

WESTERN REGION COMMUNITY COUNCIL

MINUTES

October 18, 2010

PRESENT: Councillor Stephen D. Adams, Chair  
Councillor Reg Rankin, Vice-Chair  
Councillor Peter Lund

REGRETS: None

STAFF: Mr. Martin Ward, Solicitor  
Ms. Chris Newson, Legislative Assistant

## Table of Contents

1.	CALL TO ORDER.....	3
2.	APPROVAL OF MINUTES .....	3
3.	APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS .....	3
4.	BUSINESS ARISING OUT OF THE MINUTES .....	3
	4.1 Status Sheet.....	3
	4.1.1 Sambro Fishery .....	3
	4.1.2 St. Margaret's Bay / Prospect Road Intersection.....	3
	4.1.3 Temporary School Bus Stop at Prospect Road Community Centre .....	3
5.	MOTIONS OF RECONSIDERATION .....	3
6.	MOTIONS OF RESCISSION .....	4
7.	CONSIDERATION OF DEFERRED BUSINESS .....	4
8.	HEARINGS.....	4
	8.1 Public Hearings .....	4
9.	CORRESPONDENCE, PETITIONS AND DELEGATIONS .....	11
10.	REPORTS .....	11
11.	MOTIONS.....	11
12.	ADDED ITEMS .....	11
	12.1 Case 01297: Development Agreement Time Extension - 7990 St. Margaret's Bay Road, Ingramport .....	11
13.	NOTICES OF MOTION .....	12
14.	PUBLIC PARTICIPATION .....	12
15.	NEXT MEETING.....	12
16.	ADJOURNMENT .....	12

**1. CALL TO ORDER**

Councillor Adams, Chair, called the meeting to order at 7:00 p.m. in the Captain William Spry Centre, Spryfield.

**2. APPROVAL OF MINUTES - September 20, 2010**

**MOVED by Councillor Lund, seconded by Councillor Rankin that the minutes of September 20, 2010, as presented, be approved. MOTION PUT AND PASSED.**

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

Additions: 12.1 Case 01297: Development Agreement Time Extension - 7990 St. Margaret's Bay Road, Ingramport

**MOVED by Councillor Rankin, seconded by Councillor Lund that the agenda, as amended, be approved. MOTION PUT AND PASSED.**

**4. BUSINESS ARISING OUT OF THE MINUTES**

**4.1 Status Sheet**

**HRM Responsibility**

**4.1.1 Sambro Fishery**

Councillor Adams advised that he is dealing with staff on this issue.

**Provincial Responsibility**

**4.1.2 St. Margaret's Bay / Prospect Road Intersection**

Councillor Rankin advised that this item may be removed from the status sheet.

**Halifax Regional School Board Responsibility**

**4.1.3 Temporary School Bus Stop at Prospect Road Community Centre**

Councillor Rankin advised that this item may be removed from the status sheet.

**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 01280 - Development Agreement - Herring Cove Village**

A Staff Report dated June 7, 2010 was before the Community Council.

A copy of the Halifax Watershed Advisory Board report dated January 4, 2010 was before the Community Council.

Ms. Patricia Hughes, Planner, presented the staff report. She noted an error on page 3 of the report in regard to the number of flag lots and clarified that there were only nine (9) flag lots, not eleven (11), proposed for the development.

In response to questions of clarification from Members of Community Council, Ms. Hughes advised that:

- the proposed development is for 49 single family residential lots and was modified from the original proposal for 76 semi-detached dwellings with 11 single family units following the public information meetings as there was clear opposition and concern from the public in regard to lot coverage for semi versus single unit dwellings
- there was a precedent set in regard to the interpretation of the policy for flag lots in a previous development for Case 01178 which allowed a lot frontage reduction to 60' from 75' and lot areas reduced to 6,000 square feet from 10,000 square feet provided that an area equivalent to the total area reduction for each lot was provided as contiguous, common open space. At that time, staff proposed that the average frontages and areas must total 60' and 6,000 square feet respectively
- discussions have been held with Halifax Water in regard to potential power outages in regard to the proposed pumping station. Halifax Water will design the system so that a back-up generator may be implemented during a power outage, or; there will be a back-up storage tank with an alarm on the pumping station
- the steep slope in regard to the pumping station area and potential for overflow into the storm water area during a power outage will be addressed as part of the detailed design by Halifax Water
- the suggestion by the Halifax Watershed Advisory Board that native plants be placed along the storm water retention pond was not included in the Development Agreement, however; it could be part of the Halifax Water detailed design of the system. Ms. Hughes will confirm this with

Halifax Water.

