

**PENINSULA COMMUNITY COUNCIL
MINUTES**

October 5, 2009

PRESENT: Councillor Sue Uteck, Chair
Councillor Jerry Blumenthal
Councillor Jennifer Watts
Councillor Dawn Sloane

STAFF: Ms. Karen Brown, Senior Solicitor
Ms. Sheilagh Edmonds, Legislative Assistant

TABLE OF CONTENTS

1.	CALL TO ORDER	4
2.	APPROVAL OF MINUTES	4
3.	APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS	4
4.	BUSINESS ARISING OUT OF THE MINUTES / STATUS SHEET:	
4.1	Status Sheet	4
4.1.1	Neighbourhood Downzoning	4
4.1.2	Presentation - Halifax Peninsula Community Health Board	4
4.1.3	Mitchell's Enviro Depot Update	4
4.1.4	CN Property Maintenance	4
4.1.5	Peninsula Place Flooding	4
4.1.6	Litter Receptacles in the area of Robie/North/ Agricola/Almon	4
5.	MOTIONS OF RECONSIDERATION	5
6.	MOTIONS OF RESCISSION	5
7.	CONSIDERATION OF DEFERRED BUSINESS:	5
8.	HEARINGS	
8.1	Public Hearings:	5
8.1.1	Case 01246 - Development Agreement, 5280 -82 South Street and 5279 Tobin Street, Halifax	5
8.2	Variance Hearings	6
8.2.1	Variance Appeal Hearing: #15529 - 1659 Preston Street	6
8.2.2	Variance Appeal Hearing: #15560 - 6027 Willow Street	8
9.	CORRESPONDENCE, PETITIONS AND DELEGATIONS:	
9.1	Correspondence:	9
9.2	Petitions	9
9.3	Presentations:	9
10.	REPORTS:	
10.1	Staff Reports:	9
10.2	Committee Reports:	10
10.3	Members of Peninsula Community Council:	10
11.	MOTIONS	10
12.	ADDED ITEMS:	
12.1	Councillor Blumenthal - Vandalism Hotline	10
12.2	Councillor Uteck - Request for Information Report - Quinpool Mainstreet District Association Zoning	10

13.	NOTICES OF MOTION	11
14.	PUBLIC PARTICIPATION:	11
15.	NEXT MEETING	11
16.	ADJOURNMENT	11

1. **CALL TO ORDER**

The Chair called the meeting to order at 7:00 p.m.

2. **APPROVAL OF MINUTES**

MOVED by Councillor Sloane, seconded by Councillor Blumenthal that the minutes of the September 14, 2009 meeting and of the special meeting of September 15, 2009 be approved. MOTION PUT AND PASSED.

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

Additions:

- 12.1 Councillor Blumenthal - Vandalism Hotline
- 12.2 Councillor Uteck - Request for Information Report - Quinpool Mainstreet District Association Zoning

4. **BUSINESS ARISING OUT OF THE MINUTES / STATUS SHEET:**

4.1 **Status Sheet**

4.1.1 **Neighbourhood Downzoning**

This item is to remain on the Status Sheet.

4.1.2 **Presentation - Halifax Peninsula Community Health Board**

This item is to remain on the Status Sheet.

4.1.3 **Mitchell's Enviro Depot Update**

Councillor Sloane provided a verbal update on this item. She advised that Mr. Ross Cantwell has formed the *Affordable Housing Trust* and he and his partners are considering buying Mitchells property and, currently, are about to carry out two test pits to determine if there has been any contamination offsite. She noted that the property has not yet been sold. This item is to remain on the Status Sheet.

4.1.4 **CN Property Maintenance**

This item is to remain on the Status Sheet.

4.1.5 **Peninsula Place Flooding**

This item is to remain on the Status Sheet.

4.1.6 **Litter Receptacles in the area of Robie/North/Agricola/Almon**

The Chair noted that this item has been on the Status Sheet for quite some time, and she asked the Legislative Assistant to follow up with staff for an update.

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 01246 - Development Agreement, 5280 -82 South Street and 5279 Tobin Street, Halifax**

A report dated September 1, 2009 from the Chair of the District 12 Planning Advisory Committee was before Community Council, with an attached staff report dated August 11, 2009.

First Reading was given at a special meeting of Peninsula Community Council held on September 15, 2009.

