

HALIFAX REGIONAL MUNICIPALITY

MARINE DRIVE, VALLEY AND CANAL COMMUNITY COUNCIL MINUTES MAY 19, 2010

PRESENT: Councillor David Hendsbee, Chair
Councillor Barry Dalrymple, Vice Chair
Councillor Steve Streach

STAFF: Mr. Randolph Kinghorne, Municipal Solicitor
Ms. Krista Tidgwell, Legislative Assistant

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1. CALL TO ORDER

The meeting was called to order at 7:03 p.m. at the Eastern Shore Community Centre, 67 Park Road, Musquodoboit Harbour.

2. APPROVAL OF MINUTES - March 10, 2010 and April 1, 2010

MOVED by Councillor Streach, seconded by Councillor Dalrymple, that the minutes of March 10, 2010 and April 1, 2010 be approved, as presented. MOTION PUT AND PASSED.

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

The Committee agreed to discuss Item 4.1.1 - Status Sheet Review following the public participation portion of the meeting.

MOVED by Councillor Dalrymple, seconded by Councillor Streach, 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

4.1.1 Public Participation - Keith Webber Road and Upper Lakeville Road

4.1.2 Lockview High School Football Field

4.1.3 Cameron Park

4.1.4 Willie's Walk

4.1.5 Stan Nelson Trail

4.1.6 Beaver Bank Road

4.1.7 Civic Addressing

4.1.8 Councillor Snow - Land Donation Process - non-denominational cemetery, Fall River

4.1.9 Update on Capital Transportation Authority and Provincial Road Transfer Discussion

This item was discussed following public participation, see page 15.

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 15784: Development Agreement to Permit an Addition to an Existing Commercial Building, Musquodoboit Harbour

- A staff report dated March 4, 2010 was before the Community Council.

Councillor Hendsbee reviewed the public hearing procedures.

Darrell Joudrey, Planner 1, Community Development, delivered a presentation regarding the application of FHDM Properties Limited to the Community Council.

In response to a question raised by Councillor Streach, Mr. Joudrey advised that the Developer has confirmed that there are no potential concerns regarding septic and water.

In response to questions/concerns raised by Councillor Hendsbee, Mr. Joudrey noted the following:

- the two access points must meet Provincial Standards for two-way access when the developer obtains its permits from the Province
- there is a service entrance at the back of the building located at the edge of the boundary line
- there is plenty of room for truck access
- the Development Agreement does not allow for any temporary signage; the agreement only permits a ground sign at the access point onto Highway #7, as well as, a wall mounted sign on the building;
- the property is a Provincial right-of-way along Highway #7 and therefore sidewalks are a Provincial matter; staff had suggested putting access points across the planted area but never discussed the installation of sidewalks

Councillor Hendsbee opened the public hearing, calling three times for any speakers for or against the matter to come forward at this time.

Brian Staple, Musquodoboit Harbour, indicated that he owns the property adjacent to the proposal and requested clarification regarding rear access to the building. He expressed concern regarding the lack of directional signage and asked if there has been any discussion regarding additional signage, which would identify the connector road and various facilities within the surrounding area.

Councillor Hendsbee advised that additional signage that identifies points of interest within the community is not part of the application process. He suggested Mr. Staple forward his request to the Ratepayers Association, in conjunction with the Department of Highways.

Mr. Joudrey noted a correction on the Schedule B Site Plan within Attachment A of the March 14th staff report. Landscaping has been drawn over the rear access point of the service entrance. Councillor Hendsbee requested that the Schedule B Site Plan be amended to reflect the cosmetic change.

Paula Milson, 2048 East Petpeswick Road and Chair of the Musquodoboit Harbour Ratepayers Association, indicated that the Association has completed a visioning process that took place over the last two years. Over 400 residents attended various meetings to voice their concerns/opinions regarding the aesthetics of the community. Landscaping is very important to the community and provides a distinct look from other surrounding communities. She noted that the community has experienced problems over the years trying to access the entrance of Highway #7 and commended staff for their hard work. She further noted that the Association is in support of the proposal.

Colin Cameron, 787 West Petpeswick Road and Vice Chair of Musquodoboit Harbour Ratepayers Association, requested clarification regarding the type of model being proposed for the septic system.

James Drage, Project Manager with Drage & Co., advised that HRM has done a study on the existing septic system and identified that it is sufficient enough for continual use. He noted that upgrades will be done to the septic system when/if required.

