

**HALIFAX REGIONAL MUNICIPALITY**

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**PENINSULA COMMUNITY COUNCIL  
MINUTES  
April 10, 2006**

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

**REGRETS:** Councillor Sue Uteck

**STAFF:** Ms. Donna Keates, Legal Council  
Ms. Jennifer Weagle, Legislative Assistant  
Ms. Sherryll Murphy, Legislative Assistant

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**1. CALL TO ORDER**

The meeting was called to order at 7:42 p.m. in Council Chambers, City Hall.

**2. APPROVAL OF MINUTES - March 6, 2006**

**MOVED by Councillor Sloane, seconded by Councillor Murphy, that the minutes of the March 6, 2006 meeting of Peninsula Community Council, as distributed, be approved. MOTION PUT AND PASSED UNANIMOUSLY.**

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

**AMENDED:**

**8.2.1 Appeal of the Refusal of Variance No. 12642 - 2693 Agricola Street, Halifax**  
(As opposed to "Appeal of the **Approval...**" as previously noted)

**8.2.2 Appeal of the Refusal of Variance No. 12439 - 6435 Roslyn Road, Halifax**  
(As opposed to "Appeal of the **Approval...**" as previously noted)

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

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

**4.1 Status Sheet**

**4.1.1 Case 00877: Halifax Port Authority Development Agreement**

This item was dealt with later in the meeting (see Item 8.1.1.). This item will be removed from the status sheet.

**4.1.2 Infilling of Northwest Arm**

An information report dated March 21, 2006 was received on this matter (see Information Item #1). This item will be removed from the status sheet.

**4.1.3 Closure of HRM Private Lane - June Street to Princess Place**

No information was received regarding this matter. This matter is to remain on the status sheet.

#### **4.1.4 Harvey Street Parking Lot - Townhouses**

Councillor Sloane put forward a Motion on this matter later in the meeting (see Item 11.1). This item is to remain on the status sheet.

#### **4.1.5 Amendments - Gross Floor Area Dwelling Requirements**

This Item was dealt with later in the meeting (see Item 10.2.1). This item will be removed from the status sheet.

#### **4.1.6 CN Property Maintenance**

No information was received regarding this matter. This matter is to remain on the status sheet.

### **5. MOTIONS OF RECONSIDERATION** - None

### **6. MOTIONS OF RESCISSION** - None

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

### **8. HEARINGS**

#### **8.1 Public Hearings**

##### **8.1.1 Case 00877: Halifax Port Authority Development Agreement**

C A District 12 PAC report dated March 21, 2006 with attached March 8, 2006 staff report was before Community Council.

Mr. Richard Harvey, Planner II, addressed Community Council, providing an overview of the reports and reviewing the layout of the area using visuals provided in the reports.

Mr. Harvey noted that upon review of the Development Agreement after it had been to District 12 PAC for the second time for the approval of the facade changes, it was noted that "Subject to the provisions of 7.1.1" should have been included at the beginning of clause 2.1.4. Mr. Harvey advised that the provisions of 7.1.1 recognize the Halifax Port Authority (HPA) is not

ceding any of its rights in respect to the Crown lands, and is cross referenced throughout the Agreement.

Mr. Harvey further commented that at the March meeting of Peninsula Community Council, a motion was made requesting from staff a report on taxation of commercial entities on HPA lands. Mr. Harvey clarified that, while the HPA lands are tax exempt, private interests are fully assessed and taxed.

Responding to questions from Councillor Murphy, Mr. Harvey clarified that HPA could have legally gone ahead with the non-harbour related development without consulting HRM. He noted that HRM and HPA have enjoyed a cordial relationship throughout the process.

Councillor Fougere opened the appeal hearing and called for speakers, reading from the speaker's list.

**Jeffrey Cowling, Pier 21 Arts Annex Association**

Mr. Cowling advised that he is the spokesperson for the Pier 21 Arts Annex Association. The Association has been a thirteen year leaseholder of HPA, which has been an excellent landlord. The Association supports the proposal for the non-harbour related uses and commend the HPA for supporting the advancement of culture in HRM.

**Deborah Carver, NSCAD**

Ms. Carver advised that she and NSCAD interim president, Linda Hutchinson, appear before Community Council to communicate NSCAD's support of the plans and to encourage the support of Community Council. Ms. Carver commented that when NSCAD moved downtown in the 1970's it helped to revitalize the area. She further commented that the venture includes an appropriate mix of uses taking place at the port. Ms. Carver advised that NSCAD is prepared to start construction soon and hope to have students in the facility within a year.