Mr. Paul Sampson, Planner, outlined the application by Deborah and Jeffrey Conrad for a development agreement to allow for the subdivision of the property at 5280-82 South Street and 5279 Tobin Street, Halifax. In his remarks, Mr. Sampson advised that the application was made to enable each building to be located on its own lot and, therefore, owned separately. He added that the development agreement does not allow for future additions or increases in the number of dwelling units. In closing, Mr. Sampson pointed out some minor typographical errors in the agreement and advised that if Community Council were to approve the application, staff would ensure that the corrections are made prior to signing.

There were no questions from Community Council.

The Chair opened the public hearing and called for anyone wishing to speak to this matter. No one came forward to address Community Council.

MOVED by Councillor Blumenthal, seconded by Councillor Watts that the public hearing close. MOTION PUT AND PASSED.

MOVED by Councillor Sloane, seconded by Councillor Blumenthal that Peninsula Community Council:

- **Approve the proposed development agreement as contained in Attachment A of the staff report dated August 11, 2009 to allow for the subdivision of property at 5280-82 South Street and 5279 Tobin Street, Halifax; and**
- **Require the agreement be signed and delivered within 120 days from**

the date of delivery of documentation to the applicant for execution, or any extension thereof granted by Council on request of the applicant, from the date of final approval of said agreement by Council and any other bodies as necessary, whichever is later, including an applicable appeal periods; otherwise this approval shall be void and any obligations arising hereunder shall be at an end.

MOTION PUT AND PASSED.

8.2 Variance Hearings:

8.2.1 Variance Appeal Hearing: #15529 - 1659 Preston Street

A staff report dated September 23, 2009 was submitted.

A letter dated October 2009 from Forest and Sally Fyfe was submitted.

A letter dated September 29, 2009 from Joan and Stan Fage was submitted.

Mr. Andrew Faulkner, Development Officer, advised that on October 1, 2009 the appellant, Mr. Simms, requested that his variance appeal be removed from the October 5, 2009 agenda, because he was still gathering information and was not ready for the hearing. Mr. Faulkner added that Mr. Simms was advised that due to his short notice, his best route would be for Community Council to hold the hearing, however, he could request deferral at that time.

The Chair requested clarification of the timeline pertaining to 'notification' in regard to this variance appeal.

In response, Mr. Faulkner explained that the notice to appeal was dated August 19, 2009 and on August 28, 2009 Mr. Simms was advised that the hearing would be held on this date (October 5, 2009).

The Chair indicated that due to the fact that Mr. Simms waited so late to request deferral of his hearing, and that the notification had already been sent to the neighbours, Community Council would hear the appeal this evening.

Ms. Karen Brown, Municipal Solicitor, provided clarification on the procedure in which Community Council could deal with the matter. She explained that before Community Council is an application by the applicant/appellant to adjourn the hearing this evening and that the appropriate procedure would be that, if the applicant/appellant wishes to apply for adjournment, then he could come forward and provide reasons to Community Council. Community Council could then decide whether to provide him with additional time or whether to proceed with the hearing. Ms. Brown added that when Community Council is determining whether an application for an adjournment is appropriate, it needs to weigh the prejudice to the various parties. Noting that Mr. Simms is the applicant/appellant and is the owner of the property who has applied for the variance and it has been refused, she advised that he has a statutory right to appeal but Community Council needs to listen to his reasons for requesting the adjournment, and

then make the determination of how it wants to proceed.

The Chair questioned if the applicant was in attendance, and no one came forward.

The Chair asked Community Council how it wished to proceed.

Councillor Uteck requested Councillor Sloane to take the Chair so she could speak to this matter.

Councillor Uteck advised that due to the late notice for deferral, noting that the request came on Friday afternoon, and that the neighbours have all been notified, she was prepared to move forward with the variance appeal hearing.

MOVED by Councillor Uteck, seconded by Councillor Blumenthal that Peninsula Community Council proceed with the variance appeal hearing for 1659 Preston Street. MOTION PUT AND PASSED.

Councillor Uteck assumed the Chair.

