

HALIFAX REGIONAL MUNICIPALITY

CHEBUCTO COMMUNITY COUNCIL
MINUTES

December 6, 2010

PRESENT: Councillor Debbie Hum
Councillor Russell Walker
Councillor Steve Adams
Councillor Mary Wile

REGRETS: Councillor Linda Mosher

STAFF: Ms. Kirby Grant, Solicitor
Ms. Shawnee Gregory, Legislative Assistant

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1. CALL TO ORDER

The Chair called the meeting to order at 7:01 p.m. in the Keshen Goodman Library.

APPOINTMENT OF CHAIR AND VICE CHAIR

The Legislative Assistant called for nominations for Chair.

MOVED by Councillor Hum, seconded by Councillor Adams that Councillor Walker be nominated as Chair of Chebucto Community Council for 2011. MOTION PUT AND PASSED.

There were no further nominations and Councillor Walker was declared Chair for 2011.

Councillor Walker assumed the Chair.

The Chair called for nominations for Vice Chair.

MOVED by Councillor Wile, seconded by Councillor Adams that Councillor Hum be nominated as Vice Chair of Chebucto Community Council for 2011. MOTION PUT AND PASSED.

There were no further nominations and Councillor Hum was declared Vice Chair for 2011.

2. APPROVAL OF MINUTES – November 1 & Special Meeting of November 8, 2010

MOVED by Councillor Hum, seconded by Councillor Wile that the minutes of November 1 & Special Meeting of November 8, 2010 be approved as presented. MOTION PUT AND PASSED.

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

Addition:

10.2.1 Tall Trees Lane (Information Report and Presentations)

MOVED by Councillor Adams, seconded by Councillor Wile that the agenda be approved as amended. MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES

4.1 Status Sheet

4.1.1 J.L. Ilsley High School – Campus Opportunity

On behalf of Councillor Mosher, Councillor Adams requested that this item remain on the Status Sheet.

4.1.2 Keefe Drive – Emergency Concerns Due to Road Construction and Lack of Seawall

On behalf of Councillor Mosher, Councillor Adams requested that this item remain on the Status Sheet.

4.1.3 Plow Damage

Councillor Adams requested that this item remain on the Status Sheet.

4.1.4 Resident Traffic and Safety Concerns – Fairmount Subdivision

On behalf of Councillor Mosher, Councillor Adams requested that this item remain on the Status Sheet.

4.1.5 Tall Trees Lane

This item was dealt with under Item 10.2.1. Please see page 11.

4.1.6 Water Quality Testing – Dingle Beach

Councillor Mosher, who had sent her regrets for the meeting, wished to advise that she appreciated the recent improvements and future recommended procedures that will minimize unnecessary delays in obtaining water quality sampling reports. Her goal is to ensure safe water for swimming and at the same time minimize delays that the beaches are closed pending sampling results.

This item is to be removed from the Status Sheet.

4.1.7 Solid Waste Removal Changes

Councillor Hum, a member of the Solid Waste Advisory Committee, stated that a report had been brought forward and referred to Community Council. The report will be available at the January 10, 2011 meeting.

This item 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 - None

8.2 Variance Appeal Hearings

8.2.1 Appeal of the Development Officer's Decision to Approve an Application for a Variance of Lot 47, Winona Crescent, PID

A report dated November 26, 2010 was before Community Council.

Mr. Sean Audas, Development Officer, provided the presentation on the Appeal of the Development Officer's Decision to Approve an Application for a Variance of Lot 47, Winona Crescent, PID. He indicated the applicant wished to build a single unit dwelling on a currently vacant lot, zoned R1. He stated that the variance was to reduce the front yard setback to allow for a small retaining wall; a reduction from 20 to 10 feet and noted that staff did not feel the application was in conflict with the criteria contained in section 250(3) of the HRM Charter. Mr. Audas advised that this was a unique situation to the area as the property was steeply sloped from back to front.

The Chair reviewed the Rules of Procedure for Variance Appeal Hearings and opened the hearing for the Appeal of the Development Officer's Decision to Approve an Application for a Variance of Lot 47, Winona Crescent, PID.

