

HALIFAX REGIONAL MUNICIPALITY

HALIFAX REGIONAL COUNCIL COUNCIL MINUTES September 9, 1997

PRESENT:

Mayor Walter Fitzgerald
Deputy Mayor Jack Greenough
Councillors: Bill Dooks
Gordon R. Snow
David Hendsbee
Ron Cooper
Harry McInroy
Condo Sarto
Bruce Hetherington
Clint Schofield
John Cunningham
Jerry Blumenthal
Graham L. Downey
Larry Uteck
Howard Epstein
Russell Walker
Bill Stone
Ron Hanson
Stephen Adams
Barry Barnet
Bob Harvey
Peter Kelly
Reg Rankin
Jack Mitchell

STAFF MEMBERS:

Mr. Ken Meech, Chief Administrative Officer
Mr. Barry Allen, Acting Municipal Solicitor
Ms. Vi Carmichael, Municipal Clerk
Ms. Patti Halliday, Assistant Municipal Clerk

TABLE OF CONTENTS

1.	Approval of the Order of Business and Approval of Additions and Deletions	3
2.	Public Hearings	3
2.1	Case 7522 - Application by Metro Turning Point Centre for a Night Shelter for Homeless People at 5439-43 Cogswell Street	3
2.2	Case 7476 - Request by Danette Smith for a Lot Modification Development Agreement for 2407 Creighton Street	3
2.3	Application 7445 - Request by Kassner Goodspeed Architects, on behalf of the owner, to enter into a Development Agreement to allow the expansion of the Garden Inn located at 1263 South Park Street	5
2.4	Registration of Property as a Municipal Heritage Property - St. John's Anglican Church, 954 Old Sackville Road, Lower Sackville	8
2.5	Proposed Registration of St. Paul's Anglican Church, French Village	8
2.6	Second Reading By-Law S-200 Respecting Smoking	9
3.	Adjournment	15

Mayor Fitzgerald called the meeting to order at 6:00 p.m. A Moment of Silence was observed in memory of Mother Teresa.

Mayor Fitzgerald proclaimed September 14, 1997 as Terry Fox Day.

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

The Municipal Clerk requested the following item be deleted from the agenda as the applicant withdrew the application:

- 2.1 Case 7522 - Application by Metro Turning Point Centre for a Night Shelter for Homeless People at 5439-43 Cogswell Street

Councillor Downey requested the letter from Mr. Humphreys included in the staff report be forwarded to staff for a report. Council agreed with his request.

The Municipal Clerk requested the following items be added to the Information Agenda:

- 3.1 Solid Waste Diversion Credit
3.2 Status Report - New Era Farms - Composting Facility - Blueberry Lake

MOVED by Councillors Blumenthal and Hetherington that the Order of Business be approved as amended. MOTION PUT AND PASSED UNANIMOUSLY.

2. **PUBLIC HEARINGS**

- 2.1 **Case 7522 - Application by Metro Turning Point Centre for a Night Shelter for Homeless People at 5439-43 Cogswell Street**

This item was deleted as the application was withdrawn by the applicant.

- 2.2 **Case 7476 - Request by Danette Smith for a Lot Modification Development Agreement for 2407 Creighton Street**

- A report prepared by Robert Daley, Chair, Peninsula Planning Advisory Committee, recommending approval of Case 7476 - Request by Danette Smith for a Lot Modification Development Agreement for 2407 Creighton Street, was before Council for consideration.

- A letter from Ms. Danette Smith regarding the above was circulated to Council.

With the use of overheads, Ms. Thea Langille and Mr. Angus Shaffenburg, Planners, presented the staff report.

Ms. Langille noted the following information has just been brought to staff's attention by the applicant in the last forty-eight hours. The existing building on Lot 2 actually contains three units, but has occupancy permits for only two. The owner will immediately be applying for an occupancy permit for the third unit. Staff is recommending that the development agreement be approved with a revision made to Item 2.1 of the agreement. Ms. Langille noted the PAC was in support of staff's recommendation but were not aware of this new information.