**Guido Kerpel, General Manager, Westin Nova Scotian**

Mr. Kerpel noted that the Westin Nova Scotian is a neighbouring property to Pier 21. He commented that the Westin is pleased with the planned seawall changes and believe that the proposal will be a great economic generator in the area. Mr. Kerpel further commented that the Westin is also pleased to have been involved in various discussions with the HPA regarding how the plans will come together.

Councillor Fougere called three times for any further speakers.

Hearing none, it was **MOVED by Councillor Sloane, seconded by Councillor Murphy, that the public hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.**

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

1. **Approve entering into the proposed development agreement to allow for the establishment of the non-harbour related industrial uses described within the proposed agreement (Attachment B of the supplementary report dated March 8, 2006);**
2. **Require that the agreement be signed within 120 days, or any extension thereof granted by Council on the 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.**

Councillor Sloane commented that she believes this is an exciting opportunity for arts and culture in Halifax. She noted that the proposal adds vibrancy to the port and NSCAD has helped to attract international attention to Halifax. Councillor Sloane also commented on the public benefits of the space.

Councillor Murphy commented that the proposal is an exciting mixed use for the port and will be a fine gathering point for residents to enjoy the waterfront.

**MOTION PUT AND PASSED UNANIMOUSLY.**

## **8.2 Appeal Hearings**

### **8.2.1 Appeal of the Refusal of Variance No. 12642 - 2693 Agricola Street, Halifax**

- C A staff report dated February 26, 2006 on the above noted was before Community Council.
- C A petition in support of the appeal signed by fifteen neighbouring residents was before Community Council.

Mr. Andrew Faulkner, Development Officer, Planning and Development Services, reviewed the report with Community Council. Mr. Faulkner indicated that this is an appeal of the Development Officer's decision to refuse an application for a variance from the side yard, frontage and lot area requirements of the Halifax Peninsula Land Use By-Law to permit an

addition to a non-conforming two unit dwelling to create a three unit dwelling. Mr. Faulkner went on to advise the following:

- C The property is zoned C2, which allows for the legal occupancy of the building as a two unit dwelling.
- C The initial variance application to create a three unit dwelling was refused in August 2005.
- C The owner revised the plans to indicate the addition was a two unit dwelling, as opposed to three, and a building permit was issued in October 2005.
- C During regular inspections by the building official, it was noted that the owner had proceeded with the construction of a third unit.
- C The owner made another variance application in January 2006 to create a third unit, which was refused and subsequently appealed in February 2006.

Responding to questions of Community Council, Mr. Faulkner clarified the following:

- C A non-conforming use is a use that was established prior to the adoption of the Land Use By-law. It has certain rights under the MGA to continue indefinitely. Additions are permitted providing they comply with the by-law.
- C The outcome of the property owner having begun construction of the third unit is that the addition may have to be removed, but more likely the third unit could be altered to be an addition to one of the two other units.

Councillor Fougere opened the appeal hearing and called for speakers.

**Dianne Bailey, Appellant**

Ms. Bailey advised that she and her husband are committed to their community and the other properties they own in the community. She indicated that her mother, who will be moving to the property with her caretaker, suffered a stroke during renovations. Ms. Bailey commented that she was under stress at the time and apologized for making the mistake of going ahead with construction of the third unit without a permit. She advised that her intention was to turn the third unit into an apartment for her mother's caregiver.

**Scott Donovan, Halifax**

Mr. Donovan advised that he lives in a neighbouring property. He spoke to his frustration at the lack of process in place for variation applications. Mr. Donovan indicated that he is a design professional and works to resolve such issues with his clients through patience, compromise, and playing by the rules. He commented that the permit was granted in August 2005, however work was ongoing prior to August. Mr. Donovan commented that the addition does not add to the streetscape, nor does it add to the city.

**Gerald MacDonald, Halifax**

Mr. MacDonald indicated that he is the husband of the Appellant. He indicated that prior to renovations on the subject property, the houses on either side of the property were in a dilapidated state. He commented that the many improvements that he and Ms. Bailey have undertaken on the property have added to the neighbourhood.

Councillor Fougere called three times for any further speakers.

Hearing none, it was **MOVED by Councillor Sloane, seconded by Councillor Murphy, that the appeal hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.**

**MOVED by Councillor Murphy, seconded by Councillor Sloane, that Peninsula Community Council overturn the decision of the Development Officer and allow the applicant to proceed with the conversion to a dwelling unit.**

Councillor Murphy advised that he did not make the decision to move to overturn the Development Officer's decision lightly, making note of Ms. Bailey's genuine concern for her mother's care. He commented that people must obey planning laws that are in place, however, exceptional circumstances sometimes must be taken into account. Councillor Murphy read into the record a petition signed by fifteen neighbourhood residents in support of the appeal. A copy of the petition is on file.

