



**NORTH WEST COMMUNITY COUNCIL
MINUTES
April 20, 2015**

PRESENT: Councillor Steve Craig, Chair
Councillor Matt Whitman, Vice-Chair
Councillor Barry Dalrymple
Councillor Brad Johns
Councillor Tim Outhit

REGRETS: None

STAFF: Ms. Kirby Grant, Senior Solicitor
Mr. Liam MacSween, Legislative Assistant

The following does not represent a verbatim record of the proceedings of this meeting.

The agenda, supporting documents, and information items circulated to Community Council are available online: <http://www.halifax.ca/commcoun/central/150420hwcc-agenda.php>

The meeting was called to order at 7:00 p.m., and recessed at 8:30 p.m. Community Council reconvened at 8:25 p.m. and moved into an In Camera session at 9:45 p.m. and reconvened at 9:53 p.m. Community Council adjourned at 9:55 p.m.

1. CALL TO ORDER

Councillor Craig, Chair called the meeting to order in the Cafeteria of Five Bridges Junior High School, 66 Hubley Road, Hubley.

2. APPROVAL OF MINUTES – February 23 & March 23, 2015

MOVED by Councillor Whitman, seconded by Councillor Outhit that the minutes of February 23 & March 23, 2015 be approved as circulated. MOTION PUT AND PASSED.

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

Additions:

Councillor Johns requested that Private and Confidential In Camera Report re: Community of Sackville Landfill Compensation Act and Sackville Community Bursary Award be discussed during an In Camera session at the end of the meeting. He further suggested that discussion on Item No. 10.1.1 take place after the In Camera session.

MOVED by Councillor Whitman, seconded by Councillor Outhit that the agenda be approved as amended (2/3rd Majority Vote required).

MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES

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 19004 – Amending Development Agreement – Three Brooks Subdivision, Granite Cove Drive, Hubley

The following was before Community Council:

- *A staff recommendation report dated February 27, 2015*
- *Correspondence from Theresa Scratch dated April 16, 2014*
- *Correspondence from Emily Chapman and Michael Chapman dated April 20, 2015*

Ms. Jillian MacLellan, Planner provided a presentation on Case 19004. The Chair thanked Ms. MacLellan for her presentation and read the rules of procedures with respect to public hearing. He requested questions of clarification from members of North West Community Council.

Councillor Dalrymple requested further information with respect to the proposed encroachment in the riparian buffer.

Ms. MacLellan commented that the encroachment within the riparian buffer only affects the home sites that abut buffer. She advised that each structure would be limited to 20 square meters or less and could not contain any structure that is habitable.

In response to a follow up question from Councillor Dalrymple, Ms. MacLellan noted that a hydrogeological assessment was conducted as part of phase one of the development agreement which identified sufficient ground water for ten additional units. She advised that further testing would need to take place for phases two and three before development is permitted.

Councillor Whitman inquired if there are other cases within HRM which allow for encroachments within a riparian buffer.

Ms. MacLellan noted that all Land Use By-laws within HRM allow for a twenty meter structure within a riparian buffer.

Councillor Whitman inquired as to why staff is in favour of combining phases two and three.

Ms. MacLellan commented that staff had extensively reviewed the overall development plan of the proposed property and determined that the proposed fifteen addition units outlined in phases two and three are not overly significant particularly as the planning will be supported by a hydrogeological assessment. She advised of staff's position to move ahead with the proposed amending agreement.

Councillor Outhit requested further information respecting the difference between a riparian buffer and a non-disturbance area.

Ms. MacLellan commented that the usage of riparian buffers had been developed as part of the 2006 Regional Plan, while non-disturbance areas are specified within particular development agreements to restrict development for protected areas. She noted that the overall intention of a riparian buffer is to specifically protect water courses.

Councillor Craig inquired as to how many open space design developments within HRM allow for encroachments in to a riparian buffer.

Ms. MacLellan commented that the majority of the riparian buffers within open space developments allow for encroachments in to the riparian buffer for small structures

Councillor Craig thanked Ms. MacLellan for her presentation and invited the applicant to come forward and address Community Council.

Ms. Jennifer Tsang, Planning Consultant, advised that she is representing Janet and Phil Bryson who are the developers for the project. She noted that the project is very specific and advised that the placement of each proposed home has been heavily scrutinized and planned closely given the land use requirements. She commented that the initial development agreement was approved in the past but advised that questions had arisen given the requirements for the riparian buffer and the proposed phasing of the project. She concluded by stating that the developers have worked very closely with HRM staff to ensure that proposals for the site meet the necessary planning policies that are in place.