Mayor Fitzgerald called three times for speaker either in favour or against the application. No one came forward.

MOVED by Councillors Hetherington and Schofield that the public hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillors Downey and Epstein that the lot modification development agreement for 2407 Creighton Street be approved, subject to the following revisions:

- that the requirement for the 25 foot maximum building height under Section 2.2(v) of the agreement be deleted (the maximum building height would thus revert to the zone standard of 35');
- that Section 2 which allowed for the consideration of a non-substantial amendment to increase the maximum building height from 25' to 35' be deleted; and
- that provision be included to limit the number of units to a maximum of three units on Lot 2 and provision to allow a single family unit on Lot 1.

It is further recommended that it be required that the agreement be signed within 120 days, or any extension or discharge thereof granted by Council upon request of the applicant, from the date of the final approval by Halifax Regional Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

MOTION PUT AND PASSED UNANIMOUSLY.

2.3 Application 7445 - Request by Kassner Goodspeed Architects, on behalf of the owner, to enter into a Development Agreement to allow the expansion of the Garden Inn located at 1263 South Park Street

- A report prepared by Mr. Turney Manzer, Chair, Heritage Advisory Committee, recommending approval of the above application was before Council for consideration.
- A supplementary report prepared by W. B. Campbell, Manager of Western Region Planning Services, recommending approval of the above application was before Council for consideration.
- A letter from Elizabeth Pacey, Heritage Canada, opposing the above application, was circulated to Council.
- Copies of the presentation made by Mr. Ron Pink, Counsel for Heritage Trust, opposing the application, were circulated to Council.
- Copies of a letter sent to the Heritage Advisory Committee by Ms. Beverly Miller opposing the application, were circulated to Council.

Ms. Thea Langille, Planner, presented the staff report to Council, noting the Peninsula Planning Advisory Committee has forwarded the application without recommendation. The Heritage Advisory Committee has approved staff's recommendation. Staff is recommending approval of the development agreement and the substantial alteration.

In response to a question from Councillor Schofield regarding parking, Ms. Langille stated the owner has made arrangements with the Queen Elizabeth Health Sciences Centre, VG Site.

Mayor Fitzgerald called for speakers from the public who were against the application.

Mr. Ron Pink, Solicitor for Heritage Trust

Mr. Pink spoke against the proposal for the following reasons:

- The application violates Policy 6.8
- He took exception with staff's remarks regarding parking
- The application is for a non-conforming use.

Copies of Mr. Pink's presentation were circulated to Council.

Mr. Pink noted all the information presented tonight may not have been provided to the Peninsula PAC and the Heritage Advisory Committee.

Councillor Harvey noted the Heritage Advisory Committee was provided information that indicated the two foundations of the building are different. Mr. Pink argued that the first evidence of this property in Halifax indicates that the ell was present at the time the house was built. Councillor Harvey suggested the ell may have been replaced at some later time, and the Heritage Advisory Committee believes it was not proven that the ell was original.

Councillor Epstein stated it is not the building that is designated but rather the street scape which includes a partial view of the ell. If this development agreement is turned down, there was some suggestion an alternative use for this property would be a fourteen unit apartment building.

Mr. Pink stated each house is registered as a property, and, collectively, they are registered as a street scape.

Councillor Cunningham stated if parking is not provided, the development agreement will be violated. Mr. Norris stated there is the intention that the VG will provide parking, but they will not enter into an agreement until the development agreement is approved.

Ms. Langille noted the reason the Peninsula PAC did not give a recommendation is there were mixed opinions and a consensus could not be reached

Responding to a question from Councillor Hendsbee, Mr. Norris explained the Heritage Advisory Committee evaluated the building in terms of street scape and believed the ell was of lesser significance.

Councillor Uteck stated this is an historical building and the footprint is relevant.

Mayor Fitzgerald called for speakers either for or against the proposal.

