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**Chebucto Community Council**  
**January 7, 2008**

**TO:** Chair and Members of Chebucto Community Council

**SUBMITTED BY:** *M. E. Donovan*  
M. E. Donovan, Director of Legal Services

**DATE:** December 11, 2007

**SUBJECT:** Planning Appeal -06-29 - Rezoning - Ralston Avenue Area

**INFORMATION REPORT**

**ORIGIN**

A petition signed by area residents seeking a rezoning of the Ralston Avenue and Pearson Avenue area from R-2 General Residential to R-1 Single Family Dwelling designation submitted to Chebucto Community Council on February 7, 2005 . On September 11, 2006 Chebucto Community Council approved the rezoning of the Ralston Avenue area lands from R-2 to R-1 Single Family Dwelling zone.

**BACKGROUND**

On September 28, 2006 Paul MacNeil who resides on Pennington Street, appealed the decision of the Chebucto Community Council which approved the rezoning of the Ralston Avenue area from R-2 General Residential zone to R-1 Single Family Dwelling zone to the Nova Scotia Utility and Review Board (the "Board").

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## DISCUSSION

Mr. MacNeil filed a Notice of Appeal with the Board of the decision of Chebucto Community Council to rezone the Ralston Avenue area to R-1 Single Family Dwelling zone. Mr. MacNeil's Notice of Appeal cited "planning and meeting policy and process. R-2 highest and best use of land and building" as his reason for appealing the decision.

By way of letter dated October 5, 2006, HRM requested the Board hold a preliminary hearing at which time HRM requested that the Board dismiss Mr. MacNeil's Notice of Appeal for failing to disclose a proper ground of appeal pursuant to the *Municipal Government Act*.

The Board conducted a preliminary hearing at its offices on November 7, 2007. After hearing the parties on the matter, the Board issued a Decision and Order dated December 5, 2007 finding that the Appellant's Notice of Appeal failed to disclose a proper ground of appeal, specifically, it did not disclose that the decision of Council failed to reasonably carry out the intent of the Municipal Planning Strategy as set out in Section 250 of the *Municipal Government Act*. The Board therefore decided it did not have jurisdiction to hear the appeal. The Board ordered that the appeal be dismissed.

Section 30 of the Nova Scotia Utility and Review Board Act provides for an appeal on a question of law or jurisdiction within 30 days of the date of the Order.

## BUDGET IMPLICATIONS

N/A.

## FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

## ALTERNATIVES

N/A.

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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