In response to a question raised by Mr. Cameron regarding medical waste, **Dr. Wayne Brown, 422 East Petpeswick Road**, indicated that medical waste will be deposited of by other means and not through the septic system.

Councillor Hendsbee gave the third and final call for speakers; there being no further speakers, it was **MOVED by Councillor Streach, seconded by Councillor Dalrymple, that the public hearing be closed. MOTION PUT AND PASSED.**

It was noted that Mr. Drage represents the proponent and no concerns were brought forward by Mr. Drage on behalf of the proponent during the public hearing.

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 of the staff report dated March 4, 2010, to permit an addition to an existing commercial building at 7907 Highway 7, Musquodoboit Harbour; and**
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 84 Gammon Lake Road, Lawrencetown

- A staff report dated May 11, 2010 was before the Community Council.
- Photos, submitted by the Appellant, of 84 Gammon Lake Road were distributed to the Community Council.

Councillor Hendsbee reviewed the variance hearing procedures.

Mr. Marc Ouellet, Development Technician, provided an overview of the staff report dated May 11, 2010 to the Community Council, noting that the civic address is 84 Gammon Lake Road; however, the house and driveway faces Lillian Drive. He suggested that the address be reviewed and confirmed by Civic Addressing.

Councillor Hendsbee called for the appellant and any property owners within the thirty metre boundary to come forward if they wish to speak for or against the variance.

Brendon Mercer, appellant, commented that he was advised by HRM that a structure could not be built in the corner of his property because it would obstruct the view. He noted that he has spoken with most of his neighbours within the 100 metre range, who indicated they had no objections to the variance. One of HRM's conditions is to locate the garage on an alternative portion of the lot. The quote he received from the landscaping company to install a second driveway is for more than \$7,000, which doubles the cost to build a garage.

Councillor Hendsbee called three times for any further speakers; there being no further speakers, it was **MOVED by Councillor Dalrymple, seconded by Councillor Streach, that the variance hearing be closed. MOTION PUT AND PASSED.**

Councillor Streach thanked the Mr. Mercer and Mr. Ouellet and commented that the Community Council has the ability to overturn staff's recommendation, where staff are bound by regulations.

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

Councillor Streach further commented that placing the garage in the corner of the lot is not inconsistent with other rural properties and therefore, the appellant/property should not be penalized based on regulations.

Councillor Hendsbee advised that Mr. Mercer should have his address reviewed by Civic Addressing, noting that the orientation and access of the house/driveway could be confusing for emergency services.

MOTION PUT AND PASSED.

8.2.2 Appeal of the approval of Variance #16001 - 2889 Highway #2, Fall River

- A staff report dated May 11, 2010 was before the Community Council.

Trevor Creaser, Development Officer, provided an overview of the staff report dated May 11, 2010 to the Community Council.

Councillor Hendsbee called for the applicant and any property owners within the thirty metre boundary to come forward if they wish to speak for or against the variance.

Brian Kelly, applicant, Lower Sackville, indicated that he was speaking on his wife's behalf and commented that the variance request is to allow their house to be built an additional 10 feet away from Lake Thomas.

In response to a question raised by Councillor Hendsbee regarding the removal of trees, Mr. Kelly indicated that he will be clearing all of the trees away from the lot and replanting more trees once construction is completed. He noted that he will also be installing silt fences before construction commences.

Councillor Hendsbee called three times for any further speakers; there being no further speakers, it was **MOVED by Councillor Streach, seconded by Councillor Dalrymple, that the variance hearing be closed. MOTION PUT AND PASSED.**

MOVED by Councillor Dalrymple, seconded by Councillor Streach, that the Marine Drive, Valley and Canal Community Council uphold the decision of the Development Officer to approve the request for variance.

Councillor Dalrymple advised that he has attended the sight and reviewed both letters of appeal. The letters express concern regarding the property being developed at all. Mr. Kelly has the right to build on the property because it has been grand fathered and therefore, staff and the Community Council can not prevent the house from being built. He commented that the Development Officer has made the correct choice by allowing the house to be built closer to the road rather than the water.

Councillor Streach indicated that the request is consistent with most developments, where buildings/houses are being constructed further away from the water.

