

HALIFAX REGIONAL MUNICIPALITY

HALIFAX REGIONAL COUNCIL
COMMITTEE OF THE WHOLE
MINUTES

March 31, 2009

PRESENT: Mayor Peter Kelly
Deputy Mayor David Hendsbee
Councillors: Steve Streach
Barry Dalrymple
Lorelei Nicoll
Andrew Younger
Bill Karsten
Jackie Barkhouse
Jim Smith
Mary Wile
Jerry Blumenthal
Dawn Sloane
Sue Uteck
Jennifer Watts
Russell Walker
Debbie Hum
Linda Mosher
Stephen D. Adams
Brad Johns
Robert Harvey
Tim Outhit
Reg Rankin
Peter Lund

REGRETS: Councillor: Gloria McCluskey

STAFF: Mr. Dan English, Chief Administrative Officer
Mr. Wayne Anstey, Deputy Chief Administrative Officer
Ms. Karen MacDonald, Municipal Solicitor
Ms. Kirby Grant, Municipal Solicitor
Ms. Julia Horncastle, Acting Municipal Clerk
Ms. Melody Campbell, Legislative Assistant

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1. CALL TO ORDER

The Mayor called the meeting to order at 11:05 a.m.

2. APPROVAL OF THE MINUTES - NONE

3. HRM BY DESIGN

- A report dated March 17, 2009 was before Council.
- A report dated March 13, 2009 was before Council.

Mr. Austin French, Manger, Planning Services, advised Council of a correction to the Active Application Report. He stated that Council is bound to consider Development Agreement applications based on the policies in effect or advertised at the time their decision is made. In the event that Council not grandfather the applications, they remain active longer than the report states. Existing applications are to come to Council before ministerial approval. If the applications are not grandfathered, a public hearing will be held up to the time of ministerial approval. If Council decides to grandfather, the public hearing can take place at any time. This change is if Council decides not to grandfather the applications.

MOVED BY Councillor Blumenthal, seconded by Councillor Rankin, that the development agreement applicants have an opportunity to address Council. MOTION PUT AND PASSED.

Mr. Louis Lawen, Dixel Development Limited, addressed Council requesting that Council approve the recommendation to grandfather the development agreement applications.

The following issues were brought forward by members of Council and addressed by Mr. Lawen:

- the Morris Street proposal will be ready to start in one year, with the City Centre Atlantic site starting shortly thereafter
- it is beneficial to do Morris before Centre City Atlantic in part due to financing
- the applicant was not aware until the March 24th Committee of the Whole meeting that these sites may not be grandfathered

Councillor Harvey entered the meeting at 11:15 a.m.

- the Ochterloney Street project is in process, it has just started
- the applicant went by the rules and by-laws in place at the time of the applicaiton
- the applicant had no indication that this project may be cancelled
- thousands of dollars have been spent on this project

Deputy Mayor Hendsbee entered the meeting at 11:17 p.m.

Councillor Smith entered the meeting at 11:18 p.m.

- one year is a short time frame, three to five years may be more reasonable

Councillor Sloane entered the meeting at 11:26 p.m.

- the Morris street project is projected 15-16 million dollars, the City Centre Atlantic project is anticipated at 18 million dollars
- changes can be made to the projects, but changes will not be feasible
- it is anticipated Morris Street in one year, City Centre Atlantic in three years
- the W site has zero vacancy, they were rented faster than the building completion, these two projects are anticipated to be the same

Mr. Louis Reznick, addressed Council requesting that Council approve the recommendation to grandfather the development agreement applications.

Councillor Johns entered the meeting at 11:36 a.m.

The following issues were brought forward by members of Council and addressed by Mr. Reznick:

- construction to begin in one to two years
- the project is a 40 million dollar investment
- financing is not an issue
- the project started as soon as Mr. Reznick bought the Roy Building, by meeting with HRM staff and starting plans, before the application was submitted

Councillor Sloane and Councillor Uteck expressed concerns stating that questions regarding financing should not be discussed.

Mr. Frank Medjuck, 1595 Investments Limited, addressed Council requesting that Council approve the recommendation to grandfather the development agreement applications.

The following issues were brought forward by members of Council and addressed by Mr. Medjuck:

- the project has two options, residential or commercial, dependant on market
- a time frame has not been determined
- the project is estimated over 30 million dollars
- changes to plan would not make the project viable

Council recessed at 12:17 p.m.

Council reconvened at 1:48 p.m.

Mr. Austin French, Manager Planning Services, provided the following clarification to Council:

- as part of the recommendation, if the applications are grandfathered, the developments must begin within three years and another three years to completion for a total of six years
- all four development proposals have had public information meetings
- generally in the past, development agreements have been grandfathered.

Discussion ensued on the merits of grandfathering or not grandfathering the four active applications.

Ms. Julia Horncastle, Acting Municipal Clerk stated the motion on the floor from the March 24th meeting.

MOVED by Councillor Smith, seconded by Councillor Younger, that Regional Council not grandfather the four current development agreement applications currently before HRM.

In response to a question by Councillor Watts, staff advised that it usually takes thirty days to get ministerial approval, although it can sometimes be extended to sixty days. Mr. French confirmed that if the applications are not grandfathered, there is a variance clause that can be used if the proposal is close to meeting HRM by Design.

Councillor Lund expressed concern relating to unsightly vacant lots. In response the comment by Councillor Lund, Mr. Dunphy, Director Community Development, advised that HRM does not have the jurisdiction to request developers to green the space. Staff advised that this option may be plausible if an amendment is made to the Charter. At this point there is no provincial legislation that requires a green space. In regard to development timelines, staff advised that HRM does not have the jurisdiction to dictate when a development begins.

