

HALIFAX REGIONAL MUNICIPALITY

NORTH WEST COMMUNITY COUNCIL

March 23, 2006

MINUTES

PRESENT: Councillor Brad Johns, Chair
Councillor Len Goucher
Councillor Robert Harvey

STAFF: Stephanie Parsons, Legislative Assistant
Sheilagh Edmonds, Legislative Assistant
Karen Brown, Solicitor

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**HALIFAX REGIONAL MUNICIPALITY
NORTH WEST COMMUNITY COUNCIL**

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1. **CALL TO ORDER**

The Chair called the meeting to order at 7:05 p.m. in the Knights of Columbus Hall, 252 Cobequid Road Sackville.

Councillor Johns advised the public of the rules of procedure and that a speaker list was available for those persons wishing to speak in regards to the public hearing.

2. **APPROVAL OF MINUTES**

MOVED by Councillor Goucher, seconded by Councillor Harvey that the minutes of the February 23, 2006, meeting be approved. MOTION PUT AND PASSED UNANIMOUSLY.

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

The agenda was accepted as distributed.

4. **BUSINESS ARISING OUT THE MINUTES**

4.1 **STATUS SHEET ITEMS**

4.1.1 **Pinehill Street Stormwater Drainage**

No update. To remain on the status sheet.

4.1.2 **Property on Beaver Bank Road**

Councillor Johns advised that renovations on this property have begun.

This item to be removed from the status sheet.

4.1.3 **Storm Drain Issue - Cavalier Drive**

This item to remain on the status sheet.

4.1.4 **Shopping Car Bylaw Report**

Councillor Johns advised that the Shopping Cart by-law will be contained in the Nuisance By-

law, which will be coming back to Regional Council.

This item to remain on the status sheet.

4.1.5 Springfield Lake Watch

Councillor Johns advised that a meeting has been scheduled among the stakeholders.

This item to remain on the status sheet.

4.1.6 Judy Avenue Pathway

No update. This item to remain on the status sheet.

4.1.7 Purchase of Land for Springfield Lake Recreation Center

No update. This item to remain on the status sheet.

4.1.8 Union Street Flooding

Councillor Goucher advised that Regional Council approved Northwest Community Council's request to have staff consider mitigative measures to provide flood protection to the homes on Union Street as part of the 2006-2007 Capital Budget deliberations.

This item to remain on the status sheet.

4.1.9 Policy P-71, Beaver Bank, Hammonds Plains and Upper Sackville, MPS

No update. This item to remain on the status sheet.

5. MOTIONS OF RECONSIDERATION - NONE

6. MOTIONS OF RECISSION - NONE

7. CONSIDERATION OF DEFERRED BUSINESS - NONE

8. HEARINGS

8.1 Public Hearings

8.1.1 Case 00674 - Rezoning and Development Agreements, Cobequid Road/Glendale Drive, Sackville

- C First Reading and Notice of Motion for this matter was given at the February 23, meeting of North West Community Council.
- C A report from North West Planning Advisory Committee dated February 10, 2006 with an attached staff report dated January 23, 2006 was before Community Council.
- C A submission dated March 22, 2006 was received from Ms. Gail Miner, Sackville.
- C A submission dated March 22, 2006 was received from Ms. Kris O'Reilly, Caudle Park Subdivision, Sackville.
- C A submission dated March 23, 2006 was received from Mr. Earl Stone, Nelson Drive, Sackville.
- C A submission dated March 23, 2006 was received from Mr. B Dunby, Caudle Park Crescent, Sackville.

Mr. Bone provided an overview of the proposal and reviewed the relevant policies regarding Case 00674 - Rezoning and Development Agreements, Cobequid Road/Glendale Drive, Sackville for Council to consider as outlined in the staff report dated January 23, 2006.

Responding to questions from Council, Mr. Bone advised that:

- C The height of the fence can be increased from the recommended five feet if Council determines it is warranted.
- C The original proposal included a drive-thru, however, staff advised the developer that a drive-thru would not be appropriate at this location.

At this time the Chair advised the public of the rules of procedures for public hearings and asked that staff clarify the relevant zoning uses. Mr. Bone clarified that:

- C The intent of the application is to consolidate five properties into two lots.
- C A portion of the site allows for "as of right" development. The two remaining portions require a rezoning and two development agreements.
- C In reference to Map 2 he clarified that P-1 is zoned parkland which permits park and

recreational uses, C-2 (Community Commercial) permits general commercial uses and R-2 zones permits residential single and two unit dwellings.

- C The parkland is considered a community asset and was not for sale. The developer approached HRM to sell a portion of the parkland.

The Chair opened the floor to members of the public.