Councillor Hendsbee noted for the record that there were two letters of appeal received within the appeal period from Ms. Elaine Coakley and Mr. David Spencer. Both letters are attached to the May 11th staff report. Councillor Hendsbee advised that Mr. Kelly has no intentions of infilling the Lake, as expressed in one of the letters. With respect to the environmental concerns express in the other letter, the septic system has been designed and certified and will meet the requirements of the Department of Environment.

MOTION PUT AND PASSED.

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS

9.1 Correspondence

9.1.1 Intersection - Keith Webber Road (Private Road) at Upper Lakeville Road - Lake Charlotte

- Correspondence dated May 19, 2010 to Councillor Hendsbee from Darcey MacBain, Area Manager - Halifax East, with attached correspondence dated May 17, 2010 from Robert F. Sweet, CET, District Traffic Supervisor - Central, to Mr. MacBain, was submitted for the record.

Councillor Hendsbee requested that a copy of the correspondence dated May 17th from Mr. Sweet be forwarded to Mr. Dale Boyce and Councillor Streach for their information.

9.2 Petitions - None

9.3 Presentations - None

10. REPORTS

10.1 STAFF REPORTS

10.1.1 Supplementary Report - Case 01276 - Pet Care Facilities and Kennels, Lawrencetown

- A staff supplementary report dated April 14, 2010 was before the Community Council.

Mr. Mitch Dickey, Planner, Community Development, provided an overview of the April 14th staff supplementary report to the Community Council. The following points were noted:

- a Public Hearing was held on March 10, 2010; a supplementary report was requested
- amendments presented at the March 10th meeting have been reiterated in Attachment A of the April 14th supplementary staff report
- omissions from the September 9th public meeting minutes have been addressed within the April 14th staff supplementary report
- during the March 10th meeting, the Community Council felt that the definition of commercial showing is ambiguous and needed to be addressed; alternate wording has been developed and is shown in Attachment B of the April 14th staff supplementary report; amendments in Attachment B include:
 - “commercial showing” would be removed and make reference to where individuals will be keeping other people’s dogs for purposes of showing or training
 - changes in terminology regarding the breeding component of the kennel definition; if an owner has more than two dogs for the purposes of breeding, HRM considers the owner to have a kennel; the definition of business is not dependant on whether the business makes a profit

In response to a question of clarification raised by Councillor Hendsbee, Mr. Dickey confirmed if a pet/home owner has one or multiple dogs that are just for show, that owner would not be considered as operating a kennel.

Councillor Hendsbee noted the following amendments to Attachment A of the April 14th supplementary staff report:

- under section 2.30 (ii), Ross Road should be excluded because it is not with the Lawrencetown Plan
- a calculation error under section 6.20 (c), subsections iv and v - 30.5 and 91.5 should both be 61 metres

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

1. **adopt the proposed amendments to change the definition of “kennel” in the Land Use By-law as outlined in Attachment B of the staff supplementary report dated April 14, 2010; and**
2. **amend Attachment A of the staff supplementary report dated April 14, 2010 to reflect the following changes:**
 - **removal of section 2.30 (ii) Ross Road**
 - **amend 30.5 m under section 6.20 (c) (iv) to 61 m**
 - **amend 91.5 m under section 6.20 (c) (v) to 61 m**

Councillor Hendsbee requested clarification as to whether there is a process to allow members of the public to express their concerns/questions in relation to the amendments.

Mr. Randolph Kinghorne, Municipal Solicitor, advised that the Community Council has control over the processes and can agree to hear from members of the public. He noted that questions/concerns expressed from the public should be raised through the Chair by form of clarification. The Chair then has the ability to seek further response from staff.

In response to a question from Councillor Hendsbee regarding the appeal process, Mr. Kinghorne indicated that there is always an opportunity to appeal if members of the public feel that the Community Council has acted unfairly. He noted that an appeal petition would be made to the Supreme Court of Nova Scotia. He commented that there is also a political aspect and should members of the public challenge the Community Council's motion, Regional Council has the ability to assume responsibility for the appeal under its jurisdiction.

The Community Council agreed to allow members of the public to seek clarification on the amendments with comments being directed through the Chair.