Mr. Terry Fitzgerald, 8 Cascade Drive, indicated that his residence was diagonally across from the back of the property in question. He expressed concern that the land was steep and water already runs off the top of Winona Crescent and behind his property; noting that the property in question was eight feet from the back of his. Mr. Fitzgerald advised that he was looking at setback and overhang issues as well, however, his main concern was with water drainage; adding that he did not know how the property owners would handle their water and sewer.

Mr. Audas indicated that the setback was to the building wall and a two foot overhang was permitted, however, eaves were not permitted to go over the property line; noting that in a standard setback of eight feet, a two foot overhang was permitted. Regarding water, he stated that lot grading and stormwater runoff certificates would have to be issued during the permit phase. Mr. Audas advised that he would forward these concerns to the Development Engineer.

Mr. Nathan Myatt, 10 Cascade Drive, advised that his main concern involved the proximity of the garage on the property; noting that it had a two storey appearance and he wondered if the top part of the garage would encroach on his property. He also expressed concern regarding the retaining walls as he did not know where they would be placed and how they would affect his property.

Mr. Audas stated that if no habitable space was permitted, a garage setback could be reduced from eight to four feet, which was the case here. He advised that retaining walls were obliged to be within the owner's property.

Mr. George Malakos, Applicant, advised that the slope of the property makes construction unique and difficult. He stated that if the variance was denied, he would build a two storey home with a retaining wall and indicated that he had not received a final rendering from the builder yet. Mr. Malakos advised that he already lived in the neighbourhood; stating that the variance would push his home closer to the curb and farther from the homes to the back of the property on Cascade Drive. He indicated that he had an engineer investigate drainage on the property and he said the structure would actually improve drainage on the lot as water coming off the building would now go into the sewer.

The Chair called three times for additional speakers. Hearing none, the following motion was placed:

MOVED by Councillor Adams, seconded by Councillor Wile that the Variance Appeal Hearing be closed. MOTION PUT AND PASSED.

MOVED by Councillor Hum, seconded by Councillor Adams that Chebucto Community Council uphold the Development Officer's decision to approve the Variance.

Councillor Hum thanked residents for attending and noted that there had also been a written submission for the record. She stated that the variance application was not for the approval of the actual development as it was zoned R1 and, therefore, could be built on without consultation; noting that the variance was to move the home closer to the street front and, thus, farther from the abutting houses. Councillor Hum advised that she recognized that there were stormwater and lot grading issues, however, those concerns were not a factor for this variance. She requested that these concerns as well as the potential of an additional buffer area be brought forward to staff.

MOTION PUT AND PASSED.

8.2.2 Appeal of the Development Officer's Decision to Approve an Application for a Variance – 1 Craigmere Drive, Halifax, Case No. 16550

A report dated November 18, 2010 was before Community Council.

Mr. Andrew Faulkner, Development Officer, provided the presentation on the Appeal of the Development Officer's Decision to Approve an Application for a Variance – 1 Craigmere Drive, Halifax, Case No. 16550. Highlights were as follows:

- A permit was issued for the IWK 'Choices' Program which includes a 14 bedroom special care home

- The special care home is an R4 zone use which is permitted in the C1 zone and the proposed use is by right
- A previous variance was requested and approved by Chebucto Community Council on June 7, 2010
- A new appeal has been brought forward and the subject variance, which falls outside of the permitted 80 degree angle, is located in the lower south east corner of the building, near Craigmores Drive
- Although the property is zoned for commercial use, it is designated as residential environment which permits low density residential uses and certain non residential uses
- The property has been used as a commercial office since it was built in 1959

In closing, Mr. Faulkner advised that the situation remains unchanged; the occupancy permit has been granted to the IWK 'Choices' Program and there has been no intentional disregard for the By-law. He indicated that, if the variance was refused, the building owner has stated that he would cut the angle off the building in order to comply.

The Chair reviewed the Rules of Procedure for Variance Appeal Hearings and opened the hearing for the Appeal of the Development Officer's Decision to Approve an Application for a Variance – 1 Craigmores Drive, Halifax, Case No. 16550.