Councillor Adams explained the rules of procedure for public hearings then opened the public hearing calling for any speakers for or against the proposal.

**Mr. Nathan Rogers, Planner, Terrain Group/Genivar, Representing the Applicant,** explained that the plan is in substantial conformance with the Herring Cove Area Settlement and Servicing Strategy and the Municipal Planning Strategy. There has been extensive input from the community for this development plan. This proposal can create an excellent community that will maintain the single family residential feel of Herring Cove versus the original plan to have semi-detached and single family units as the final proposal includes only single family units. There is potential for new people and former residents to move back to the Herring Cove area with young families. The development is an opportunity for HRM to increase its tax base and an excellent opportunity to protect the natural environment. The area includes two watercourses and the plan promotes the protection of 50% of the vegetative covering. The contiguous open space will be connected to the larger tracks of crown land.

**Mr. Laurie Baker, Windsor Junction, owner of Valerium Group Inc. and proposed subdivision property,** commented that the proposal is an excellent housing project that the community of Herring Cove needs. All proper protocol has been followed; HRM planning staff provided all documentation in regard to density, zoning, traffic, environment etc. which he took to the engineering firm Terrain Group/Genivar. The proposed development meets the policy of HRM including the Municipal Planning Strategy.

**Mr. Brian Dempsey, Herring Cove,** advised that he is the Chairman of the recently installed Herring Cove Steering Advisory Committee appointed by the Western Region Community Council. He has discussed the current application with HRM Planning staff and staff are aware that the proposal does not agree with the area By-Laws; By-Laws that were approved by the Chebucto Community Council, Regional Council and the province in the document the Herring Cove Area Settlement and Servicing Strategy. The By-Laws were authored by the community of Herring Cove and they will defend those By-Laws no matter what it takes. For the HRM Planning Department to say that the Herring Cove Area Settlement and Servicing Strategy is a background document is adding salt to a wounded community from past "honest" mistakes. There is no such thing as flag lots in the Herring Cove Area Settlement and Servicing Strategy. The proposal recommends a reduction in the lot frontage with nine of the lots having only 20' frontage and another seven (7) lots do not conform with the Herring Cove Area Settlement and Servicing Strategy. The Community Council has no choice but to reject this proposal based on the fact that it does not meet the By-Laws.

In response to a question by Councillor Lund, Mr. Dempsey explained that the lot frontage was the only By-Law issue. When staff presented the original plan the community advised them that the lot frontage for the semi-detached units did not

conform with the Herring Cove Area Settlement and Servicing Strategy. Staff acknowledged that they had made a mistake and the current proposal is for 49 single dwellings of which fifteen (15) do not meet the requirements of the Herring Cove Area Settlement and Servicing Strategy.

**Mr. Colin Mahaney, Herring Cove**, advised that he was in support of the plan. He is new to the area and would like to build a house there as it is a nice level area with a lot of trees around.

**Ms. Melissa Baker, Herring Cove**, offered her support for the development as she intends to construct a new home for her young family. The area would be a great place for someone of her generation to raise a family as there is a great school system and is close to the downtown for her to work while having a rural feel for her family. This project will compliment the community. No one wants development but it is inevitable. The proposed development will be a good area to raise a family and establish roots.

**Mr. Roy Dempsey, Herring Cove**, advised that he was not opposed to development in the area but is opposed to rules being bent or broken. He explained that he served on the Herring Cove Area Settlement and Servicing Strategy Committee, as well as many other area residents of Herring Cove, and now those rules are broken. If the proposal was to be amended, and the right frontage brought back, he would be okay with the development. He would love to see young families in the area. The other side of the pond will probably see development and if the rules are broken they will probably break them in the village. He inquired who would be paying for the proposed pumping station.

Councillor Adams responded to Mr. Dempsey that the Developer would cover the costs of the proposed pumping station.

**Mr. Fred Fitzsimmons, Wellington**, advised that he was a retired RCMP Officer who worked in the Herring Cove area from 1967 – 1970 and enjoyed the area. He reviewed Mr. Baker's subdivision plan and saw Lot 44, a flag lot, and became interested in the area as it is peaceful and abuts 1156 acres of crown land. If the subdivision proposal were approved, he would like to move to the area.