Janice Kivimiki, 167 Margery Drive, expressed the following points/concerns:

- many citizens who had voiced their concerns during the public meetings/hearing were not in attendance at this meeting; however, many breeding hobbyists are
- the Chair had previously recommended during a meeting that a working group be formed to allow for discussion which includes a range of expertise from hobby breeders, pet care facility owners, Council and the general public, which was never done
- the definition of commercial breeding outlined in Attachment B of the April 14th staff supplementary report is offensive; many breeding hobbyists are not commercial breeders and do not make a profit; some breeding

- hobbyists do sell puppies to assist with covering expenses such as breeding, vet care, food, etc.
- the term breeding should be a separate matter from pet care facilities; pet care facilities include: doggie daycares and boarding, which typically do not breed
- the Community Council does not understand the hobby of breeding/showing dogs
- amendments to the By-law will affect dog owners/breeders throughout the Province

Henry Moran, 167 Margery Drive, expressed concern with breeders selling puppies through online classified advertising such as Kijiji, noting that many of those breeders are mixing breeds to make a profit. He asked whether HRM will be going after those types of groups to prohibit people from selling puppies online. He commented that breeding hobbyists breed their dogs to maintain the breed's standard.

Jim Britten, Head of Jaddore, requested clarification regarding the removal of Ross Road from the Lawrencetown Plan, indicating that Highway #207 is also not included within the Lawrencetown Plan.

Councillor Hendsbee clarified that Highway #207 from the Salmon River bridge near Ross Road to the bridge at Rocky Run is included within the Lawrencetown designation.

Mr. Kinghorne advised that it is not necessary to clarify in the By-law which portions of Highway #207 are included. The By-law applies to the Lawrencetown area and is defined as the subject area.

Karen Metcalf, 2 Queens Road, expressed the following key points and concerns:

- kennel clubs bring revenue to HRM; showing dogs is a sport
- breeding puppies assists with maintaining the quality of the breeds, as well as with the shows
- many breeding hobbyists have to travel to other provinces to acquire a quality breed
- she operates a dog run, not a commercial kennel
- she received a Court Summons because of a neighbour's complaint; she spent money to prove that she does not operate a commercial kennel
- her male dogs are neutered and the females are related to the males; breeding would have to be done by way of test tube
- wrote and called the members of the Community Council, staff and solicitors and has not received a response
- a committee needs to be formed to protect HRM's kennel clubs

Jennifer Vey, 20 Gaetz Lake Drive, commented that she is in support of the term breeding being separated from the definition of kennel and noted that it costs her over \$4,000 for her dog to produce a litter of puppies.

Colleen Phillips, Dartmouth, President of Halifax Kennel Club, noted the following points and concerns:

- the Halifax Kennel Club are active members within the community with regard to fundraising
- the Club's shows are recognized across Canada and has won an award for being the best dog show, which brought in revenue and advertising for HRM
- the definition of kennel will create problems for dog owners that have two dogs and want to breed them; once the puppies are born, the breeder would be in violation of the By-law
- lack of action being taken to stop people from operating puppy mills

Shelley Hutt, Musquodoboit Harbour, noted that her dogs provide aid as therapy dogs.

Councillor Hendsbee clarified that with regard to commercial breeding, amendments to the definition are to address land use activity and not the liability. The By-law provides clarification as to where these types of activities should be permitted within the Lawrencetown Plan area. Presently, kennels are not permitted within the Lawrencetown Plan. The Community Council and staff are trying to determine an avenue to allow this activity to operate, as well as, provide the opportunity for pet care facilities. The request to separate pet care facilities from the definition of kennel is to alleviate confusion, issues or overlaps. During the Public Hearing many residents expressed concern with the location of kennels, not the overall operation of kennels. The proposed amendment is to have designated areas within the Lawrencetown Plan that allows for other livestock activity.

Mr. Dickey suggested that a review/consideration of increasing the number of dogs constituting a kennel under the Municipal Planning Strategy (MPS) could be done through Regional Council and further suggested that this review be done on a region wide basis. He noted a correction to Attachment A of the April 14th staff supplementary report, under section 2.30 (ii) Ross Road should be Crowell Road. Councillor Hendsbee requested that this correction be noted in the motion.

Councillor Hendsbee further noted that his comments about community consultation related to the Animal Control By-law. He suggested that the definitions within the By-law need to be reviewed and revised. This meeting is to review land use activity and should not be confused with animal activity.

