

MARINE DRIVE, VALLEY AND CANAL
COMMUNITY COUNCIL
Minutes

December 10, 2009

PRESENT: Councillor David Hendsbee
Councillor Steve Streach
Councillor Barry Dalrymple

STAFF: Mr. Randolph Kinghorne, Solicitor, HRM
Ms. Barbara Coleman, Legislative Assistant

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1. CALL TO ORDER

The meeting was called to order at 7:p.m. on Wednesday, December 10, 2009 at Oyster Pond & Area Volunteer Fire Department, 51 Old Trunk Rd, Oyster Pond, NS.

- **Election of Chair and Vice Chair**

MOVED by Councillor Streach, seconded by Councillor Dalrymple that Councillor Hendsbee will continue to be the Chair. MOTION PUT AND PASSED

MOVED by Councillor Hendsbee, seconded by Councillor Streach that Councillor Dalrymple will continue to be the Vice Chair. MOTION PUT AND PASSED

- **Meeting Dates**

Councillor Hendsbee informed the members of the public that Marine Drive Valley and Canal Community Council generally meet the fourth Wednesday of the month, if needed.

3. APPROVAL OF MINUTES - October 28, 2009, November 17, 2009 (special)

MOVED by Councillor Dalrymple, seconded by Councillor Streach that the minutes of October 28, 2009, and the minutes of November 17, 2009 (special) be approved as distributed. MOTION PUT AND PASSED

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

Additions:

12.1 Case 01276 - Pet Care Facilities and Kennels, Lawrencetown

12.2 Case 01287: Amendments to the Regional MPS and the MPS and LUB for Planning Districts 14 and 17 and Dartmouth

MOVED by Councillor Streach, seconded by Councillor Dalrymple that the Order of Business be approved as amended. MOTION PUT AND PASSED

4. BUSINESS ARISING OUT OF THE MINUTES

4.1 Status Sheet Review

A review of the Status Sheet was deferred to a later date.

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 01320: Amendment to development agreement - Oakfield Golf and Country Club**

The following reports were brought before Marine Drive, Valley and Canal Community Council:

- A staff report dated October 22, 2009
- A report from Halifax Watershed Advisory Board (HWAB) dated November 26, 2009.

Councillor Hendsbee reviewed the guidelines for a public hearing noting that following the presentation, Council could ask staff questions necessary for clarification. The floor would, then, be opened to members of the public to speak for or against the proposal. Once all speakers had spoken, the hearing would be closed and Council would deliberate. The decision of Council would then be made.

Mr. Miles Agar, Planner 1, Community Development reviewed the report for Marine Drive, Valley and Canal Community Council responding to any concerns or questions.

Councillor Hendsbee advised that the questions raised by HWAB regarding the relocation of the greenhouse, the containment for the gas tanks, percolating surface for the parking lot, rainwater management and location of the septic fields were all satisfactorily addressed during the HWAB meeting.

Councillor Hendsbee opened the public hearing for Case # 01320 calling for any speakers for or against the proposal.

The Chair called three times for speakers.

There being no speakers it was **MOVED by Councillor Streach, seconded by Councillor Dalrymple that the Public Hearing be closed. MOTION PUT AND PASSED.**

MOVED by Councillor Dalrymple, seconded by Councillor Streach that Marine Drive Valley and Canal Community Council:

1. **Approve the proposed amending agreement to permit accessory buildings up to 5,000 square feet (464.5 square metres), and one accessory building up to 10,000 square feet (929 square metres) as set out in Attachment A of the report dated October 22, 2009;**
2. **Require the agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.**

MOTION PUT AND PASSED

8.1.2 Case 01315: Development Agreement - 47 East Jeddore Road, Jeddore

- A staff report dated November 26, 2009 was before Marine Drive, Valley and Canal Community Council.