**Mr. Allan Ruffman, Ferguson's Cove Road**, requested clarification on the exact wording being dealt with in regard to flag lots. He noted that he had been Co-Chair on the Chebucto District 5 Planning Group and flag lots were of concern at that time. He has been advised that the District 5 Municipal Planning Strategy does not specifically address flag lots but subsequently HRM has a "wording" for flag lots and he does not believe it includes taking an average.

In response to Mr. Ruffman's request, Ms. Hughes explained that the Municipal Planning Strategy for the area does not specifically speak to flag lots. There is mention in the Regional Subdivision By-Law. The policy for this area is worded as follows:

“...allow the subdivision of lots in existence on February 9, 1995 to a total of three lots, two plus the remainder, without the required road frontage.” Ms. Hughes advised that it would not apply in this case as it would be for existing lots on the street, therefore; there could be flag lots in the community but this does not directly apply to the development agreement process.

**Mr. Ruffman** commented that the issue of flag lots should be reviewed as one group who will not get sewer/water servicing, as part of the on-going Herring Cove servicing process, are those on defacto flag lots as the servicing will not be going down the private roads. If this proposal goes through, there would be flag lots allowed which are private little roads with services paid by the Developer. There are many other areas around Herring Cove to be developed and the issue of flag lots will come up again. The Herring Cove Area Settlement and Servicing Strategy requirement of 6000 square feet may not be binding on the planning process but it does not allow for flag lots. Mr. Ruffman urged the Community Council to address the issue of flag lots.

In response to a question by Mr. Ruffman, Mr. Rogers confirmed that 26% of land would be transferred to HRM ownership once the agreement is put in place and the two brooks on the intervening land would become part of the public land.

**Ms. Anita Quillian, Cowie Hill**, advised that she is interested in buying a retirement home in the proposed development as it is a peaceful area with a more rural type setting. She is looking forward to the development.

**Mr. Buster Brown, Herring Cove**, expressed concern that infrastructure in regard to water/sewer/schools/traffic be in place prior to development coming through.

**Ms. Carole Veenotte, Herring Cove**, advised that she is familiar with the area and attended the Herring Cove schools and lived in Portuguese Cove where they had multiple problems with water quantity/quality and sewer problems although they now have central services in her area. She hopes to purchase a lot in the proposed development area to construct a bungalow. Other assets offered by this property are that it backs on Crown Land and has easy access to Pine Island Pond and Long Pond. She is in full support of the project.

**Mr. Charles Baker**, brother of property owner Laurie Baker, advised that they grew up on a parcel of the proposed subdivision land that has been in the family since the 1930's. They have always been good stewards of the land. With the cooperation of Terrain Group (GENIVAR) and HRM Planning staff, the proposed subdivision has been well designed. The area is twenty-six acres with approximately another ten acres to the north that are privately owned and crown land from the proposed development area between the Purcell's Cove Road and the Herring Cove Road. The federal Department of National Defence owns part of the land and draws their water from the lake system. The Crown land and DND lands will never be touched and will remain pristine. The previous sewage leaks have been resolved with the new Herring Cove Sewage

Treatment Plant and the lakes are back to the condition they should be. He, and his brother, want to share the lands and develop them properly. There are children being bussed into the Herring Cove school as the numbers are low and it would be nice to see younger families in the area. He noted that the area was designed as single family lots for young families, seniors, and people with mobility issues. He requested that Community Council approve the project as he is looking forward to moving back to the area.

**Ms. Linda Kenney**, advised that she raised her family in Herring Cove and it would be nice to have a development like this proposal so that her children would have the option to purchase land in the area.

**Mr. Robin Baker, Herring Cove**, commented that he would like to see the development go ahead. He was born and raised in Herring Cove and would like to be able to purchase land in Herring Cove or that his children/grandchildren have the option of purchasing land in the area. Subdivisions are going up in other areas. Children are being bussed into the Herring Cove school and former students, who are now Teachers, are not able to work in the area as there are not enough students in the schools. There are two good schools in Herring Cove and no reason not to put another subdivision in the area. The subdivision would be good for taxes. There would be green areas for the children.

**Ms. Mary Richardson, Herring Cove**, advised that she was born and raised in Herring Cove and is interested in building a retirement home in the proposed development area as it has everything she wants such as sewer/water services, lakes and walking trails. She is in total support of the project.