Mr. Lawrence Brown, Sackville

Mr. Brown spoke in opposition to the proposal. He commented that the community does not require an additional gas station as the community currently has convenience stores, two gas stations and a car wash.

Mr. Kristene O'Reilly, Nelson Drive, Sackville

Ms. O'Reilly advised that she resides next to the adjacent properties in question and expressed her opposition and concern to the proposal as outlined in her submission dated March 22, 2006. In response to Councillor Johns question she clarified that drivers will start shortcutting through the Caudle Park Subdivision via Chandler Drive to gain access to the gas station via Cobequid Road.

Mr. Mike O'Reilly, Nelson Drive, Sackville

Mr. O'Reilly commented that it is of his opinion that if P-1 is rezoned to commercial use, developers will be able to develop any type of facility they choose which may have a negative impact on the value of the homes in the area. It is of his opinion that in order to serve the best interest of the community P-1 should be converted into a protected park. He added that the rezoning process is inadequate because the people who are directly affected do not have a voice. Mr. O'Reilly advised that the ability for Council to rezone properties at will, is a major concern.

Councillor Johns advised that the purpose of the Public Hearing is to hear the views of the public which will be taken into consideration when Council deliberates. He pointed out that the location of this meeting has been chosen to be close to the community.

Councillor Goucher added that the public hearing process is part of the planning process, and that Council enters the Public Hearing without any preconceived decisions.

Mr. Colleen Penny, Nelson Drive

Ms. Penny spoke in opposition to the proposal and asked for clarification on the notification process. She commented that some residents did not receive notification from HRM and that a member of the public had notified residents by distributing a flyer. She suggested that the subject properties be converted to park land and commented that the community does not require an additional Subway Restaurant or gas station.

Councillor Harvey clarified that the Municipal Government Act legislates the public notification process. He advised that he had requested that staff expand the required notification area and noted that advertisements were also placed in both newspapers.

Mr. Joseph Currie, Nelson Drive

Mr. Currie spoke in opposition of the proposal and raised concern regarding increased traffic.

Mr. Robert Lehey, Sackville

Mr. Lehey spoke in opposition of the proposal and advised that a fifteen percent increase in traffic is a significant amount, given that the intersection has had numerous accidents.

Mr. Roland Hill, Sackville

Mr. Hill asked who authorized the selling of P-1 to the developer.

Councillor Johns advised that Community Council decides whether or not to sell HRM property. The property has not been sold. The developer approached HRM with a proposal which includes a portion of HRM parkland. The developer asked HRM to consider selling a portion of the parkland. If the developer is prepared to go through the planning process and absorb the cost required to prepare development plans, Council must consider the application.

In response to Councillor Goucher, Mr. Bone advised that it is his understanding that the developer requires a small portion of P-1 to build the gas station "as of right."

Karen Oliver, Sackville

Ms. Oliver commented that she was in opposition of the proposal.

Mr. Dan Miner, Sackville

Mr. Miner read Ms. Gail Miners concerns regarding the proposal as outlined in Ms. Miners submission dated March 22, 2006.

Mr. Shawn Newhook, Sandrick Avenue

Mr. Newhook questioned if there has been any consideration given to parkland planning in Sackville. Could Council consider buying the adjacent properties and turning it into park land?

Councillor Johns advised that the adjacent properties are privately owned. He pointed out that Sackville has a large amount of green space, which includes cemeteries, golf courses and natural park areas.

Councillor Harvey added that there have been significant developments in the Sackville Community including trail systems and new playgrounds.

Mr. Earl Stone, Nelson Drive, Sackville

Mr. Stone spoke in opposition of the proposal. He commented that it is to his understanding that the application is inconsistent with a prior commitment of Halifax County Council. At that time the Caudle Park Recreation Association was advised that Section "F" of the Sackville Land Assembly would be maintained and protected against future commercial development. Section "F" would be designated park land. The community was told that Glendale Drive would be a controlled access highway and that HRM can refuse access to Glendale Drive.

In addition, he made the following comments:

- C inadequate notification was given to the residents
- C the proposal is not in the interest of the Caudle Park Subdivision
- C the benefits accrue to those not residing in the subdivision
- C the only benefit to the community is the commercial tax revenue

Mr. Bone clarified that access to roads is under provincial jurisdiction. The province had no issues with the proposal and the current controlled access is by design not legislation. Councillor Harvey commented that staff has not refused access, they are limiting access based on engineering principles.

Mr. Kenneth Caines, Sackville

Mr. Caines commented that he opposed the application.

Ms. Judy Lopez, Sackville

Ms. Lopez commented that she has been a resident of the area for 38 years and opposes the

application.