Mr. Mitch Dickey, Planner, Community Development, reviewed the report for Marine Drive, Valley and Canal Community Council noting the following:

- subject property was purchased at fair market value
- the development agreement will require the building and property to be maintained and kept in good repair
- the development agreement will require portions of the front facade to be painted
- the proposal is a good example of adaptive re-use of a surplus building.
- the proposal will provide business and community groups with well-located, quality space, and further economic growth for the Eastern Shore.
- the developer will be responsible for all costs, expenses, liabilities and obligations imposed to satisfy the terms of this agreement.

In answer to questions of Councillors', staff advised that:

- a permanent ground sign up to and not exceeding 24 sq ft in area and no higher than 10 feet is permitted out by the road. Below the sign, a changeable letter board is also permitted so that the proponent is able to advertise space and events going on in the building
- the waste, green bins and recyclables bins need to be fully screened
- this new site would be seen as complimentary to the rest of the centres in the area not in direct competition

- three to four people are currently employed.

Councillor Hendsbee called three times for speakers for or against the proposal.

Before closing the floor to speakers, Councillor Hendsbee noted for the record that an email had been received by the Clerk's office on behalf of Marine Drive Valley and Canal Community Council from Colin and Zoe Mitchell opposing any further expansion of the property at 47 East Jeddore Road, Jeddore, NS. Mr. Mitchell cited, "the large volumes of smoke from the outdoor wood burning appliance as a hazard to health of his wife, who suffers with asthma, and to their children, ages 22 months and three months". In his email, Mr. Mitchell further claims, "the current location of Shore Print, which owns the property, has deteriorate their living conditions and the property value of their home. Any further expansion would make the value of their home deteriorate even more".

There being no speakers it was **MOVED by Councillor Streach, seconded by Councillor Dalrymple that the Public Hearing be closed. MOTION PUT AND PASSED.**

MOVED by Councillor Streach, seconded by Councillor Dalrymple that Marine Drive, Valley and Canal Community Council:

1. **Approve the proposed development agreement as set out in Attachment A, dated October 16, 2010, to permit use of the entire former school at 47 East Jeddore Road as a commercial building;**
2. **Require the agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.**

MOTION PUT AND PASSED

8.2 VARIANCE HEARINGS

8.2.1 Appeal of the Development Officer's decision to refuse a Variance at 414 Ponderosa Drive, Lake Echo, NS

- A staff report dated November 26, 2009 was before Marine Drive, Valley and Canal Community Council.

Councillor Hendsbee reviewed the guidelines for a Variance Hearing noting that the floor would be opened to members of the public to speak for or against the proposal at

the end of the presentation of staff and any necessary clarification by Community Council.

Mr. Sean Audas, Development Officer, reviewed the report with members of the Community Council. He advised Council that:

- the amount of setback requested is substantial and violates the intent of the land use by-law
- the challenges faced by the applicant for this property is not general to properties in the area and was not a consideration of this property
- intentional disregard for the land use by-law was not a consideration of this property

Councillor Hendsbee called for speakers that were property owners within 30 metres of the property.

Mr. Paul and Vicki Palmeter provided a presentation regarding their variance request noting the following:

- there is a natural opening in the front of the property which would house the 16 x14 garage requiring minimal ground work
- pictures of the sides of their house shows that there was no available space to build the garage
- the applicants do not want to build the garage any closer to the house as their front lawn is already very small and they would like to preserve a 150 year old hemlock
- the garage would not be visible from the road as there would be a softwood buffer between the garage and the front of the house
- there are no vacant lots on Ponderosa Drive and there will be no further need for future development
- drainage would not be an issue

Mr. Palmeter continued his presentation showing pictures of the care and attention that he and his wife have provided to the rest of the property. These pictures also showed similar structures on neighbouring properties. Mr. Palmeter submitted four letters from Ms. Judi Homsberger at 411 Ponderosa Drive, Ms. Dale Burgess and Mr. Jamie Stratton at 413 Ponderosa Drive and from Mr. Kenneth Boyd and Ms. Mary Ann McKinnon-Boyd at 420 Ponderosa Drive which are in support of the applicants' appeal of the refusal of variance at 414 Ponderosa Drive

Councillor Hendsbee requested that the applicant's presentation be entered into the record. Further, the letters submitted by Mr. Palmeter also be included in the record.