**Mr. Alex Mountain**, commented that he has no problem with the subdivision but does have concerns with the 20' frontage. He was not allowed to subdivide and drop his property down to two 50' lots. He has 311 feet along Herring Cove Road and commented that if the lot frontages are permitted to be reduced as proposed, he will do the same thing and put a sewer pipe down his driveway and build a duplex at the back or perhaps tear down his home and build three homes on the property.

**Ms. Darlene Morrison, Clayton Park**, commented that she is looking forward to building a retirement home in a very affordable area. She has followed the proposed development and encouraged a positive outcome.

**Mr. Nathan Rogers, Terrain Group/Genivar**, noted that the central issue with the proposed Herring Cove Village seems to be with lot frontage. The intent of the Municipal Planning Strategy is to enable a Development Agreement process to work out whether or not each lot has 20' frontage or 60' frontage on average. The 60' frontage intent is to provide better privacy and spacing between homes. There have been no substantiated arguments against flag lots other than people do not seem to want them. The Herring Cove Area Settlement and Servicing Strategy actually



envisioned 60, plus or minus, parcels or lots for this area and the current proposal is only for 49 single family homes which meets or exceeds the requirements. He concurred that not all lots meet the 60' frontage requirement, however; allowing clustering of the development with the inclusion of nine (9) flag lots achieves a greater community benefit. Over 10 acres are dedicated to conservation land and community park, and; there may be a future parking lot for access to trail heads to the crown lands in behind. In regard to servicing (sewer/water) the Developer is required to pay Halifax Water a capital cost charge based on acreage for water services which will be entirely paid for by the Proponent, not local tax payers. The proposal is an excellent form of development that has gone through extensive public consultation and has been modified from the original plan following public input. He looks forward to a positive outcome.

In response to a question of clarification by Councillor Lund on whether or not a person would have to pay more for services to be connected to the flag lot properties due to the longer driveways, Mr. Rogers advised that the Developer would pay a per acre capital cost charge to Halifax Water for water servicing; the total cost of connecting services would be born by the Developer.

Councillor Adams gave the third call for any further speakers; hearing none, it was **MOVED by Councillor Rankin, seconded by Councillor Lund that the public hearing be closed. MOTION PUT AND PASSED**

Councillor Lund suggested that a 1 in 200 year event in regard to storm drains replace the 1 in 100 year event requirements for storm drains due to more incidents of high intensity rainfall as the current provision would not be sufficient.

In response to a question of clarity by Councillor Lund, Mr. Rogers noted that a detail design of the Storm Water Management Plan remains to be done. He intends to adhere to the Herring Cove Area Storm Water Management Plan which indicates that only asphalt surface runoff will be directed to the storm water retention pond not roof runoff. Other drainage will most likely be directed to non hard surfaces on the lot.

Councillor Rankin cautioned that they not exceed the recommendations from the Halifax Watershed Advisory Board in regard to storm water management. He explained that under the Regional Plan, the concept of flag lots was to be considered as a design approach for future community design. The proposed development has an impressively low coverage in regard to density with as much as ½ acre per home versus the policy permitted four units per acre. If the flag lot concern is due to appearance of the streetscape, there has to be a balance of interest as the flag lots proposed for this development would provide a greater public benefit.

In response to a question of clarification by Councillor Rankin in regard to what the community would not receive if the development were to be done by as of right standards, Ms. Hughes explained that as of right would require a 75' lot frontage,

however; there could be flag lots created throughout the community. The current proposal would contain less than half the density permitted. The flag lots were not intended to squeeze in more lots. The proposed average street frontage of 60' provides more variety to the streetscape. The Herring Cove Area Settlement and Servicing Strategy does contain more detail than the Municipal Planning Strategy with its intent being to maintain the historic fishing village aspect of Herring Cove and protect the environmental assets. The proposed subdivision does create a more organic appearance and does include the addition of a neighbourhood park.

In response to a question of clarification by Councillor Adams, Ms. Hughes advised that the policy of February 1995 that would permit two lots divided so that one did not have street frontage would not apply to this development as it would be for existing lots only not new streets.

Councillor Adams explained that he was not opposed to development. He has considered the conservation component and setbacks presented in the current subdivision Development Agreement and it is beyond what is outlined in the Herring Cove Area Settlement and Servicing Strategy (HCASSS). He expressed concern in regard to the 20' frontage of flag lots proposed with this development.