Ms. Elizabeth Pacey, Heritage Canada Foundation

Ms. Pacey spoke against the application for the following reasons:

- She believes the ell is original and the foundation under the ell was added later
- She opposes the demolition of the ell
- The definition of street scape includes the entire building and not just the facade

Mr. Lowell Blood, 1271 Wright Avenue

Mr. Blood spoke against the application for the following reasons:

- The development will have significant changes to Wright Avenue
- Concern with parking, littering, noise, etc.

Mr. Richard Robinson, 1273 Wright Avenue

Mr. Robinson spoke against the application for the following reasons:

- Concerns with traffic, noise, exhaust fans from the laundry, garbage, rodents, and odours.

In response to a question regarding parking, Ms. Langille stated there is no access to the back parking lot of 1263 South Park Street from Wright Avenue.

Ms. Bev Miller, 6182 South Street

Ms. Miller submitted a copy of her memo addressed to the Heritage Advisory Committee expressing concerns with this development. Copies were circulated to Council.

Ms. Miller spoke against the proposal as she believes it violates all four aspects of Policy 6.8, particularly the last one. With respect to zoning, Ms. Miller stated the applicant is requesting a major commercial operation. If approved, this would set a precedent for large commercial developments in R2A zones.

Councillor Uteck stated Council needs to determine if the expansion of this building would legally be permitted. Councillor Hetherington suggested this item be deferred one week in order to obtain an opinion from the Municipal Solicitor.

Mayor Fitzgerald called three times for further speakers. No one came forward. At this time, Council agreed to hear a rebuttal from the applicant.

Mr. Richard Kassner, Architect for the Applicant

Mr. Kassner addressed Council making the following points:

- There is an alternate plan that would allow for a twelve unit building.
- Demolition is another option.
- The proposed development is an expansion of an existing use.
- The restaurant will not be a commercial restaurant.
- The development will mainly be a respite facility.
- There is a seven to eight foot barrier between this property and Wright Avenue.

- This is not a major commercial development.
- There will be repairs made to the building such as replacing windows and original shingles.
- The foundation is not a major issue.

MOVED by Councillors Downey and Uteck that this item be deferred for one week to allow for an opinion from the Municipal Solicitor to address concerns raised. MOTION PUT AND PASSED.

There was no motion to close the public hearing.

2.4 Registration of Property as a Municipal Heritage Property - St. John's Anglican Church, 954 Old Sackville Road, Lower Sackville

- A report prepared by Mr. Turney Manzer, Chair, Heritage Advisory Committee, recommending the registration of St. John's Anglican Church as a heritage property, was before Council for consideration.

Mayor Fitzgerald called three times for speakers either for or against the application. No one came forward.

MOVED by Councillors Hetherington and Sarto that the public hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillors Harvey and Barnet that St. John's Anglican Church, 954 Old Sackville Road, Lower Sackville, be designated as a heritage property. MOTION PUT AND PASSED UNANIMOUSLY.

2.5 Proposed Registration of St. Paul's Anglican Church, French Village

- A report prepared by Mr. Turney Manzer, Chair, Heritage Advisory Committee, recommending the registration of St. Paul's Anglican Church as a heritage property, was before Council for consideration.

Mayor Fitzgerald called three times for speakers either for or against the application. No one came forward.

MOVED by Councillors Hetherington and Blumenthal that the public hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillors Mitchell and Rankin that St. Paul's Anglican Church, French Village, be designated as a heritage property. MOTION PUT AND PASSED UNANIMOUSLY.

RECESS

A fifteen minute recess was taken at 7:55 p.m. The meeting reconvened at 8:10 p.m.

2.6 Second Reading By-Law S-200 Respecting Smoking

- A letter from Dr. M. Teresa Dykeman supporting By-Law S-200 Respecting Smoking, was circulated to Council.
- A letter from Holly Anderson supporting By-Law S-200 Respecting Smoking, was circulated to Council.
- A letter from Wanda LaPierre supporting By-Law S-200 Respecting Smoking, was circulated to Council.
- Copies of the presentation made by Ian Johnson supporting By-Law S-200 Respecting Smoking, was circulated to Council.
- A memo from Sharon MacIntosh, Health Educator, supporting By-Law S-200 Respecting Smoking, was before Council for consideration.
- A letter from Steve LaPierre supporting By-Law S-200 Respecting Smoking, was circulated to Council.
- Copies of the presentation made by Luc Erjavec were circulated to Council.