The Chair called three times for speakers.

There being no speakers it was **MOVED by Councillor Streach, seconded by Councillor Dalrymple that the Public Hearing be closed. MOTION PUT AND PASSED.**

MOVED by Councillor Streach, seconded by Councillor Dalrymple that Marine Drive, Valley and Canal Community Council approve the Variance request for 414 Ponderosa Drive and overturn the decision of the Development Officer.

Councillor Streach acknowledged that the placement of the garage would be consistent with many other properties in the area.

MOTION PUT AND PASSED

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS:

9.1 Correspondence: None

9.2 Petitions: None

9.3 Presentations: None

10. REPORTS:

10.1 Case 01186: Amendments to the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy (MPS) and Land Use By-Law (LUB).

- A staff report dated November 26, 2009 was before Marine Drive, Valley and Canal Community Council.
- A draft report dated October 21, 2009 from HWAB was before Marine Drive, Valley and Canal Community Council.

MOVED by Councillor Dalrymple, seconded by Councillor Streach that Marine Drive, Valley and Canal Community Council recommend that Halifax Regional Council:

- 1. Give First Reading to the proposed amendments to the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy (MPS) and Land Use By-Law (LUB) as provided in Attachments A and B of the report dated November 26, 2009, and schedule a public hearing; and**
- 2. Recommend that Regional Council approve the proposed amendments to the Beaver Bank, Hammonds Plains and Upper Sackville MPS and LUB as provided in Attachments A and B of the reported dated November 26, 2009.**

Councillor Hendsbee explained to the members of public that Marine Drive Valley and Canal Community consisted of sections of Beaver Bank and that was the reason the report was being considered at this meeting.

MOTION PUT AND PASSED

11. MOTIONS - None

12. ADDED ITEMS

12.1 Case 01276: Pet Care Facilities and Kennels, Lawrencetown

- A staff report dated November 25, 2009 was before Community Council.

MOVED by Councillor Streach, seconded by Councillor Dalrymple that Marine Drive, Valley and Canal Community Council recommend that Halifax Regional Council:

- 1. Give First Reading to the proposed amendments to the Land Use By-law for Lawrencetown, as set out in Attachment A of the staff report dated November 25, 2010, and**
- 2. Schedule a public hearing for February 24, 2010.**

MOTION PUT AND PASSED

12.2 Case 01287: Amendments to the Regional MPS and the MPS and LUB for Planning Districts 14 and 17 and Dartmouth

- A staff report was dated November 26, 2009 was before the Community Council.

MOVED by Councillor Dalrymple, seconded by Councillor Streach that Marine Drive, Valley and Canal Community Council recommend that Halifax Regional Council:

- 1. Give First Reading to the proposed amendments to the Regional Municipal Planning Strategy as contained in Attachment D, and the Municipal Planning Strategy and Land Use By-Law for Planning Districts 14 and 17 as contained in Attachment C of the staff report dated November 26, 2009; and schedule a public hearing date; and**

2. **Approve the proposed amendments to the Regional Municipal Planning strategy as contained in Attachment D, and the Municipal Planning strategy for Planning Districts 14 and 17 as contained in Attachment C of the staff report dated November 26, 2009.**

MOTION PUT AND PASSED

13. **NOTICES OF MOTION** - None

14. PUBLIC PARTICIPATION

Ms. Barbara Markowitz, 30 Harbour Beach Road, referred to the Blue Mountain/Birch Cove Lakes area, which borders a Provincial wilderness area in Bayers Lake. She stated the consequences of a change to this property would not directly affect the residents of this area.

Ms. Markowitz noted the Blue Mountain/Birch Cove Lakes area was designated as a Regional Park area in the HRM Regional Plan. She cited the Regional Plan is a blueprint outlining the orderly development within HRM that Council approved in 2006. Much public consultation went into developing the Regional Plan.