In response to a query by Councillor Hum, Mr. French advised that the Urban Design Task Force made the decision to remain silent on this issue and has not made a recommendation as to the grandfathering of the active applications.

Councillor Uteck expressed concern that if these applications are grandfathered and a substantial amendment is made, the application will start over again. Mr. Dunphy advised Council that these applications would be given priority and would evolve from that point, not start the process over.

In response to a question by Councillor Sloane, Mr. French advised that the Design Review Committee will be established upon the approval of HRM by Design. The Proposed Barrington Street Conservation District will be in place once the Minister signs off on the plan. Mr. Dunphy clarified active applications, in response to a question by the Councillor,

have no signed contracts. He added if there were signed contracts, HRM is obliged to issue the development agreement.

Councillor Wile expressed concern regarding the integrity of the proposed Barrington Street Conservation District. She questioned if the Barrington Street application is grandfathered, how the area will be affected. She added that the public wants a heritage district in the Barrington Street area.

Councillor Younger advised Council that these development applications, if grandfathered, are not 100% sure, as they will have to go through the public hearing process.

The question was called on the motion:

MOTION DEFEATED.

The following motion was now placed before Council.

MOVED BY Councillor Streach, seconded by Councillor Blumenthal, that Regional Council instruct staff to prepare the appropriate revisions to the HRM by Design documents to enable Council to consider development agreement applications, submitted prior to Council's first notice of its intention to adopt the Downtown Halifax Secondary Municipal Planning Strategy, under the existing policies of the Halifax Municipal Planning Strategy. MOTION PUT AND PASSED.

In response to concerns by Councillor Uteck, Mr. Dunphy reiterated that in regard to the active applications being discussed, regardless of the ebb and flow of the proposals, these will be given a priority by staff to ensure the timelines are met.

Without a vote being taken on the motion on the floor, the following amendment was placed.

MOVED BY Councillor Outhit, seconded Lund, that an amendment be made to the motion that the applicant be provided a period of two years to begin construction under the provision of the grandfathering of the applications.

Mr. Dunphy clarified that the recommendation is for three years to start construction of the development and an additional three years for the completion of the development.

Council discussed the merits of issuing a two year time frame for the beginning of construction.

Councillor Lund questioned the negotiation of set time frames for a development agreement. Mr. French advised that time frames are normally done through the phasing

plan and through measured milestones. He added that under this circumstance maximum time frames will be established.

MOTION DEFEATED.

MOVED by Councillor Barkhouse, that an amendment be made to the timeline for the beginning of construction to thirty months.

As there was no seconder, the motion was lost. The following motion was then placed on the floor

MOVED BY Councillor Rankin, seconded by Councillor Blumenthal, that the development agreement applications timeline be three years to start from date of execution of the development agreement and three years to complete the start of the project.

Councillor Younger expressed concern that additional applications will be received that Council and staff will have to address.

MOTION PUT AND PASSED.

MOVED BY Councillor Younger, seconded by Councillor Karsten an amendment to the motion that the date of development agreements being considered be March 31, 2009. MOTION PUT AND PASSED.

Mr. Phil Pacey, President of Heritage Trust, provided the presentation, Heritage Trust Alternative Proposal for Downtown Halifax, to Council.

Mr. Pacey, in response to a query by Councillor Sloane, clarified building heights of the Heritage Trust Alternative Proposal.

In response to a query by Councillor Watts, Mr. Pacey advised that his two major issues are the continuation of the heritage policies and the issue regarding height limits. The Councillor noted that some areas Heritage Trust have proposed higher heights, in other areas HRM by Design has the higher proposed height.

In response to a question by Councillor Rankin, Mr. Pacey expressed one of his greatest concerns are the 126 heritage buildings, noting that some are provincially registered, some fall under the proposed Barrington Street Conservation District, leaving approximately 95 out of either jurisdiction. These buildings fall under areas that have proposed height increases, as noted in by HRM by Design, which will be putting these buildings at risk.

Councillor Harvey questioned how many of these buildings would fall under the two additional proposed heritage districts in the south and north east. Mr. Andy Fillmore, Project Manager Urban Design, advised that there are approximately 50-60 heritage buildings in these districts, although these two districts are not scheduled for approval with this phase of HRM by Design. The Councillor added that he would be more comfortable considering all three heritage districts. Mr. Fillmore advised that these conservation districts can be considered fairly rapidly once the first conservation district is approved. The first district is the more difficult as it takes time to get the first one right. Mr. Fillmore advised the Councillor that Council can prioritize the creation of these two conservation districts. He added the creation of these districts would take approximately two years.

MOVED BY Councillor Sloane, seconded by Councillor Harvey, that Regional Council approve in principle the two heritage conservation districts as part of HRM by Design.

The meeting recessed at 4:20 p.m. with no vote taken on the motion on the floor.

4. FISCAL FRAMEWORK

This item was to deferred to April 7, 2009 Committee of the Whole.

5. HRM REVISED DEBT SERVICING PLAN

This item was deferred to April 7, 2009 Committee of the Whole.

6. CAPITAL PROJECTS RANKING

This item was deferred to April 7, 2009 Committee of the Whole.

5. ADJOURNMENT

The meeting was adjourned at 4:20 p.m. as the HRM by Design item of Committee of the Whole continued as an item of the evening Regional Council session of March 31, 2009.

Ms. Julia Horncastle
Acting Municipal Clerk