Councillor Whitman requested further information respecting the identified areas for proposed encroachments on to the riparian buffer.

Ms. Tsang commented that the areas that have been identified are those in which a twenty meter encroachment would be allowed for such uses as a deck or shed. She advised that these areas do not include parcels of land which must remain undisturbed to protect the water course as per the applicable policy with respect to riparian buffers.

Councillor Craig opened the public hearing portion of the meeting and invited members of the public to address Community Council on Case 19004.

Ms. Theresa Scratch, of 109 Cavalier Drive, Lower Sackville, noted her attendance to speak against the proposed amendments to the Development Agreement. She commented that she is disappointed and confused that the matter is before Community Council and expressed her opinion that the proposed amendments are substantive in nature and are not housekeeping amendments as advertised by HRM. She commented that Council needs to review the policies for setbacks, clustering and encroachments more carefully and remarked that she has yet to find other examples of development where encroachments are allowed in open space developments. She commented that primary conservation areas such as wetlands and riparian buffers must be left undisturbed in a common open space. She concluded the development was approved with certain provisions which are now being changed and urged Council to further review the applicable policies and request that the developer submit a new application.

Mr. Mike Chapman, of Three Brooks Subdivision, commented that he is an environmental scientist and noted his concern with the proposed development agreement. He advised that the proposed density of the development is too great as the area is a small peninsula where the developable lands have been maxed out. He expressed his opinion that there were mistakes within the original wet land delineation plan for the site and noted further concern with proposals to encroach in to the riparian buffer. He commented that the wetlands in the area serve a vital role for the local environment and stated that further development will result in more run off, heavy metals and hydrocarbons being introduced to the wetlands. He advised that Council should not consider further compromising the setbacks that are in place and should exercise caution with the combination of phases B and C for development on the subject property.

Mr. Peter Lund, of Dartmouth, noted that his comments mirror the previous speakers and advised that a large portion of the lands with the subject property are wetlands which should remain as is, and not be further impacted by run off and environmental degradation caused by further development. He suggested an amendment to section 3.8.4B within the Amended Development Agreement respecting a letter provided by a qualified professional confirming that an encroachment will not significantly impact the watercourse. He advised that the word "significantly impact" should be amended to read "adversely affect" as the term significantly impact cannot be defined and could differ depending individual interpretations of what is considered significant. He expressed further concern with respect to adequate water supply, wastewater management and inquired if trees can be removed from the riparian buffer.

Mr. Sean Brewer, of Three Brooks Subdivision commented that he lives within the subdivision and expressed his displeasure that an area near his property had been clear cut as well as the installation of an above ground sewer system. He commented that he is appalled by the proposed development and noted that he will be paying close attention to the matter as it moves forward.

Ms. Betsy Howard, of Hubley agreed with the comments provided by the previous speakers and noted that she is shocked that within a riparian buffer is being considered as part of the development agreement. She advised that a great deal of work had been completed in this regard to minimize the impact of development on wetlands across the Municipality and noted her opinion that no encroachments, walkways, or structures should be allowed within the protected area. She expressed further concern with storm water run management issues as a result of further development.

Mr. Walter Reagan of the Sackville Rivers Association, noted that Council should not allow for encroachments within the riparian buffer as it will set a dangerous precedent for future development. He expressed a second concern that a hydrological assessment on the property needs to take place to ensure that there is enough drinking water within the development for proposed residents.

Councillor Craig called three times for further speakers. There were no speakers present. Councillor Craig invited the applicant to come forward and respond to concerns raised by the public.

Ms. Jennifer Tsang, on behalf of the Applicant, commented that the setbacks which had been put in place as part of the original development agreement have not changed, and noted that hydrogeological

studies, a stormwater management plan, and a detailed site plan would be required before any work on the property would take place in accordance with HRM planning policies.

**MOVED by Councillor Whitman, seconded by Councillor Outhit that the public hearing be closed.
MOTION PUT AND PASSED.**

Ms. MacLellan clarified that the twenty square meter zone with respect to the riparian buffer originates as part of the Land Use By-Law. She advised that staff is attempting to clarify, through the amending agreement, the allowances for encroachments within the riparian buffer. She commented that staff had examined policy S-15-L which concerns open space developments and noted that encroachments within the riparian buffer are allowed under the policy as long as it does not significantly impact the wetlands.