Ms. Markowitz suggested developers are lobbying Councillors to investigate the development of this area. Should Council agree to changes to the Regional Plan and allow development of this area to occur, the integrity of the Regional Plan would be forfeited. She stated that ignoring the Regional Plan would make a mockery of all public consultations and undermine Council's own integrity. Ms. Markowitz requested that each Councillor of the Marine Drive Valley and Canal Community Council vote "no" when this request comes before Council.

Councillor Hendsbee advised Ms. Markowitz that various developers are requesting secondary planning considerations for future development, one of these being in the Blue Mountain/Birch Cove Lakes area. The Regional Plan Advisory Committee, (RPAC), is now hearing the presentations of interested stakeholders of Blue Mountain/Birch Cove Lakes area. The Cost Servicing Study will be coming to the Committee in the near future. Councillor Hendsbee noted that the RPAC consists of members of Council and citizens and is open to the public. Information is also readily available on <http://www.halifax.ca/boardsandcommittees/regionalplanadvisorycommittee/agenda>

Councillor Hendsbee advised that Councillors have been advised to let each matter take its due course through RPAC and wait for its recommendations to Council. They are not to comment on issues coming forward as they could be seen as bias to a development. He requested the Solicitor clarify this issue.

Mr. Randolph Kinghorne, Senior Solicitor, HRM, advised that Councillors could educate themselves regarding the issue but in reality one must deliberate with an open mind to consider all the options.

Councillor Hendsbee advised that although Council has already made amendments to the Regional Plan, the spirit, intent, and principles of the Regional Plan will aid Council in deciding what developments should be allowed. He indicated that asking Councillors

to give their support to refuse the amendments to the Regional Plan concerning Blue Mountain, Birch Cove Lakes area is premature.

Both Councillors' Dalrymple and Streach commented that neither had been lobbied for or against this matter and would keep an open mind to the recommendations of RPAC coming to Council.

Mr. Dale Boyce, 75 Keith Webber Road, Upper Lakeville, NS spoke of the safety issues relative to the entrance to the public road at the intersection of Upper Lakeville Road and the Keith Webber Road. Keith Webber Road dips at the end of the road at the intersection which prevents a safe access to the Upper Lakeville Road. He advised that last January a medical emergency required an ambulance and fire trucks to be dispatched to his home. The ambulance was able to get down the hill but the fire trucks could not because of the ice on the hill. Firefighters had to walk up the road to make sure that traffic was clear for the ambulance to gain access to the public road. He noted that he had made several inquiries to government offices including the MLA Jim Boudreau and was not receiving any assistance with this problem

Councillor Streach clarified that the road, Mr. Boyce lives on, is a private road and it abuts on a provincial road. He further clarified that the intersection is within the Department of Transportation's 60 foot right-a-way. Councillor Streach advised that this intersection would fall under the jurisdiction of the Provincial Department of Transportation.

Councillor Hendsbee advised that the MLA for that area would be MLA Sid Priest. Councillor Streach advised that this Community Council could write a letter on Mr. Boyce's behalf, to the Department of Transportation and the local MLA Sid Priest.

In response to Councillor Hendsbee's question, Mr. Boyce indicated that their only concern is the access to the Upper Lakeville Road. Councillor Hendsbee advised Mr. Boyce that HRM does not have a private road policy but they could form a Private Road Association. They would require two-thirds of the residents that live on the road to agree to set an area rate to maintain Keith Webber Road.

MOVED by Councillor Streach, seconded by Councillor Dalrymple that Marine Drive Valley and Canal Community Council write a letter on the behalf of Mr. Dale Boyce, property owner at 75 Keith Webber Road, Upper Lakeville Road, to the Department of Transportation and with a copy to the MLA of the area, Honourable Sid Priest, to request an investigation into the intersection of Keith Webber Road (private road) and Upper Lakeville Road (provincial road) with a view to have improved to highway standards.

Councillor Hendsbee further requested that Mr. Boyce leave his address with the Clerk who will send out the information on creating a private roads association.

MOTION PUT AND PASSED

15. NEXT MEETING

The next meeting is scheduled for January 27, 2010. Location to be determined at a later date

16. ADJOURNMENT

The meeting adjourned at 8:30 p.m.

Barbara Coleman
Legislative Assistant