Ms. Barb Nehiley, Priority and Planning, presented the staff report to Council.

Councillor Hendsbee expressed concern with gray areas of the by-law with respect to buildings such as legions and recreation centres that are multi-purpose in nature. He stated there is a need to clarify regulation of multipurpose use facilities.

Mr. Barry Allen replied legislation, itself, only permits regulation of premises to which the public has access, and probably could be restricted by function. If there are specific examples that Council thinks should be regulated, they should be identified and tackled directly in the by-law.

Mayor Fitzgerald called for speakers either for or against the By-Law.

Dr. Maureen Baikie, Medical Officer of Health, Central Region

Dr. Baikie spoke in favour of By-Law S-200 making the following comments:

- Smoking is one of the key public health issues facing everyone.
- Health problems relating to exposure to environmental tobacco smoke (ETS) are preventable.
- Environmental tobacco smoke causes cancer, there is no safe level of exposure or threshold dose.
- Non-smokers exposed to ETS have higher risk of lung cancer than non-smokers not exposed.
- Cancer mortality related to ETS is greater than all deaths from cancer from all other environmental agents.
- ETS is also linked to heart disease.
- With respect to children, exposure to ETS causes higher incidences of ear infections, upper and lower respiratory tract infections and asthma.
- Infants of mothers who smoke have a higher rate of sudden infant death syndrome, lower birth rates and higher rates of prematurity.
- This By-Law will have a positive public health impact on the residents of HRM and will provide uniformity dealing with this issue across the region.
- There would be greater impact to ban smoking in places such as pool halls, bowling alleys, bingo halls, bars, restaurants, etc.

In response to a question from Councillor Epstein regarding a timetable to expand the ban, Dr. Baikie stated there is provincial consultation process in place which will help to give some answers to what the public feels about this, and how ready we are to move. There has been another survey done, and there is quite a marked acceptance of this kind of move. However, there were 40-50 percent in the same survey who are not yet convinced of the health effects of ETS, so there is still a lot of work to do in this regard.

Dr. Charles Butts, Medical Oncologist, Nova Scotia Cancer Centre

Dr. Butts spoke in favour of the By-Law making the following comments:

- 50 percent of patients at the Cancer Centre are there due to smoking related cancer
- Eighty-five percent of those with lung cancer die from it.
- Ten percent or so of those diagnosed with lung cancer are due to second hand smoke and are preventable.
- The real changes will be made at the societal level.

In closing, Dr. Butts urged Council to be as strong as possible to bring down legislation to prevent this terrible disease.

Ms. Sharon MacIntosh, Health Educator, Central Region Health Board

Ms. MacIntosh spoke in favour of the By-Law making the following comments:

- Second hand smoke is the third leading cause of death after active smoking and alcohol.
- Second hand smoke has been shown to cause lung cancer and heart disease.
- The Central Regional Health Board endorses the extent and intent of the By-Law as an initial step in the process of protecting the public from a known health risk.
- In Bedford, referencing her work with the former Town of Bedford, Ms. MacIntosh noted there were no complaints to staff regarding the restrictions, however, there were complaints that there were not enough restrictions.
- Smoke Free Nova Scotia conducted a survey which stated most people would not change their purchasing or visiting patterns to establishments whether they were smoke free or not. Of those who stated they would change, those who would frequent an establishment more often if it was smoke free outweighed those who would go less often by roughly two to one.
- There should be a public and proprietor education component with respect to the By-Law. A year later, a survey could be conducted to see how it is working.

Ms. MacIntosh reviewed her recommended refinements to the wording of By-Law S-200 which were previously circulated to Council.

