

# **HALIFAX REGIONAL MUNICIPALITY**

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**HARBOUR EAST COMMUNITY COUNCIL AND  
MARINE DRIVE, VALLEY AND CANAL COMMUNITY COUNCIL  
SPECIAL SESSION - PUBLIC HEARING  
JULY 16, 2001  
MINUTES**

**PRESENT:** Councillors: Bruce Hetherington, Chair  
Keith Colwell  
Steve Streach  
Gary Hines  
Ron Cooper  
Harry McInroy  
Brian Warshick  
Condo Sarto  
John Cunningham

**ABSENT**

**WITH REGRETS:** Councillor Jim Smith

**STAFF:**

Mr. Kurt Pyle, Planner  
Mr. Barry Allen, Solicitor  
Ms. Sherryll Murphy, Assistant Municipal Clerk

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1. **CALL TO ORDER**

The meeting was called to order at 7:05 p.m.

2. **CASE 00338 - APPLICATION TO AMEND THE LAND USE BY-LAW FOR NORTH PRESTON, LAKE MAJOR, LAKE LOON/CHERRY BROOK AND EAST PRESTON TO PROVIDE A DEFINITION FOR HOME BUSINESSES AND TO LIMIT THE TYPE OF HOME BUSINESSES PERMITTED WITHIN THE R-A (RESIDENTIAL A) ZONE**

- A report from the Harbour East Community Council and the Marine Drive, Valley and Canal Community Council dated June 21, 2001 and submitted by Gail Foisy, Administrative/PAC Coordinator was before the meeting for consideration.

Councillor Hetherington addressed the meeting introducing himself as Chair of the Harbour East Community Council and Councillor Colwell as the Chair of the Marine Drive, Valley and Canal Community Council. He went on to explain that this was a joint meeting of the two Community Councils as the area impacted was contained within the jurisdiction of the two Community Councils. Members of the Community Councils and staff introduced themselves to the attending public.

Mr. Kurt Pyle, Planner briefly reviewed the application to amend the Land Use By-law for North Preston, Lake Major, Lake Loon/Cherry Brook and East Preston to provide a definition for home businesses and to limit the type of home businesses permitted within the R-A (Residential A) zone. Mr. Pyle advised that the proposed amendment to the Land Use Bylaw resulted from an oversight in the 1993 Municipal Planning Strategy (MPS) and Land Use Bylaw (LUB) which replaced the 1981 MPS and LUB for the area. Mr. Pyle indicated that the oversight permitted a full range of business uses with fewer restrictions. However, the policy intent of the MPS provides for "limited home business uses" and not for unrestricted business use in the R-A Zone. Utilizing an overhead projector, Mr. Pyle identified on a map the particular areas within the Plan area which would be impacted by this amendment.

Noting that the MPS and LUB differed, Mr. Pyle indicated that these two documents must agree. Mr. Pyle noted that the proposed amendment to the Land Use Bylaw brought the LUB in line with the intent of the MPS. Referring to existing uses, Mr. Pyle advised that if approved the proposed amendments would result in some non-conforming uses (i.e. not permitted or exceeding R-A requirements). Mr. Pyle explained that non-conforming uses could be repaired/maintained and could change ownership, however, they could not extend beyond their existing limits, change to a use other than that which is permitted in the zone or

discontinue operation for more than a six month continuous period.

Mr. Pyle then responded to questions from members of the Community Council(s).

Mr. Pyle responded to a question from Councillor Cunningham as to why, unlike other Land Use By-laws dealing with home businesses, the proposed amendment did not include an Appendix which detailed the uses permitted. He indicated that as staff had been unable to access homes to determine the exact nature of businesses, they had decided to take the general approach of creating non-conforming uses.

Councillor Warshick expressed concern regarding the requirement for five (5) off street parking spaces and suggested that it would be difficult to accommodate this many parking spots. Mr. Pyle indicated that the existing provisions require only one parking spot and noted that Council could reduce the number of required spots.

Mr. Pyle, in response to a question from Councillor Streach, indicated that the application had been prompted by Councillor Cooper who had identified an inconsistency between the Land Use Bylaw and the Municipal Planning Strategy.

Responding to a question from Councillor Colwell, Mr. Pyle advised that the R-A zone existed predominantly in the Lake Major, Lake Loon and Cherry Brook communities with no occurrences in North Preston and only a few in East Preston.

Councillor Cooper clarified that a limitation of 750 sq. ft. for a home business presently exists and that in this regard there is no proposed change to what is permitted.