Ms. Brenda Seymour, Development Technician, provided the presentation on the Development Officers' decision to deny a variance for the side yard setback of the Halifax Peninsula Land Use Bylaw to permit conversion of a single-unit dwelling to a two-unit dwelling. In her presentation, Ms. Seymour advised of the following reasons why the application was turned down:

- allowing the reduction for the side yard setback to create a second unit would violate the intent of the land use bylaw, as it would create a two-unit dwelling in a neighbourhood that is predominately characterized by single family homes.
- many properties in the neighbourhood would have difficulty in meeting the sideyard setbacks should they wish to add on a second unit, therefore, the difficulty associated with the proposal is general to the properties in the area.

Ms. Seymour noted that staff have received two letters and two phone calls in support of the Development Officer's decision.

Councillor Watts questioned whether the property owner has a right to reapply for a variance if he does not agree with Community Council's decision.

In response Ms. Brown, Municipal Solicitor, advised that there is no statutory right of appeal beyond this evening; however, there is recourse through the courts by way of judicial review. She added that the individual would be able to apply again, but the argument he would come up against is that the application has already been heard, and it would depend on the exact nature of the application.

In response to further questioning by Councillor Watts, Ms. Brown concurred that there is the possibility that the individual could make a slight modification to their application and re-apply.

The Chair reviewed the Rules of Procedure for Variance Appeal hearings and opened the appeal hearing.

Mr. Brook Taylor, Halifax, advised that he and his wife resided in the area and he wanted to confirm to Community Council that it is a residential area of single-family dwellings. He added that they enjoy where they live and view the proposed development as a threat to their home.

The Chair called three times for anyone else wishing to speak; there being none, it was **MOVED by Councillor Sloane, seconded by Councillor Blumenthal that the Appeal Hearing close. MOTION PUT AND PASSED.**

Councillor Uteck requested Councillor Sloane to take the Chair so that she could address this matter.

MOVED by Councillor Uteck, seconded by Councillor Blumenthal that Peninsula Community Council uphold the decision of the Development Officer to deny the variance.

In moving the motion, Councillor Uteck advised that her decision was based on Section 250 of the HRM Charter and Policy 2.4 of the Land Use Bylaw. Councillor Uteck pointed out that the neighbourhood is predominately single-family, and there are some students, but it is a well-balanced, mixed-use area. She added that the area has the future potential to become a predominately single-family block, and this is the wish of the neighbours.

Councillor Watts referred to an earlier comment of staff concerning two letters submitted and two phone calls, and she questioned if the phone calls were from different individuals.

Ms. Seymour clarified that the phone calls were from other neighbours than those who submitted letters.

MOTION PUT AND PASSED.

Councillor Uteck assumed the Chair.

8.2.2 Variance Appeal Hearing: #15560 - 6027 Willow Street

A staff report dated September 24, 2009 was submitted.

Mr. Andrew Faulkner, Development Officer presented the report outlining the reason he refused to grant a variance from the lot coverage requirements of the Halifax Peninsula Bylaw to permit a rear addition to 6027 Willow Street. Mr. Faulkner explained that the property owner wanted to construct a rear addition on support posts to the second storey of the building, but the addition would exceed the permitted lot coverage by over 10 percent. He advised that under the Land Use Bylaw requirements to consider variances, the situation experienced in regard to lot coverage is general to the area and the variance was refused on this basis.

There were no questions from Community Council.

The Chair opened the appeal hearing.

Mr. Jamie Vaslet, the appellant addressed Community Council and advised that he owned the two-unit property and that he and his son reside in one unit and that his brother was living in the other unit. Mr. Vaslet made reference to the Development Officer's reason for refusing the variance, and provided calculations which, in his opinion, illustrate that other buildings in his neighbourhood were larger than his. Mr. Vaslet also noted that he has received letters from his neighbours and the housing co-op indicating that they do not have any difficulty with his proposed addition. Mr. Vaslet explained that he requires the addition in order that he can make an extra bedroom. He pointed out that, currently, his son has the bedroom and he sleeps on the couch in the living room. The addition will enable him to have another bedroom for himself. Without the addition, Mr. Vaslet advised that he will be forced to move, and this was something he did not want to do as he's been living in the neighbourhood for 38 years.

Mr. Michael Westlake, Willow Street, addressed Community Council and spoke in support of Mr. Vaslet's application. In reference to the lot coverage concern expressed by staff, he pointed out that his own house protrudes out farther than Mr. Vaslet's and even with the proposed addition, his house would still protrude out farther than Mr. Vaslet's.