Mr. Steve Craig, Chandler Drive, Sackville

Mr. Craig raised concern regarding the notification process, noting that he was advised by a resident of the public hearing yesterday. He also noted that growth in traffic, short stopping distances and the ability to make left and right turns pose significant safety issues with this proposal.

Mr. Colin Stone, Sackville

Mr. Stone advised that he is in opposition to the application.

Ms. Tammy Poole, Sackville

Ms. Poole commented that an increase in traffic will pose a danger to children within the Caudle Park Elementary School Zone.

Mr. Doug Peck, Pope Crescent, Sackville

Mr. Peck advised that he was in opposition to the rezoning of the parkland to commercial uses. He suggested that the property be converted to parkland.

Mr. Brian Mosher, Nelson Drive, Sackville

Mr. Mosher advised that he opposed the proposal. He commented that another gas station is not required. The ability to make left turns is an ongoing issue. Flooding is also an issue and will not be addressed by installing oil grit separators at the car wash.

Ms. Theresa Scratch, Cavalier Drive, Sackville

Ms. Scratch spoke in opposition to the proposal. She commented that it is difficult to access the current Subway Restaurant and that increased traffic and short cutting through Nelson Drive is a concern given that Glendale Drive is a controlled access highway.

Ms. Scratch asked the following questions:

- C What is the impact of the additional volume of waste water being pumped into the system?
- C Are gas stations permitted in the Sackville business park?

C Is the waste water from the car wash directed to the sewer system?

Mr. Bone clarified that car wash effluent must be directed into the sanitary sewer system. Later in the meeting Mr. Bone clarified that gas stations are permitted in the Sackville business park.

Mr. Jonathan Hill, Nelson Drive, Sackville

Mr. Hill asked the following questions:

- C How does the additional load on the sewer system affect the residents?
- C How does the debris from the car wash and gas station affect the swamp?
- C When was the traffic study completed?

He also made the following comments:

- C Traffic on Nelson Drive will increase by 15 percent.
- C Thirty-seven parking spaces are not required.
- C There are currently ten gas stations in Sackville, one has recently been closed and therefore an additional gas station is not required.
- C There are currently three convenience stores within a two minute walk from each other.

In response to the concerns regarding the time limit on speakers the Chair clarified the rules of procedure of the public hearing process and requested a recess, to which Community Council agreed.

Community Council recessed at 8:35 p.m. and reconvened at 8:45 p.m.

The Chair commented that Community Council has the option of deferring its deliberation to provide the public an opportunity to submit their concerns. He further advised that the five minute speaking rule is to provide everyone an equal opportunity to be heard. He also advised that Council may request a supplementary report, requesting a response to the questions raised from the public.

At this time the Chair called for any other speakers.

In response to an earlier question by Ms. Scratch, Mr. Bone advised that the business park is under the jurisdiction of the province and that gas stations are permitted in the Sackville business park.

Mr. Walter Regan, Sackville Rivers Association

In his remarks Mr. Regan suggested that a water retention device be installed onsite to prevent increased flooding of the Sackville River.

Mr. Rick Elliott, Sackville

Mr. Elliott asked what the impact on traffic would be if additional gas stations were permitted. Mr. Bone advised that Traffic Services would be able to respond to the question.

In response to Mr. Elliott's question as to whether the community could purchase the parkland for a dollar more than the developer, Councillor Harvey advised that the parkland belongs to the community through the Municipality.

Mr. Macphee, Sackville

Mr. Macphee commented that the quality of life and piece of mind of the residents is more important and there is no compelling reason for an additional gas station in this area.

Mr. Donald Davis, Nelson Drive, Sackville

Mr. Davis commented that there have been several accidents at the intersection. It is his opinion that a 12-ft fence would be adequate, and that the lot is too small for the proposed commercial building.

Ms. Lynn Rodding, Sackville

Ms. Rodding spoke in opposition of the proposal and commented that the development will gradually encroach on her property. She pointed out that traffic is a current problem.

Ms. Jill Miner, Nelson Drive, Sackville

Ms. Miner commented that her concern was if Council denies the application that an appeal can be made to the Utility and Review Board. She requested that if Council defers its decision that Community Council request that the developer address the communities' concerns through the development agreement. She also noted the following concerns:

- increased traffic
- water disposal
- safety
- fencing
- lighting
- loitering
- health

Councillor Goucher asked for clarification on what portions of the application are appealable. Mr. Bone commented that all three applications were appealable.

Councillor Goucher questioned how the selling of the parkland can be appealed if the rezoning has not been approved. Mr. Bone responded that the decision to refuse the rezoning application is appealable, the property in which the gas bar is to be located is zoned appropriately and that the development agreements are appealable, and to turn them down you must be consistent with the planning policies.