During the ensuing discussion, the Community Council noted the following points:

- there is an increasing demand within the Lawrencetown area to allow doggie daycares, which have traditionally been a part of breeding operations, as well as, breeding activities
- since 1989, breeding activities have been prohibited within the Lawrencetown area
- Ms. Metcalf's court case related to noise, falls under the Animal Control By-law and is not a land use issue; however, Ms. Metcalf has recently been charged under the Land Use By-law regarding the number of dogs she owns
- the Community Council did not request a review relative to changing the breeding requirements in regard to the number of dogs permitted and therefore, no changes to this area have been made
- the revised kennel definition within Attachment B of the April 14th staff supplementary report, is broken down into three components
- the legislation relating to keeping more than two dogs for the purposes of commercial breeding has been in place for over twenty years within Lawrencetown area and more than thirty years within Halifax County
- the definition of a pet care facility will allow small/medium scale boarding of up to twelve dogs

Councillor Hendsbee called for the question to be put. The motion now reads:

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

1. **adopt the proposed amendments to change the definition of "kennel" in the Land Use By-law as outlined in Attachment B of the staff supplementary report dated April 14, 2010; and**
2. **amend Attachment A of the staff supplementary report dated April 14, 2010 to reflect the following changes:**
 - **amend Ross Road to Crowell Road**
 - **amend 30.5 m under section 6.20 (c) (iv) to 61 m**
 - **amend 91.5 m under section 6.20 (c) (v) to 61 m**

MOTION PUT AND PASSED.

MOVED by Councillor Dalrymple, seconded by Councillor Streach, that the Marine Drive, Valley and Canal Community Council approve the proposed amendments to the Land Use By-law for Lawrencetown as set out in Attachment A, as amended, of the staff supplementary report dated April 14, 2010. MOTION PUT AND PASSED.

10.2 BOARDS & COMMITTEES

10.2.1 Halifax Watershed Advisory Board - Request for Approval to Appoint a Representative from the Shubenacadie Watershed Environmental Protection Society (SWEPS) to the Halifax Watershed Advisory Board (HWAB)

- Correspondence dated April 7, 2010 from Ms. A. Ellinor Williams, Chair of the Halifax Watershed Advisory Board, along with background information regarding the Shubenacadie Watershed Environmental Protection Society, was before the Community Council.

MOVED by Councillor Dalrymple, seconded by Councillor Streach, that the Marine Drive, Valley and Canal Community Council approve the appointment of a representative of the Shubenacadie Watershed Environmental Protection Society (SWEPS) to the Halifax Watershed Advisory Board (HWAB). MOTION PUT AND PASSED.

11. MOTIONS - NONE

12. ADDED ITEMS - NONE

13. NOTICES OF MOTION - NONE

14. PUBLIC PARTICIPATION

No members of the public came forward at this time.

4. BUSINESS ARISING OUT OF THE MINUTES

4.1 STATUS SHEET REVIEW

4.1.1 Public Participation - Keith Webber Road and Upper Lakeville Road

This item was discussed under Item 9.1.1 - Intersection - Keith Webber Road (Private Road) at Upper Lakeville Road - Lake Charlotte, see page 9.

MOVED by Councillor Streach, seconded by Councillor Dalrymple, that Item 4.1.1 - Public Participation - Keith Webber Road and Upper Lakeville Road be removed from the Status Sheet. MOTION PUT AND PASSED.

4.1.2 Lockview High School Football Field

Item completed, removed from the Status Sheet.

4.1.3 Cameron Park

Pending, item to remain on Status Sheet.

4.1.4 Willie's Walk

Pending, item to remain on Status Sheet.

4.1.5 Stan Nelson Trail

Pending, item to remain on Status Sheet.

4.1.6 Beaver Bank Road

Further clarification requested, item to remain on Status Sheet.

4.1.7 Civic Addressing

Councillor Hendsbee indicated that there is work still outstanding within District 3 and requested this item remain on the Status Sheet.

4.1.8 Councillor Snow - Land Donation Process - non-denominational cemetery, Fall River

Item completed, removed from the Status Sheet.

4.1.9 Update on Capital Transportation Authority and Provincial Road Transfer Discussion

Discussion coming forward to Regional Council, item removed from the Status Sheet.

15. NEXT MEETING DATE - June 9, 2010 at the Lake Echo Community Centre Gym, 3168 Highway #7, Lake Echo. Meeting will commence at 7 p.m.

16. ADJOURNMENT

The meeting adjourned at 9:04 p.m.

Krista Tidgwell
Legislative Assistant

INFORMATION ITEMS
May 19, 2010

None.