Councillor Sloane concurred with Councillor Murphy's comments, noting that individual circumstances need to be taken into account for certain decisions. She commented on the length of time residents are waiting for building permits to be issued. Councillor Sloane indicated a need for enforcement on behalf of HRM and a review of the number of staff. She commented that she understands the difficult position Ms. Bailey was in, wanting to do the right thing, while having an elderly family member to care for.

Councillor Fougere indicated that she respects the fact that Mr. Bailey made a public apology.

Councillor Fougere requested that comments from this appeal be forwarded to the Director of Planning and Development.

**MOTION PUT AND PASSED.**

**8.2.2 Appeal of the Refusal of Variance No. 12439 - 6435 Roslyn Road, Halifax**

C A staff report dated February 26, 2006 on the above noted was before Community Council.

- C A petition in support of the appeal signed by eleven neighbouring residents was before Community Council.

Mr. Andrew Faulkner, Development Officer, Planning and Development Services, reviewed the report with Community Council, noting that this is an appeal of the Development Officer's decision to refuse a variance from the frontage and lot area requirements of the Halifax Peninsula LUB By-Law to permit an addition to a two unit dwelling by enclosing a covered porch. Mr. Faulkner advised that the property is zoned R2 (General Residential), allowing for two dwelling units as the legal occupancy of the building. He commented that the variance request was refused as the two unit dwelling was created in 2003 using the internal conversion provisions of the by-law, under which there can be no increase in building volume.

Responding to questions of Community Council, Mr. Faulkner clarified that work has not yet started on the site.

Councillor Fougere opened the appeal hearing and called for speakers.

**Mike Furlong , Appellant**

Mr. Furlong advised appears before Community Council as a representative of the owners of the property in question. He explained that his wife, his in-laws, and himself purchased the property as a residence for his in-laws. Mr. Furlong commented that the area of the covered porch is only 150 square feet. He indicated that his family has followed all requirements thus far, and have polled all neighbours within 30 feet of the property and have heard no objections to the proposal.

At the request of Councillor Sloane, Mr. Furlong clarified that, as per the site plan in the staff report, there is already an existing exterior deck beyond the portion of the deck which will be enclosed, and therefore construction of a new exterior deck will not be necessary.

At the request of Councillor Murphy, Mr. Furlong clarified that his in-laws are currently residing at the property and he and his wife live at a separate property. He further clarified that there is also an apartment in the home for extra income.

Councillor Fougere called three times for any further speakers.

Hearing none, it was **MOVED by Councillor Sloane, seconded by Councillor Murphy, that the appeal hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.**

**MOVED by Councillor Murphy, seconded by Councillor Sloane, that Peninsula Community Council overturn the decision of the Development Officer and allow the applicant to proceed with the conversion to a dwelling unit.**

Councillor Murphy noted that planning rules are in place for a reason, however neighbours have indicated their support of the proposal and have indicated that they will not be impacted by the addition. Councillor Murphy made note of a petition that was circulated with eleven signatures of neighbouring residents in support of the appeal. A copy of this petition is on file.

Councillor Fougere advised that there was also a letter from a neighbour circulated to Community Council in support of the appeal.

Councillor Sloane commented that zoning problems are prevalent in area and more variance applications will likely be coming forward in the near future because of similar family situations with children caring for baby-boomer parents.

**MOTION PUT AND PASSED.**

**9. CORRESPONDENCE, PETITIONS AND DELEGATIONS**

**9.1 Correspondence**

**9.1.1 Correspondence from Westmoor Co-Op Ltd. dated March 4, 2006 re: Kenneth Walker Field**

C Correspondence from Westmoor Co-Op Ltd. dated March 4, 2006 was before Community Council.

Councillor Fougere advised that the Westmoor Co-Op Ltd. is looking to have the field area located on Westmoor 57 Co-Op property between Cook Avenue and Vaughan Avenue named "Kenneth Walker Field". Councillor Fougere suggested that the correspondence be referred to staff for naming under the Civic Addressing Policy.

**MOVED by Councillor Sloane, seconded by Councillor Murphy, that correspondence received from Westmoor Co-Op Ltd. dated March 4, 2006 re: Naming of Kenneth Walker Field be forwarded to staff for naming in accordance with the Civic Addressing Policy. MOTION PUT AND PASSED UNANIMOUSLY.**

**9.2 Petitions - None**

**9.3 Presentations - None**

**10. REPORTS**

**10.1 Staff Reports - None**

## **10.2 District 12 PAC Reports**

A report from District 12 Planning Advisory Committee re: Case 00877 - Halifax Port Authority Development Agreement was dealt with earlier in the meeting. See Item 8.1.1

## **11. MOTIONS**

### **11.1 Harvey Street Parking Lot - Townhouses - Councillor Sloane**

**MOVED by Councillor Sloane, seconded by Councillor Murphy, to request a staff report on a proposal to rezone and redesignate the parking lot on Harvey Street associated with a Federal office building located at 1256 Barrington Street, Halifax, from R-2A to a zone and designation that would only allow townhouses to be developed on the site.**

Councillor Sloane indicated that one part of Harvey Street is already townhouses and this is an initiative brought forward by the residents of Harvey Street to create congruency in the neighbourhood.