In response to questions from Council, Ms. MacIntosh made the following points:

- In Nova Scotia, 14,000 people die per year from smoking. Approximately 140 people per year die from second hand smoke.
- With respect to enclosed smoking areas, it is cheaper for an establishment to go smoke free due to the costs involved to install enclosed areas for smoking.

Mr. Ian Johnson, resident, Cowie Hill

Mr. Johnson spoke in favour of the By-Law noting he has an interest in public and occupational health. Mr. Johnson was the senior policy analyst with the former Provincial Health Council which played a role in the early stages in the development of the Tobacco Access Act. He now works for the NSGEU and sits on the Department of Labour working group on indoor air quality. Mr. Johnson made the following comments:

- There is an urgent need for this By-Law.
- The 1995 Nova Scotia Health survey reported that one-quarter of Nova Scotians are exposed to second hand smoke at work, and twenty-three percent report health problems related to this.
- In the spring of 1995, The Department of Labour working group prepared a draft regulation and background paper which is partly designed to prohibit smoking in non-industrial workplaces and to restrict smoking to designated enclosed separately ventilated areas.

- The regulation and questionnaire were released for public comment and response about two years ago. Of 57 responses, 75 percent strongly agreed with the smoking restrictions, 58 percent strongly agreed and 25 percent somewhat agreed that the regulations should prohibit and control smoking in all workplaces, 61 percent strongly or somewhat disagreed that restaurants and bars should be exempted from the restrictions.
- Concerns with this By-Law were as follows: there should be a provision for separately ventilated designated smoking areas for places of public assembly, and exempted facilities should be included in the by-law with this provision. There should be a clear transition timetable, and it should include a public education program. Concern was expressed with the extent to which police will be able to enforce the By-Law, proposed fines and penalties.

Copies of Mr. Johnson's presentation were circulated to Council.

Mr. Luc Erjavec, Canadian Restaurant and Foodservice Association

Mr. Erjavec spoke in support of the By-Law, but he was not in support of extending the smoking ban to bars and restaurants. Mr. Erjavec addressed the effect the By-Law will have on the foodservice industry. Copies of statistics quoted about the industry were circulated to Council.

In his presentation Mr. Erjavec made the following comments:

- The foodservice industry is trying to balance needs of both smokers and non-smokers.
- The operator should be permitted to decide if their establishment is going to be smoke free.
- The Association developed a Code of Practice to attempt to accommodate needs of both smokers and non-smokers which was circulated to Council.
- Smoking bans are bad for business. It is not the government's role to distort the marketplace.

In response to questions from Council, Mr. Erjavec made the following comments:

- Most operators probably could not afford to install separately ventilated smoking areas. The majority of operators lease their businesses.
- The Association is not opposed to this By-Law, but it opposes smoke bans and is concerned with what steps will be taken in the future.

Councillor McInroy suggested the Association should work toward solving the problem with HRM as this is only the beginning. Mr. Erjavec responded that they have been proactive by developing the Code of Practice.

In response to questions from Councillor Harvey, Mr. Erjavec made the following comments:

- The industry is focusing on the total population, not just those that smoke.
- It is a known fact that Europeans and Germans smoke more and a smoking ban would affect tourism.

Ms. Joanne Taylor, Resident

Ms. Taylor, resident, spoke in favour of the By-Law noting her family has increased visitation to smoke free establishments. Ms. Taylor stated Council is heading in the only responsible direction and making one of the most powerful changes and immediate improvements in her family's life.

Dr. Gerry Brosky, Department of Family Medicine, Dalhousie University

Dr. Brosky, President and Medical Society representative to Smoke Free Nova Scotia, spoke in support of the By-Law.

- A By-law is a good first step in the eventual evolution of legislation to completely protect the public from the hazards of second hand smoke.
- Staged implementation provides time for preparation and acceptance.
- A survey conducted by Corporate Research Associates in 1996, which included 400 smokers and non-smokers, indicated 58 percent considered second hand smoke a major health hazard. Only 3 percent felt it was not a health hazard. Between 58 and 72 percent felt there should be a total smoking ban in restaurants, malls, workplaces, arenas and taxis. Seventy-four to 90 percent would continue to visit the same or more of these areas if they were smoke free.
- Penalties of violating the by-law should be levied against the proprietors rather than the smokers.