Councillor Adams provided a brief history on the creation of the HCASSS by the community of Herring Cove noting that it was the result of anticipated development in the Herring Cove area once water and sewer services were obtained. The creation of the HCASSS document included extensive public consultation and community input and has been approved by Regional Council and the province.

In regard to a reference made during this public hearing to a previous development being approved that did not conform to the Herring Cove Area Settlement and Servicing Strategy, Councillor Adams explained that during that previous public hearing his impression was that the development did conform and he, Councillor Adams, takes full responsibility for that and it is wrong to use that case as a precedent. The decision this evening will be a test to the Herring Cove Area Settlement and Servicing Strategy document as approved by Council.

Councillor Adams noted staff indicated that the intent of the current proposal is for 60' lot frontages, however; a Development Agreement can help change some things. The Herring Cove Area Settlement and Servicing Strategy was written with a minimum lot frontage requirement of 60' with no provision for flag lots nor "average of frontage", therefore; he was not in support of the proposal. He requested that the Community Council respect the wishes of those residents who worked diligently on the Herring Cove Area Settlement and Servicing Strategy.

In response to a question by Councillor Lund, Councillor Adams advised that he would support the subdivision Development Agreement without the flag lots.

In response to a question by Councillor Adams on whether or not removal of the flag lots would be a friendly amendment, Mr. Martin Ward, Solicitor, suggested that the Community Council ask the Applicant if he would be interested in that option.

Mr. Baker, President, Valerium Group Inc. advised that he would not consider going ahead with the development without the flag lots as the flag lots had been suggested by HRM staff. If necessary, he will appeal to the Nova Scotia Utility and Review Board.

Council recessed at 8:10 p.m.

Council reconvened at 8:13 p.m.

**MOVED by Councillor Lund, seconded by Councillor Rankin that the Western Region Community Council refuse the proposed development agreement as it does not conform to the policies as set forward in the Herring Cove Area Settlement and Servicing Strategy with respect to lot frontages on the nine (9) flag lots. MOTION PUT AND PASSED.**

**9. CORRESPONDENCE, PETITIONS AND DELEGATIONS - NONE**

**10. REPORTS - NONE**

**11. MOTIONS - NONE**

**12. ADDED ITEMS**

**12.1 Case 01297: Development Agreement Time Extension - 7990 St. Margaret's Bay Road, Ingrauport**

A Supplementary Report dated October 15, 2010 was before the Community Council.

**MOVED BY Councillor Lund, seconded by Councillor Rankin that the Western Region Community Council require the amending development agreement for 7990 St. Margaret's Bay Road, Ingrauport, be signed by the Municipality by December 1, 2010; otherwise this approval shall be void and any obligation arising hereunder shall be at an end.**

In response to a question of clarification from Councillor Lund, Ms. Kelly Denty, Supervisor, Planning Applications, advised that the Development Agreement approved on July 27, 2009 was not being changed. The work required to be completed by November 2011 remains intact; most often that work would include excavation and/or installation of foundation footings.

**MOTION PUT AND PASSED.**

**13. NOTICES OF MOTION - NONE**

**14. PUBLIC PARTICIPATION**

Mr. Allan Ruffman questioned why the Greater Halifax Partnership would be addressing Regional Council at the October 19<sup>th</sup> session when the Municipal Clerk's Office has advised citizen groups that they could not address Council as it was not a public hearing. He noted that the citizen groups have researched the matter for months and have fascinating information to share. He also expressed disappointment that the provincial government did not encourage the citizen groups to address cabinet.

Mr. Dempsey questioned when the lower area of Herring Cove, the arm area, would receive sewer/water. He noted that this section should have been done first due to the issues with sewer.

In response to Mr. Dempsey's query, Councillor Adams explained that he has posted a correspondence on his website, addressed to Mr. Wayne Anstey, Acting Chief Administrative Officer for HRM, outlining the efforts he has taken in regard to obtaining funding to complete the final phase of the Herring Cove Sewer and Water Project. He has met with staff in Minister Peter McKay's office and was advised that there is no funding available from either the Federal or Provincial governments at this time. He has requested that Mr. Anstey write to the province advising that this project is a priority for the municipality and that he also advise HRM Staff that this matter is to be a priority in next year's budget.

**15. NEXT MEETING - November 22, 2010**

**16. ADJOURNMENT**

The meeting was adjourned at 8:22 p.m.

Chris Newson  
Legislative Assistant

Information Items - NONE

**Information Items** - NONE