With respect to combining schedules b and c, Ms. MacLellan noted that schedule c shows the proposed home sites but noted that there are no provisions within the Development Agreement which requires to developers to comply with the locations; as such staff have recommended that they be removed. She provided further commentary with respect to provisions with the Development Agreement for setbacks and site plan approvals. She further noted that trees can be removed from the riparian buffer if they are dead or dying but must be done so by a certified Arborist.

Councillor Whitman commented that he is not comfortable with the proposed amendments that would allow for encroachments in to the riparian. He further noted that he is not comfortable with combining the three phases as well as the proposed housekeeping amendments with respect to schedules b and C. He requested further information as to how much development in the area the policy would permit.

Ms. MacLellan responded by noting that the policy would permit 25 units within the area which was previously established in the original development agreement. She advised that the development agreement does not specify whether or not the houses will have basements or if they will be placed on slabs.

In response to a follow up question from Councillor Whitman, Ms. MacLellan noted that the public hearing should not have been advertised for housekeeping amendments alone and should have included provisions for the proposed amending agreement. She noted that she follow up to ensure that it was advertised properly.

In response to a question from Councillor Dalrymple, Ms. MacLellan commented that development can only take place within the allowed zone.

Councillor Dalrymple inquired as to any development that has taken place on the site, he further inquired if the large above ground septic system was allowed.

Ms. MacLellan commented that the only development at the site was for the common shared driveway for the open space development. She noted that no further development is permitted until a detailed landscaping plan has been submitted. She further noted that no construction should be taking place.

Councillor Dalrymple noted his concern with respect to the combination of phases 2 and 3.

Councillor Outhit inquired if the septic system was installed on the site.

Ms. MacLellan noted that there should have been no building permits issued for the site, and advised that she would confer with the Development Officer on that regard.

In response to a follow up question from Councillor Outhit, Ms. MacLellan noted that the existing development agreement allows for encroaching decks and small structures into the riparian buffer and noted that the planning policy allows for it.

Mr. Sean Audas, Development Officer commented that he did not recall building permits be issued for the site. He noted that he would need to further review this matter to be sure.

Ms. MacLellan commented that there should be no building with respect to phases two and three of the development.

Ms. Jennifer Tsaung commented that the developers have received approval for phase one of the development for road construction as well as the septic design of for the septic approval. She commented that no building work should have been undertaken with respect to phases two and three and that she would ensure, with the consultation of HRM staff that no development that is not permitted take place on the subject property.

MOVED by Councillor Johns, seconded by Councillor Whitman that North West Community Council:

- 1. Approve the proposed amending development agreement as contained in Attachment A of the staff report dated February 27, 2015 and;**
- 2. Require that the amending development agreement be signed by the property owner within 120 days, or any extension thereof granted by Community Council on request of the applicant, from the date of final approval of said agreement by Community Council and any other bodies as necessary, whichever is later, including applicable appeal periods; otherwise this approval shall be void and any obligations arising hereunder shall be at an end.**

Councillor Whitman commented that he is not comfortable with approving the amending development agreement as presented by staff. He advised that he would like further information from staff respecting the combination of phase 2 and 3; the proposed provisions regarding development in the riparian buffer; and proposed combination of Schedule B and C of the existing development agreement.

Councillor Dalrymple agreed with Councillor Whitman's assessment and noted that he could not support the staff recommendation as it currently stands.

In response to a follow up question from Councillor Craig, Ms. Kirby Grant noted that Council should deal with the motion on the floor before it can entertain an alternative recommendation. She advised that Community Council should defeat the recommendation that is currently on the floor and move a deferral of the matter to request that staff provide a supplemental report.

MOTION PUT AND DEFEATED.

The following motion was proposed in relation to Case 19004:

MOVED by Councillor Johns, seconded by Councillor Dalrymple that North West Community Council defer Case 19004 to allow for further negotiation with applicant on the proposed amendments to the development agreement as outlined in attachment A of the staff report dated February 27, 2015 and provide a supplemental report for the consideration of North West Community Council at its meeting to be held on May 25, 2015.

MOTION PUT AND PASSED.

North West Community Council adjourned for a break at 8:30 p.m. Community Council reconvened at 8:35 p.m.

8.2 VARIANCE APPEAL HEARINGS

8.2.1 Case 18572 – Appeal of Variance Refusal – 6 Woodhill Street, Lower Sackville

The following was before Community Council:

- *A staff recommendation report dated February 27, 2015*

- *Correspondence from Yvette Dentremont, Shelly Jones and Sheila Leroux dated April 20, 2015*

Mr. Andrew Faulkner, Development Officer provided a presentation with respect to Case 18572. Councillor Craig thanked Mr. Faulkner for his presentation and noted the rules of procedure with respect to Variance Appeal Hearings. He requested questions of clarification from members of North West Community Council.