Ms. Helen Anderson, 3 Craigmores Drive, provided a copy of her presentation for the record. She stated that the community had met with the Development Officer and understood that this was an as of right development and that one then must meet the requirements of the permitted zones including angle controls and setbacks; noting that it was simple to see if a building conformed prior to applying for a renovation permit. She advised that at the June 7, 2010 meeting, Mr. Faulkner stated that the full file had been reviewed and there were no other variance issues, however, the community looked again and found that there was an angle control issue on the Craigmores Drive side as well. Ms. Anderson indicated that the community wanted to ensure all loose ends were tied up and had since hired legal council. She advised that Mr. Faulkner has indicated that more recent survey information was applied and the community disagrees as the same survey that existed in March 2010 at the time of application was the one which they used as well as HRM and the property owner. She stated that one of the three conditions which would result in the variance being denied dealt with intent of the By-law; noting that her colleague had a boat house and HRM staff made him move it based on two inches even though it was an unintentional mistake. Ms. Anderson advised that this was a minor variance; however, an infringement of six or seven feet was not a minor relaxation and should not be issued. She indicated that the Developer could have easily applied R1 use instead which would still permit the special care home and be consistent with the By-laws as well as the Municipal Planning Strategy and would not require variances. Regarding the third condition which deals with intentional disregard for the By-law, she stated that it would be naïve to think that an experienced developer did not know what was permitted. In closing, she advised that there was intentional disregard for the By-law despite the fact that options were available to comply, therefore, the variance should be refused.

Councillors Adams wished to clarify Ms. Anderson's suggestion that she was in support of R1 use; noting that it appeared that her issue was with the use of the building as the corner had been there for 50 years.

Ms. Anderson advised that the Developer could have applied R1 use and expressed concern that R4 use impacts further plans as the high density R4 zone would allow the Developer the potential to create a high rise condominium building.

Mr. Andrew Yabsley, 2 Rockwood Drive, indicated that the 2004 Gary Porter report to Council describes how the 80 degree angle should be applied; noting that the building would not be centered if one corner was removed and wondered if it would be in violation to this application as a result. Regarding special care home designation, he noted that open space was deficient on the property and wondered if this would require another variance.

Mr. Faulkner indicated that the variance was in reference to one corner of the building and it did not make sense to destroy both corners. He advised that open space could not be varied.

Mr. Brian Adams on behalf of **Mr. Robert Gale**, 10 Rockwood Drive, advised that this had been a long process; the renovation permit was issued on March 17, 2010 at which time the community became aware of the issue and contacted Councillor Mosher. He stated that the development permit was issued on April 7, 2010 and on April 26, 2010 Councillor Mosher told him that the property was as of right and, therefore, she had no right to review what was proposed. Mr. Adams stated that the community met with Mr. Faulkner and brought forward the issue of the Rockwood Drive side of the property at which time Mr. Faulkner told them that the property met all land use By-laws; noting that Mr. Faulkner only realized that it did not when Mr. Adams gave him an HRM survey from 2000. Mr. Adams indicated that Community Council processed the first variance on June 7, 2010 and was told that the whole program had been reviewed and there were no additional issues. He stated that the community reviewed the property again and, on June 22, 2010, made Mr. Faulkner aware that the building did not meet setback requirements on the Craigmere Drive side as well. Mr. Adams advised that his issue was with the as of right concept as well as the R4 use which maximizes use of the property; noting that R1, 2 or 3 would have met the setback requirements. He stated that it was his understanding that the building fronted on Craigmere Drive and, if so, it was in violation of the C1 setback as well; noting that it was fine when the building fronted on Joseph Howe Drive. Regarding concerns that the community was opposed to the IWK Choices Program, Mr. Adams advised that they attended their open house, had met with them four times and were now on their board. He stated that the community was requesting an open dialogue as a neighbourhood; noting that a deferral of the variance would not hurt anyone; particularly since Councillor Mosher had been unable to attend the meeting.

Regarding what a dialogue would achieve, Mr. Adams stated that the prime part of land use by-laws was that a development should fit into the existing neighbourhood; noting

that only four properties on the Halifax Mainland were zoned C1. He advised that the community raised concerns over height and size when HRM sold the property in 2000 and while they were not against development, they did believe that the potential for this property under R4 zoning was extreme. Mr. Adams also indicated that the variance appeal process was the community's only way of bringing forward a bigger issue and advised that there would be more variances.