Councillor Hetherington called for those in favour of or opposed to the proposed amendment.

### **Francis Sparks**

Mr. Francis Sparks, Raleigh Road noted that he wanted to operate a business from his home and asked if with this amendment would preclude him from doing so.

Mr. Pyle indicated that whether it would be permitted to operate from his home would be dependent upon the type of home business he wished to operate. Mr. Pyle noted that an Automotive Repair shop would not be permitted under the proposed amendment, however, a craft shop would be.

Mr. Sparks went on to indicate that he had spoken with Councillor Cooper regarding the possibility of rezoning. He advised that he presently had a 20X30 auto body garage in his

home and had asked Councillor Cooper to come to his home to determine what would be necessary to expand this operation. Mr. Sparks noted that Councillor Cooper had indicated that he would have to apply for a rezoning, the process might take one year and that there was no guarantee that the rezoning would be approved.

Mr. Sparks, noting that municipal staff had made a mistake and had been slow in figuring out the problem, indicated that the intent of this amendment appeared to be to stop his business. He commented that he had a successful business and he felt it was unfair that the municipality would tell the community what they can and can't do.

Councillor Cooper explained that he was required to bring to staff's attention the inconsistency between the MPS and the LUB. He went on to indicate that the 750 sq. ft. limitation was in effect at this time and that he had advised Mr. Sparks that he would have to look at a rezoning to be able to expand his business. He further indicated that the community wrote the MPS for this area.

Mr. Sparks, noting that it appeared that these amendments would not allow an auto body shop, suggested that it would be futile for him to apply for a rezoning. Councillor Hetherington indicated that although Council might not look favorably on this use in the present zone, an application for rezoning would be an entirely different situation and may not receive the same response.

### **Ernest Simmons**

Mr. Ernest Simmons addressed the meeting and asked who determines what can be run out of an individual's property, Council or the community?

Councillor Hetherington indicated that the decision is usually made through a public hearing.

Mr. Simmons, clarifying his understanding of the proposed amendments, noted that he understood that anyone having a business today could continue, however, anyone seeking to start a business from his/her home would not be permitted.

Councillor Hetherington advised that with certain conditions a permit could be obtained for a home business.

Mr. Simmons noted that if he wanted to start an auto body shop he would not be permitted. Mr. Simmons referred to the limitations placed on residential development as a result of the watershed and noted that now businesses were not to be allowed. He went on to indicate that many of the residents of this area operate out of their own properties because they cannot

afford to rent in the more urban areas. He went on to express concern that businesses were limited to 750 sq. ft. In conclusion, Mr. Simmons indicated that this was unfair and that the people of this area must put a stop to all of these restrictions.

### **David Hill**

Mr. David Hill, representing the Black Business Construction Association, addressed the meeting. Mr. Hill indicated that when he received the notice of this public hearing, he called some members of the construction industry in this area. Mr. Hill went on to note that Councillors probably have in their mail the first phase of what the Black Business Construction Association is doing in terms of some research and development. Mr. Hill went on to comment that seeing all these Councillors here tonight led him to believe that this was a very important meeting as it was seldom that the black community gets this type of representation from HRM.

Mr. Hill indicated that all the work done up until today with regard to this proposal should have included input from the community. Mr. Hill went on to suggest that the WADE Development Association should have been a part of the overall exercise because the organization represents Cherry Brook, East Preston, North Preston and Lake Loon. Mr. Hill noted that Council is bringing forth changes that people are not ready for. Mr. Hill, referred to the fact that this community is the largest indigenous black community in Canada, a community with a rich history. Mr. Hill went on to note, based on the history of how the black community has been dealt with in the past, that these communities are cautious about change and have a right to be cautious. Mr. indicated commented that when this community suffers from high unemployment, local Councillors are not seen. When there are local initiatives within the community, Council brings changes without involving the community in the process.

Mr. Hill went on to suggest that someone must stand up and make a recommendation to overall Council that there has to be some special consideration for this area. Mr. Hill asked Council to look at what has been supporting this community for decades – the construction industry. Mr. Hill indicated that he did not believe that the committees which have been providing Council with recommendations have put their eyes on the assets within the community. Mr. Hill noted that these were available in the WADE Development offices. He stressed that he did not believe the community would say no to growth, but would say no to major changes that would have an affect on their livelihood.