**MOTION PUT AND PASSED.**

**12. ADDED ITEMS - None**

**13. NOTICES OF MOTION - None**

**14. PUBLIC PARTICIPATION**

### **Hugh Pullen, Halifax**

Mr. Pullen referenced an article he had read last month which noted that Regional Council budget discussions for 2006/2007 are being held over to the first two weeks in June and, subsequently, the tax rate will be set the last two weeks in June. Mr. Pullen noted that at amalgamation, a consultant was hired to set rules for the operation of finances in HRM. He further noted that these rules included that the budget and tax rate shall be set before start of the fiscal year and that quarterly reports shall be prepared. Mr. Pullen commented that the first payment of HRM property taxes are due in April, which are 50% of last year's tax bill. He further commented that when this year's tax rate is set, the final installment will be due at the end of September. Mr. Pullen noted that if the tax rate is set by the first of April, it gives taxpayers six months to arrange finances for the final tax payment. He commented that when Council is three months behind in setting the tax rate, it creates an unfortunate inconvenience and can cause hardship for taxpayers on fixed incomes.

Councillor Fougere requested that Mr. Pullen's comments be forwarded to Finance staff for their information.

**Beverly Miller, Halifax**

Ms. Miller advised that access to the Northwest Arm off South Street has been blocked by a large number of rocks which have been placed at the high water mark across the street. Ms. Miller noted that the property directly to the north have used similar rocks to construct a raised flower bed on their property. She further noted that an unofficial 'No Parking' sign has been attached to a telephone pole on South Street at this location. Ms. Miller commented that these efforts may be an attempt on behalf of private home owners to block public water access and asked that these situations be remedied.

Councillor Fougere requested that Ms. Miller's comments be forwarded to Transportation and Public Works staff for investigation and that an information report be brought back to Peninsula Community Council.

**David Goth, Halifax**

Mr. Goth referenced the HRM Noise By-Law (N-200), commenting that he has noticed changes to helicopter travel patterns at the IWK Children's Hospital. He noted that helicopters are flying to and from the hospital seven days per week, twenty-four hours per day to pick up the Pediatric Air Lift Team, which previously was being picked up at the airport. Mr. Goth commented that he has been woken by the flights very early in the morning and inquired whether the Noise By-Law applies to hospital helicopters.

Councillor Fougere noted that hospital helicopters are exempt from the Noise By-Law. Councillor Fougere offered that a letter could be written to the IWK requesting clarification on the changes made to flight schedules, noting the noise concerns, and requesting that hospital helicopter routes be clarified, which is information Councillors could include in their newsletters.

Mr. Goth went on to comment that last fall extensive survey work was undertaken on Tower Road between Inglis Street and the bridge. Mr. Goth advised that he would like to know the reasons for the survey work.

Councillor Fougere requested that Mr. Goth's comments be forwarded to Transportation and Public Works staff and Harbour Solutions staff to provide an information report to Peninsula Community Council on the reasons for the survey work. The Councillor further advised that an answer would be provided to Mr. Goth through Councillor Uteck.

**Graham Hicks, Halifax**

Mr. Hicks indicated that he has been attending meetings on the future plans for Spring Garden Road and Queen Street public lands over the past few months. He noted he has also attended a meeting on plans for the Grand Parade/Province House public lands future plans. Mr. Hicks indicated that it is important to maintain an area to hold the Atlantic Jazzfest and commented that there will not be sufficient space if the current Spring Garden Road Library site is used to hold the Jazzfest, which has been suggested. Mr. Hicks noted that a specific site should be maintained for the Jazzfest and other outdoor festivals and events.

**15. NEXT MEETING**

The next meeting of Peninsula Community Council is scheduled for May 8, 2006.

**16. ADJOURNMENT**

There being no further business, the meeting adjourned at 9:00 p.m.

Jennifer Weagle  
Legislative Assistant

**Information Items**

1. Information Report dated March 21, 2006 - Northwest Arm Inter-Agency Working Group
2. Information Report dated April 3, 2006 - Gerrard Lodge - Surveys for Development Agreements