Councillor Hum stated that Community Council had three criterion on which to base their decision and wanted to ensure that the residents' concerns were for the variance and not the overall development.

Mr. Adams stated that development should not interfere with the existing neighbourhood and this development did.

Mr. Alex Halef, Applicant, Banc Properties Limited, requested to know, for the record, if the slides regarding the timeline of events submitted by Ms. Anderson would be a matter of record that HRM would obtain.

It was noted that yes, the slides would be kept in the official meeting file.

Mr. Halef wished to ensure that it was on record that the neighbours acknowledged that the development permit was granted on April 7, 2010.

The Chair called three times for additional speakers. Hearing none, the following motion was placed:

MOVED by Councillor Wile, seconded by Councillor Hum that the Variance Appeal Hearing be closed. MOTION PUT AND PASSED.

Discussion ensued with staff responding to questions.

Regarding what changes could be made as a result of a meeting with residents and the Developer, Mr. Faulkner advised that there was no authority to request or require such a meeting. He stated that the extreme today was the potential of a 16 storey building and expansion of the IWK Choices Program; noting that it would be within the Developer's rights as per the By-law to make modifications.

MOVED BY Councillor Adams, seconded by Councillor Hum that Chebucto Community Council uphold the Development Officer's decision to approve the Variance.

Councillor Adams reiterated that there were criteria in place for approving variances and this matter was not about the use of the building which would continue as a special care home.

MOTION PUT AND PASSED.

9. CORRESPONDENCE, PETITIONS & DELEGATIONS

9.1 Correspondence - None

9.2 Petitions - None

9.3 Presentations – None

10. REPORTS

10.1 Staff Reports

10.1.1 Case 16104/16106 – Bedford West Sub Area 5, 9 and 10

A report dated November 18, 2010 was before Community Council.

Mr. Andrew Bone, Senior Planner, provided the presentation on Case 16104/16106 – Bedford West Sub Area 5, 9 and 10. He advised of an error in the Alternatives section of the report dated November 18, 2010 and noted that references to CCDD and Papermill Lake should be removed. Highlights of Mr. Bone's presentation were as follows:

- The three plan areas that will be effected by the amendments are Halifax, Bedford and Beaverbank/Hammonds Plains and the proposal requires mapping changes in these plan areas
- The Halifax boundary presently runs between sub areas 9 and 10
- The proposal would have all West Bedford Holdings lands as part of sub area 5 and all of sub area 9 as part of Cresco Holdings lands
- There is no proposed change for the sub area 9 policy
- Capital cost charge formulas and regional subdivision by-laws must be changed
- The new capital cost contribution rate is designed to have no net impact on HRM
- The mixed commercial and residential rate has been removed and will be made into a flat rate
- Halifax Water has advised that if the proposed amendments are approved by Regional Council, they will notify the Nova Scotia Utility and Review Board and make any additional required changes

MOVED BY Councillor Hum, seconded by Councillor Adams that Chebucto Community Council recommend that Halifax Regional Council give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy as set out in Attachment C, the Halifax Mainland Land Use By-law as set out in Attachment D, and the Regional Subdivision By-law as set out in Attachment E of the report dated November 18, 2010, and schedule a public hearing.

Discussion on the motion ensued with staff responding to questions.

Regarding sub area 10, Mr. Bone stated that it was requested that a small section of 10 be moved into sub area 9 as there was a water line there which creates a physical barrier for development.

Councillor Hum advised that she would forward resident concerns which she had received to staff for the Public Hearing.

MOTION PUT AND PASSED.

10.2 Councillor

10.2.1 Tall Trees Lane

An information report dated September 21, 2010 was before Community Council.

Councillor Hum stated that Community Council sent correspondence from a resident of Tall Trees Lane to staff for response. She indicated that the report dated September 21, 2010 was provided and, as a result, concerns arose from the two other property owners on Tall Trees Lane. Councillor Hum indicated the residents and staff were present to speak to those concerns.