Councillor Johns inquired about the distance that is required by HRM Traffic Services with respect to distance from the right of way.

Mr. Faulkner noted that the structure is located five feet from the right-of-way in the street. He further advised that the Land Use By-law for the area specifies that structures must be twenty feet away from the curb.

Councillor Craig invited the appellant to come forward and address Community Council.

Mr. Adam Holly, Appellant, noted that he is the owner of the subject property and advised that there has been a great deal of confusion with respect to his application. He commented that the structure was constructed with a permit on another property on which he previously resided. He commented that he was advised by HRM staff that he did not require a permit to move the structure to his current property on 6 Woodhill Street and stated that he had conversations with four separate staff members regarding the move but was not properly informed as to where Shed was to be placed on his current property. He noted that once he was made aware that the shed's position on his property was in violation of the land use by-law, he applied for the variance. He noted that he did not intend to disregard the Land Use By-law and commented that he would do his best to answer any questions in this regard.

In response to a follow up question from Councillor Whitman, Mr. Holly reiterated an early point noting that he was misinformed by HRM staff as to the requirements for the positioning of his shed on his property. Councillor Craig noted that two pieces of correspondence which were received on this matter that were previously distributed to members of Community Council.

Councillor Craig called three times for speakers to come forward who are within the notification area for the Variance Appeal hearing to come forward and address Community Council on this issue. There were no speakers present.

Councillor Whitman noted that he sympathetic to Mr. Holly's story and inquired if a negative precedent would be set by allowing the appeal on Case 18572.

Mr. Faulkner commented that a variance application is site specific and noted that in his experience this would be the first instance where staff has made the same consistent error four times. He advised that he would be concerned if the consistent mistake was made and noted that it would have to be an issue that staff would obviously need to address.

MOVED by Councillor Whitman, seconded by Councillor Outhit that North West Community Council allow the variance appeal for Case 18572 - 6 Woodhill Street, Lower Sackville.

MOTION PUT AND DEFEATED.

Therefore the decision of the Development Officer is upheld.

8.2.2 Case 19464 – Appeal of Variance Refusal – 64 MacDonald Point Road, Seabright

The following was before Community Council:

- *A staff recommendation report dated March 31, 2015*

Mr. Sean Audas, Development Officer provided a presentation on Case 19464. Councillor Craig thanked Mr. Audas for his presentation, read the rules of procedure with respect to Variance Appeal hearings and requested questions of clarification from members of Community Council.

Councillor Whitman inquired as to the age of the building.

Mr. Audas commented that the first application was received by development approvals on November of 2013. He noted that a complaint was received against the property owner. He advised that the Land-Use By-law for the area stipulates that the building needs to be 8 feet away from the curb.

Councillor Craig invited the appellant to come forward and address Community Council.

Mr. Lorne Vaasjo, Appellant commented that he is the property owner at 64 MacDonald Point Road. He advised that he had proceeded to build a woodshed on the location as there was an existing stone wall in the area which was suitable for its construction. He noted that he was ignorant as to the requirements of the Land Use By-law and assumed he assumed was in compliance. He commented that the building location was selected due to its suitability for the usage on the property and that he did not willingly disregard the stop work order that was issued on the property as a result of the second complaint. He advised of his belief that the complaint was made because of a fence that he had erected to mask the construction of the shed which was unsightly during the construction period.

Mr. Nicholas Hamlon, 68 MacDonald Point Road, commented that the building was built without a permit and is not the only location on the property on which a shed can be constructed. He commented that the community is tight knit but noted that there have been disputes in the past with respect to property lines. He commented that he would be willing to work with the appellant to reach a solution which is beneficial to all residents in the area and noted his opinion that Community Council should defer a decision on this matter until the situation can be resolved by the neighbours.

Mr. Trevor Murphy, of MacDonald Point Road commented that he lives behind the two Gentlemen who had previously provided commentary and noted that he was not aware of Variance request until April 9, 2015 when he received the notification. He commented that he takes exception to the assertion in the staff report that neighbours would like to see the structure remain as is and noted that he would like to see the structure cleaned up at the very least. He advised that he does not want to see an example or precedent set that establishes that an individual can build something without applying for the proper permits.