Dr. Brosky showed a graph illustrating the results of a survey conducted in 1994 and 1996 illustrating the acceptance of smoke free establishments by Nova Scotians.

In response to a question from Councillor Snow, Dr. Brosky stated hospital accreditation in the United States is now being based on being smoke free, and he believes this will eventually be the standard in Canada as well.

Ms. Anna Freeman, Clinical Nurse Specialist, Local Hospital

Ms. Freeman spoke in favour of the By-Law for the following reasons:

- People who work in places of public assembly are exposed daily to toxins in over 4,000 chemicals included in second hand smoke, and ventilating systems are not effective.
- Over 600 lives are lost in Canada per year due to asthma.
- Second hand smoke affects people trying to give up smoking as second hand smoke contains six percent more nicotine than mainstream smoke.

- Second hand smoke affects people who have had heart or angina attacks as second hand smoke deprives the damaged heart of vital oxygen.
- This By-Law is designed to promote a healthy environment and is not an economic law.

Mr. Robert Evans, President, Nova Scotia Restaurant and Foodservices Association

Mr. Evans addressed the By-Law on behalf of the Association making the following comments:

- The problem is not smoking in restaurants but rather with smoking itself.
- The decision to be smoke free should be made up to the proprietor.
- Smoking bans will affect tourism.
- Smoking bans will close fifteen to forty percent of restaurants.
- The problem lies with the manufacturers of cigarettes.

Dr. David MacLean, Faculty of Medicine at Dalhousie, Member of the Board of Directors of the Heart and Stroke Foundation

Dr. MacLean spoke in support of the By-Law making the following comments:

- Every level of government has a role to play in this issue.
- The issue for Council is to recognize that second hand smoke is a legitimate health hazard and not just a nuisance.
- A substantial portion of Nova Scotians are exposed to second hand smoke both at work and at play, and a substantial number of these people suffer symptoms.
- The issue is the protection of the health of non smokers, not an economic argument.
- People have the right to enter a public business and not smoke.
- From the perspective of economics, there is no economic argument or justification around the issue of smoking.
- Non smoking areas do not make sense, if the room area is shared, as the smoke will be shared as well.
- Eighty percent of the public supports this By-Law.

Dr. MacLean urged Council to move ahead quickly to the second and third phase.

Mr. Merv Ungurain, Director of the Tobacco Control Unit, Nova Scotia Department of Health

Mr. Ungurain spoke in favour of the By-Law making the following comments:

- This By-law will set a tone for the province.
- The goal of smoke-free 2000 is clearly set.
- This issue has to do with health and not market forces.

Mr. Ungurain quoted from several independent studies on this issue which he submitted to the Clerk.

Mayor Fitzgerald called for further speakers. No one came forward.

MOVED by Councillors Harvey and Epstein that the public hearing be closed and that the written submissions made as part of the hearing be part of the record. MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillors Harvey and Epstein that consideration of Second Reading of By-Law S-200 be deferred pending a staff report with possible amendments based on comments made during the public hearing.

Councillor Harvey requested entrance ways to places of public assembly be included in the By-Law.

Councillor Epstein stated there should be a set timetable to move to a complete smoking ban and suggested the year 1999. Mayor Fitzgerald stated a committee would be formed to examine the aspects of this issue.

Councillor Rankin stated the process for the next stages needs to be very clear.

Councillor Hendsbee requested that the following three areas be clarified: cigar parlours and pleasure smoking rooms, sidewalk cafes and rooftop patios, as well as assurances to cover the gray areas mentioned earlier.

MOTION PUT AND PASSED.

MOVED by Councillors Hetherington and Blumenthal that the meeting adjourn at 10:20 p.m. MOTION PUT AND PASSED UNANIMOUSLY.

Vi Carmichael
Municipal Clerk