Ms. Janet Morris, 3 & 82 Tall Trees Lane, indicated that her initial letter to Councillor Hum came about as a result of an accident on the Bedford Highway. She requested that staff consider installing a sign advising of her lane, however, staff have said this is not necessary. She indicated that something should be done to help alleviate the potential for accidents as Tall Trees Lane was a difficult private driveway to navigate. Ms. Morris stated that emergency staff placed a sign at the end of the lane as a result of there being more than three houses and advised that it would be great if residents could avoid navigating this dangerous lane; noting that the information report dated September 21, 2010 confirmed that the lane was dangerous in five or six respects. She indicated that the municipal signage may actually aggravate the problem by making passers by curious; noting that icy or abnormal conditions cause her concern over liability issues and wondered if the signage made HRM liable. Ms. Morris expressed concern over the oil truck navigating the road in poor conditions as the truck drives on her right of way; noting that she hoped to initiate a discussion in the community. She indicated that HRM owned streets were on both sides of Tall Trees Lane and it would be nice if the three properties could be accessed via Cresthaven Drive or Kent Avenue; noting that this was the purpose of her request. In conclusion, Ms. Morris stated that it was not feasible to broaden the lane and that she was concerned with the potential for accidents.

Mr. Peter Lynds, Design Engineer, stated that he had conducted the investigation of Tall Trees Lane; noting that he compared it to municipal standards such as what would be required for the development of a new subdivision. He advised that he found the lane to be too narrow for private road procedure requirements as well as being too sharp, too steep and too long; noting that there was insufficient ditching and drainage culverts as well. Mr. Lynds indicated that the lane would have to be upgraded to be considered for

private road status; however, he did not know how certain issues such as sharp corners could be addressed to meet HRM requirements. He advised that HRM Design Services staff had indicated that they did not plan to build a new road in order to connect the lane to the abutting streets as HRM was interested in retrofitting and upgrading existing infrastructure. He stated that, from a traffic perspective, staff did not foresee any need to develop a new road. Mr. Lynds indicated that HRM does not force property owners to upgrade private driveways; however, HRM did not want to take over a lane that was not up to today's standards.

Mr. Doug Carmichael, Tall Trees Lane, stated that he had been using the private driveway for 30 years and noted that it was no different than when Ms. Morris bought her property. He indicated that traffic did not stop her from subdividing her property into two flats so he was not sure how she could raise that as an issue. Mr. Carmichael advised that the road was landlocked as always and was the same property it had always been.

Ms. Phyllis Orlick, 44 Tall Trees Lane, stated that Tall Trees Lane was their private driveway and the three homes that used it had done so for many years. She indicated that she had lived on the lane for 37 years and it was the same as always. She advised that only one owner on the lane wished to have it changed and the other two did not want change in any way. She wondered how the issue got this far without the other two residents even knowing about it since it was their private lane.

Councillor Hum stated that she received correspondence from Ms. Morris and felt the best route was to forward the request via Community Council to staff for a report. She advised that, upon receiving the report, she thought it was necessary to pass the information on to the other residents of Tall trees Lane and, as a result, the Orlick's and Carmichael's expressed concern as they would be affected by any changes. Councillor Hum stated that, based on the staff report, HRM would not take over the lane and advised that traffic staff have indicated that they have no safety concerns.

MOVED by Councillor Hum, seconded by Councillor Adams that the information report dated September 21, 2010 be accepted as presented. MOTION PUT AND PASSED.

11. **MOTIONS - NONE**
12. **ADDED ITEMS - NONE**
13. **NOTICES OF MOTION - NONE**
14. **PUBLIC PARTICIPATION**

There was no one wishing to speak at this time.

15. **NEXT MEETING DATE**

The next meeting was scheduled for January 10, 2010.

The proposed 2011 meeting schedule has been amended to include a meeting on June 13, 2011 rather than June 6, 2011.

16. ADJOURNMENT

The meeting was adjourned at 8:46 p.m.

Shawnee Gregory
Legislative Assistant

INFORMATION ITEMS

1. Proposed 2011 Meeting Schedule
2. Dunbrack Street Boulevards and Rose Hedges / Annual Maintenance Plan – Service Levels