Councillor Craig called three times for further speakers within the notification area to speak on this matter. There were no further speakers present.

Councillor Outhit stated that he does not agree with deferring the case while the neighbours negotiate. He noted that the matter has been brought forward by staff as the structure violates HRM's rules governing the appropriate uses for a property. He advised that he believes that a solution can be found if the variance were approved and an Order to Remedy a Dangerous and Unsightly premises be brought forward by staff which would result in the property being cleaned up being mutually beneficial to all neighbours in the area. He inquired if this type of situation could be possible.

Mr. Audas commented that a Dangerous and Unsightly premises order could be brought against the property if it is not within compliance for the Land Use By-law.

Councillor Johns commented that he would support allowing the appeal under that circumstance and commented that two and a half foot variance on the property is understandable given the state of the land.

MOVED by Councillor Whitman, seconded by Councillor Johns that North West Community Council allow the appeal.

Councillor Whitman commented that he will support the appeal and stated that he believes that the property will be cleaned up by the property owner.

Councillor Dalrymple commented that he does not support allowing the appeal and noted that the stop work order which was levied against the property should have been complied with.

MOTION PUT AND PASSED.

Therefore, the variance appeal request was approved by North West Community Council.

9. CORRESPONDENCE, PETITIONS & DELEGATIONS

9.1 Correspondence

The Legislative Assistant noted correspondence received by the Office of the Municipal Clerk in relation to items 8.1.1 and 8.2.1 which were distributed to Community Council prior to the meeting.

9.2 Petitions – NONE

9.3 Presentation – NONE

10. REPORTS

10.1 STAFF

10.1.1 Sackville Community Bursary Awards

The following was before Community Council:

- *A staff recommendation report dated December 8, 2014*

This matter was moved to the end of the agenda during the approval of the Order of Business. Please refer to page 10.

10.1.2 Case 17651: Development Agreement to enable a multiple unit dwelling at 3009 Highway 2, Fall River

The following was before Community Council:

- *A staff recommendation report dated February 6, 2015*

MOVED by Councillor Dalrymple, seconded by Councillor Johns that North West Community Council give Notice of Motion to consider the proposed development agreement, as contained in Attachment A of the staff report dated February 6, 2015, to permit the development of a multiple unit dwelling at 3009 Highway 2 and to schedule a public hearing.

MOTION PUT AND PASSED.

11. MOTIONS – NONE

12. IN CAMERA

This matter was dealt with during an In Camera session later in the meeting. Please refer to page 10.

Private and Confidential Information Item

1. Private and Confidential In Camera Report re: Community of Sackville Landfill Compensation Act and Sackville Community Bursary Award

13. **ADDED ITEMS – NONE**
14. **NOTICES OF MOTION – NONE**
15. **PUBLIC PARTICIPATION**

Mr. Peter Lund of Dartmouth provided commentary with respect to the need of more stringent policies for affordable housing for seniors as part of HRM's secondary planning plans.

Mr. Walter Reagan of the Sackville Rivers Association inquired if there has been an update with respect to tree planting along the Sackville Road. He further advised of the upcoming duck race on the Sackville River which will take place on May 25, 2015.

Councillor Johns commented that he would request an update from staff on the tree planting matter.

Mr. Ross Evans, of Hammonds Plains thanked members of Community Council for their efforts in snow clearing over the winter noting that it was a particularly harsh season. However, he advised that snow removal on the Pockwock Road could be improved in certain areas for future years.

12. **IN CAMERA**

North West Community Council convened to In Camera to discuss the following item:

Private and Confidential Information Item

1. **Private and Confidential In Camera Report re: Community of Sackville Landfill Compensation Act and Sackville Community Bursary Award**

North West community Council dealt with this matter during In Camera and reconvened to public session to address Item No. 10.1.1 – Sackville Community Bursary Awards.

10.1.1 Sackville Community Bursary Awards

The following was before Community Council:

- *A staff recommendation report dated December 8, 2014*

The following motion was passed in relation to Item number 10.1.1 Sackville Community Bursary Awards:

MOVED by Councillor Johns, seconded by Councillor Outhit that North West Community Council defer the Community of Sackville Landfill Compensation Act and Sackville Community Bursary Award report dated December 8, 2014 pending further input from HRM Legal Services.

MOTION PUT AND PASSED.

16. **DATE OF NEXT MEETING – May 25, 2015**
17. **ADJOURNMENT**

The meeting was adjourned at 9:55 p.m.

Liam MacSween
Legislative Assistant

