who could speak was not responded to in this opinion. Ms. Miller requested she be provided the information.

Melonie Macey, Halifax

Speaking in support of Mrs. Miller's request for a staff report, Ms. Macey expressed concern that family homes were being enlarged to become dormitories. Ms. Macey went on to indicate, for example, that next door to her an addition larger than the existing dwelling had been made resulting in one kitchen and 11 bedrooms. She noted that she had no difficulty with students, but with the loss of families from the neighbourhood.

Elinor Egar Reynolds, Halifax

Ms. Reynolds addressed Community Council in support of Mrs. Miller. She went on to indicate that she would like a case study for her neighbourhood noting that life is becoming more and more difficult for residents. Ms. Reynolds pointed to traffic, the location of universities,

hospitals and schools in her area and indicated that she did not feel Community Council was doing anything to help the residents.

Hugh Pullen, Halifax

Mr. Pullen, referring to the statement by purchasers that they must convert to multiple dwelling units to make the purchase economically viable, noted that this has implications for neighbours. The increased value created by the sale and the conversion results in greater taxes for those living in the neighbourhood. Mr. Pullen commented that HRM must be cognizant of this impact when considering such things as an expanded Metro Centre.

Alan Ruffman, Halifax

Referring to agenda item 4.1.4, Sidewalk Accessibility at Barrington Street Superstore, Mr. Ruffman indicated that he did not believe the information provided by staff was correct. He went on to note that sidewalk on Hollis Street exists in front of the Westin Hotel, the train station and in front of the bus terminal. Sidewalk does not exist in front of Superstore. Mr. Ruffman went on to note that the muddy track from the bus station to Superstore is where people walk. At the other corner Superstore has built a small access, however, if anyone in a wheelchair used that access they would drop down to the curb. Concluding his remarks, Mr. Ruffman indicated that the issue should not be removed from the agenda as there is still no sidewalk.

Mr. Ruffman submitted a copy of an advertisement which appeared in the April 4, 2005 edition of the Chronicle Herald requesting public participation relative to the public wharf at the foot of Oakland Road. He went on to note that the deadline for comment was May 3, 2005. Mr. Ruffman requested that Community Council add this matter to the agenda for Regional Council and at that time request that staff prepare a response to the Superintendent of Navigable Waters.

Mr. Ruffman went on to explain that the property line between the private property and the HRM owned wharf apparently goes across the end of the wharf. He indicated that the wharf has been located on this property for more than 40 years. Mr. Ruffman went on to indicate that the wharf has been there long enough to have earned prescriptive rights. He further suggested that the area used by the public in the vicinity of the wharf would also have achieved the same rights. Mr. Ruffman indicated that he did not know exactly how many feet would be involved, but it would be sufficient to bring a boat in on either side. Mr. Ruffman indicated that HRM should mount a strong defence for these rights.

Mr. Neil Ritchie, Halifax

Mr. Ritchie referred the third paragraph on page 2 of the March 2, 2005 Information Report and asked the process and time frame for the new regulations referred to in this paragraph.

The Chair indicated that she could not provide this information but would follow up by e-mail with Mr. Ritchie. Councillor Fougere clarified that this was an internal process following which the public would have input to any proposed By-law.

15. **NEXT MEETING** - May 9, 2005

16. **ADJOURNMENT**

The meeting adjourned at 9:00 p.m.

Sherryl Murphy
Legislative Assistant

The following information items were distributed to Community Council:

Information Items

1. HRM Legislation Requests Currently Before the Public