The Chair called three times for any additional speakers. There being none, it was MOVED by Councillor Watts, seconded by Councillor Sloane that the appeal hearing close. MOTION PUT AND PASSED.

MOVED by Councillor Watts, seconded by Councillor Sloane that the decision of the Development Officer be overturned and the variance be granted.

Councillor Watts advised that she visited the property and does not believe the proposed addition will change the character of the neighbourhood. In addition, she noted that there have been no complaints from the neighbours and only support for the proposal, and that this addition will provide a better living space for the family.

Councillor Sloane also indicated that she was supportive of the appellant as the application pertains to a quality of life issue. She advised that, in order to get people to stay on the Peninsula and more people moving back to live on the Peninsula, it is important to consider issues like quality of life when dealing with variance appeals.

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 Staff Reports: None

10.2 Committee Reports: None

10.3 Members of Peninsula Community Council: None

11. MOTIONS: None

12. ADDED ITEMS:

12.1 Councillor Blumenthal - Vandalism Hotline

Councillor Blumenthal advised that he was looking for Community Council's support of a proposal to establish a vandalism hotline at the Police Station. The Councillor cited a recent incident of vandalism which, when occurred, was first reported to 911 but the people were told to contact the police non-emergency number instead and, by the time the police responded to the scene, the vandals were gone. Councillor Blumenthal also noted that many residents are afraid to report incidents of vandalism directly to the police for fear of retaliation. Councillor Blumenthal made reference to a recent vandalism incident in Sackville involving smashed windows and suggested that a hotline would be useful throughout the Municipality.

At the Chair's suggestion, **Community Council agreed** to forward the matter to the Police Department for consideration and report back on the feasibility of establishing a vandalism hotline and whether it can be accommodated in the upcoming budget.

Councillor Sloane noted her support of the idea, adding that fear of retaliation is a factor when it comes to reporting vandalism. Councillor Sloane indicated that the police non-emergency number is not reliable because, when it is too busy, phone calls are sometimes directed as far as Truro, and then transferred back.

Councillor Uteck expressed concern over Councillor Sloane's remark on the non-emergency number and suggested that this should be forwarded to Chief Beazley. She noted that approximately \$13 million was spent on implementing the system.

Councillor Watts also advised that some individuals have told her that they have called the non-emergency number, and it just rang with no one picking up. She added that she would like the report to address the facilitation and staffing of the non-emergency number. Councillor Watts also asked that the report provide clarity around the role of the Community Response Officer, pointing out that, although she has the phone number to reach the community response officer in her district, she is not sure if this is a number that can be handed out to the public.

In closing the discussion, Councillor Blumenthal advised that even though there would be a cost associated with a vandalism hotline it would still be less expensive than the cost that vandalism has on the Municipality.

**12.2 Councillor Uteck - Request for Information Report - Quinpool
Mainstreet District Association Zoning**

MOVED by Councillor Uteck, seconded by Councillor Sloane that staff provide an information report outlining options on a go forward basis to re-examine the

current zoning on the Quinpool Mainstreet District Association in order to permit the zoning designation of "Lounge" within a restaurant. Such options should examine a wholesale MPS change or site specific MPS changes that provide for a development agreement.

In moving the motion Councillor Uteck advised that she was asking for this report because there are currently three requests for such a zoning change.

MOTION PUT AND PASSED.

13. NOTICES OF MOTION - None

14. PUBLIC PARTICIPATION:

Mr. Graham Hicks Halifax addressed Community Council and questioned whether there were plans to install a sidewalk in the area between the Casino and Upper Water Street. Mr. Hicks also noted that there are some signalized traffic intersections in which a pedestrian has to push a button in order to get a 'walk' light. He suggested it would be easier for pedestrians if the 'walk' light automatically changed with the traffic lights.

In regard to Mr. Hicks concern about the pedestrian walk light Councillor Watts agreed and suggested that she could understand the requirement for areas outside the urban core, but areas in the urban core and, in particular, the downtown areas, it was not appropriate. She requested an information report back on whether areas in the urban core could be changed so that pedestrians do not have to push a button in order to get the 'walk' signal

Councillor Sloane asked the Legislative Assistant to follow up with staff and see if this area is on the list for installation of a sidewalk.

15. NEXT MEETING - November 9, 2009

16. ADJOURNMENT

The meeting adjourned at 7:50 p.m.

Sheilagh Edmonds
Legislative Assistant