Mr. Hill pointed out that there were people in the community operating a body shop. He noted that Council came forward with recommendations, but did not bring solutions for those people operating a body shop.

Mr. Hill noted that when he first heard of this meeting and called for the report, his first thought had been that this is a growth area and if Council wants changes, wants to limit the size, then they should come forward with an incubator mall. If the individual is not able to work from his home, he needs somewhere to work from. If the individual is able to expand, he is employing people and broadening the tax base.

Mr. Hill, noting that Council would be making important decisions about the black community, stressed that the black community needs to be involved. The black community needs to be part of the process. Mr. Hill further explained that the church, educators, community leaders and community organizations need to be part of the process. Mr. Hill asked, providing Council was sincere in what it is doing, that Council put the process on hold until such time as the community can have input and the proposal can be assessed by the community.

Referring to Mr. Pyle's comment regarding access to homes, Mr. Hill indicated that this information is available at the WADE Development Office.

In conclusion, Mr. Hill indicated that in the past the bureaucracy has caused the black community a serious problem with communication. Mr. Hill indicated that Council needs to made recommendations which will put controls in place to correct these communication problems. He went on to indicate that he hoped, on behalf of black contractors in this community, that Council will put the proposal on hold and take the entire matter to the community. He suggested that there would be more cooperation than was expected as people are included in the growth and change in their community.

### **Pam Thomas**

Ms. Pam Thomas addressed the meeting indicating that she had only received the notice of this meeting yesterday. Ms. Thomas expressed concern regarding the lack of notice. Ms. Thomas, noting that the R-A zones had been identified in East Preston, asked what other zones presently existed in the community.

Responding, Mr. Pyle indicated that the communities of East Preston and North Preston were zoned R-X, Rural Subdivision. Utilizing the map, Mr. Pyle went on to identify the existing R-A zone(s).

### **Carol Bailey**

Ms. Carol Bailey, Cherry Brook sought clarification of the uses permitted in the R-A and R-S zones.

Mr. Pyle indicated that R-A was a residential use with limited business use while the R-S allows a broader range of businesses .

Ms. Bailey noted then that Cherry Brook is very limited for businesses based on the R-A zoning. Ms. Bailey indicated that if this change to the By-law is made, Cherry Brook would not be able to have any businesses. She further noted that existing businesses, should

they burn down tomorrow, could not be re-built. Ms. Bailey asked that Council consider the people in the area.

By way of clarification, Mr. Pyle indicated that home businesses would be permitted in Cherry Brook.

Ms. Bailey agreed that home businesses would be permitted, but that they would be very restricted. Ms. Bailey noted that the business is restricted 750 sq. ft. Ms. Bailey reiterated that existing businesses, such as the auto body shops operated from garages, could not be re-established if they were destroyed by fire. Ms. Bailey asked that Council recognize that this is a black community and that the black community has difficulty in finding employment. The individual may be qualified, however, there are still businesses who do not want to employ black people -- racism is still alive.

Ms. Bailey indicated that many of the businesses are family businesses which can be improved by the children. She asked why these stipulations were being put on businesses at this time. Ms. Bailed referred to the number of new business which fail and noted that the people of her community cannot afford to locate in more urban areas. Ms. Bailey noted that the community wanted to grow and the knowledge to grow. Ms. Bailey encouraged Council to table this matter for further input from the community.

### **Tony Upon**

Mr. Upon indicated that he worked for WADE and asked what had initiated this process. Mr. Pyle indicated that Councillor Cooper had brought the matter of the inconsistency between the Municipal Planning Strategy and the Land Use Bylaw to the attention of staff. Mr. Pyle further explained the impact of the oversight which had occurred at the time of the adoption of the 1993 Municipal Planning Strategy and Land Use By-law.

Responding to a further question from Mr. Upon, Councillor Cooper indicated that he had received calls of complaint.

Mr. Upon, seeking clarification, noted that his understanding was that the R-A zone allowed



certain types of businesses and that existing businesses could not expand beyond the 750 sq. ft. Mr. Upon asked if a business would be penalized if it exceeded the 750 sq. ft.

Mr. Pyle advised that if the business had existed prior to the 1981 plan, the business would not be penalized.

Mr. Upon noted that the people of this area work very hard to survive and if HRM begins to penalize those businesses exceeding the space limitations, this will create a hardship. Mr. Upon suggested that these businesses need to be protected, while new businesses being started could fall under the guidelines set out in the proposed amendment.

Councillor Hetherington noted that the 750 sq. ft. limitation has been in effect since 1981.

A further brief discussion ensued with Mr. Allen being requested to comment on the possibility of not enforcing the 750 sq. ft. limitation on existing businesses.

Mr. Allen indicated that Council cannot guarantee that the law will not be enforced. They do not have the right to interfere in the enforcement of the law. Mr. Allen went on to indicate that if the law is one the community does not want, there is an option to change the law.

### **Elma Johnston**

Ms. Elma Johnston addressed the meeting noting that these communities seem to always be facing restrictions. Ms. Johnston referred to restrictions placed on the community by the No. 7 highway, the watershed, the treatment plant, and the golf course. Ms. Johnston suggested that WADE and Halifax Regional Municipality should get together and come up with a vision for economic development for the communities in the area.

Ms. Johnston went on to note that other communities within HRM are developing with street lights, sidewalks and playgrounds. Ms. Johnston indicated that her community does not have these amenities. Ms. Johnston suggested that it was time to look at the communities individually. Each community should have the authority to do what it wished within its own community. Ms. Johnston recommended that HRM sit down with representatives of the individual communities to determine what it is they want to see in their communities.

### **Francis Sparks**

Francis Sparks indicated that he felt it was unfair that these changes were coming to the community with only a one day notice.

Councillor Hetherington noted that notice of the meeting had been advertised in the paper as per the legislated requirements. The notices received by area residents had been sent out by the area Councillors.

Councillor Colwell asked Mr. Pyle if the plan which was agreed to in 1993 was done through a full consultation process. Mr. Pyle responded that a full consultation process had been undertaken relative to the 1993 plan. After providing further clarification of the background to this proposal being before this public hearing, Councillor Colwell indicated that what he was hearing was that this Plan may not be the Plan of today. He went on to suggest that there appears to be a different vision for the community.

Noting that the Municipal Planning Strategy and Land Use Bylaw cannot, by Provincial Legislation, be inconsistent, Mr. Pyle asked if it was necessary to make a change at this time or if the situation could continue as it has.

Mr. Allen, responding to Mr. Pyle's question, indicated that the Municipal Planning Strategy and Land Use Bylaw must be reasonably consistent. He went on to note that it was up to Council to make a decision as to what is reasonably consistent. Mr. Allen indicated that whatever the decision of Council, it was appealable to the Utility and Review Board. He further indicated that no matter what happens, Council and the community can continue on with the process. They can look at the Municipal Planning Strategy to determine if the policy is consistent with the sentiment of the community.

Councillor Colwell noted that the process of reviewing the MPS and the zoning of the community was a totally separate process from the one being considered this evening. Referring to the long tradition of home businesses in the community, Councillor Colwell stressed that it was important to preserve this tradition.

In response to a question from Councillor Cooper; Mr. Allen indicated that Council had the ability to recess this public hearing.

**David Conrad**

Mr. David Conrad, 117 Lake Loon Road, addressed the meeting noting that he has run a wood yard from his property for a number of years. Mr. Conrad noted recently that he was told that he was required to erect a six (6) foot fence.

Mr. Conrad further noted that new regulations required the peeling of the bark from the wood. Mr. Conrad indicated that as a result he was unable to cut wood off his property as he did not have the equipment to peel the wood. Mr. Conrad indicated that only larger companies had the equipment.

**Glenn Cane**

Mr. Glenn Cane, North Preston, indicated that he did not believe restrictions should be placed on individuals trying to make a living within the community.

Comparing the black community to other similar communities in the area, a speaker pointed out that it appeared this community is dealt with in a more restrictive manner.

**Pam Thomas**

Referring to Mr. Pyle's comment that a full consultation process had been held during the establishment of the 1993 Municipal Planning Strategy, Ms. Thomas indicated that she could not recall these meetings.

Mr. Pyle noted that the process had been carried out over approximately 18 months.

Councillor Hetherington indicated that minutes of these meetings could be made available to the community.

**MOVED by Councillor Colwell, seconded by Councillor Cooper that the public hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.**

**MOVED by Councillor Cooper, seconded by Councillor Colwell that the decision be deferred to October to provide an opportunity to consider options for the community in light of the representations made this evening and to review the appropriateness of the existing Municipal Planning Strategy.**

A further brief discussion ensued and the **MOTION WAS PUT AND PASSED.**

**3. ADJOURNMENT**

The meeting adjourned at 8:40 p.m.

Sherryl Murphy  
Assistant Municipal Clerk