Ms. Karen Brown, Solicitor, HRM, advised Community Council that the recommendation submitted by staff indicates that the development agreement is subject to the sale of HRM lands and the subdivision of lots one and two. She suggested that Community Council request a supplementary report from Real Estate to determine the status of the parkland and the impact of the sale of the parkland on the development agreement.

In response to Councillor Harvey's question as to what would make the development acceptable to the community, Ms. Miner asked Council if the height of the fence could be changed if Community Council approves the application. Councillor Harvey advised that Community Council can amend the development agreement to raise the height of the fence, reduce the number of parking lots and change the roof line.

Ms. Miner again requested that Community Council refuse the rezoning and development agreements, however, if Council chooses to approve the applications then the Community is requesting that Council include the community's suggestions.

The Chair clarified that if Community Council's decision is appealed to the Utility and Review Board, that Community Council has no opportunity for further input. Councillor Goucher added that the current application which is before Community Council will be the application that goes before the Utility and Review Board if appealed.

Ms. Brown, Solicitor, further clarified that the MGA governs the appeal process for rezoning and development applications. Regardless of Council's decision the application may be subject to appeal depending on whether or not an individual qualifies as an applicant or

appellant. The tests are outlined in the MGA, and that test is to determine if the decision of Council is reasonably consistent with the municipal planning strategy.

The Chair asked staff to clarify whether or not a gas station could be built “as of right” and if Community Council has the opportunity to amend the development agreement and provide input on how the property is developed.

Mr. Bone responded that the developer can build the gas station as of right if the square footage equals 30,000 square feet.

At this time Councillor Johns provided the developer an opportunity to speak. The developer declined to speak. However, the current Subway owner, Ms. Tara Hill addressed Community Council.

Ms. Tara Hill, Subway Restaurant, Sackville

Ms. Hill advised Council that the property currently has fourteen paved parking spots and is full during the day. She commented that she is prepared to address the hours of operation, lighting issues and raise the height of the fence. There would be no windows facing adjacent properties. She clarified that no agreements have been signed and that the current proposal is a result of two years of meetings.

At this time the Chair called three times for speakers, hearing none it was **MOVED by Councillor Harvey, seconded by Councillor Goucher that the public hearing be closed. MOTION PUT AND PASSED.**

Councillor Harvey commented that the area in question has been zoned C2 for several years. If the provisions of the Municipal Planning Strategy and Land Use Bylaws are met areas that are zoned C2 can develop a variety of uses “as of right” without a public hearing process. There is already a current Subway in that location. Many concerns raised by the public can be addressed in the development agreement.

He further advised that the rezoning of P-1 is a yes or no question, if the rezoning is refused there is no access to Glendale Drive. The supplementary report can only address the concerns of the public and provide provisions to amend the development agreement. If the fundamental objection is access to Glendale Drive and the rezoning and selling of the parkland, this will not change by deferring Council’s decision pending receipt of a supplementary report. Therefore, Councillor Harvey advised that it is his opinion there is no reason to defer Council’s decision for another month.

MOVED by Councillor Harvey, seconded by Councillor Goucher that Northwest

Community Council:

2. Refuse to approve the rezoning of PID #00361493 and a portion of PID #006537652 from P-1 (Community Facility) Zone to C-2 (Community Commercial) Zone as shown on Map 5 of the staff report dated January 23, 2006.
3. Refuse to enter the development agreements as set out in Attachment "C" of the staff report dated January 23, 2006 to permit the establishment of a portion of a gas station, and Attachment "D" of the staff report dated January 23, 2006.

The reasons given for the refusal were:

1. The proposed development is incompatible with the surrounding neighborhood.
2. The provisions for buffering and screening and the impact on traffic are inconsistent with Policy IM-13 and Policy UR-24 as outlined in the Municipal Planning Strategy.

MOTION TO REFUSE PUT AND PASSED.

Due to the late hour the following motion was put:

MOVED by Councillor Harvey, seconded by Councillor Goucher that the remaining agenda items be deferred to the April 27, 2006 meeting of North West Community Council. MOTION PUT AND PASSED UNANIMOUSLY.

9. CORRESPONDENCE, PETITIONS, AND DELEGATIONS - NONE

10. REPORTS

10.1 Northwest Transit Advisory Committee

Deferred to the April 27, 2006 meeting of North West Community Council.

10.1.1 Amendment to Terms of Reference

Deferred to the April 27, 2006 meeting of North West Community Council.

10.1.2 Lack of Transit Subsidies

Deferred to the April 27, 2006 meeting of North West Community Council.

10.1.3 Pedestrian Crossing Series 100 Highway

Deferred to the April 27, 2006 meeting of North West Community Council.

11. ADDED ITEMS - NONE

12. NOTICE OF MOTION - NONE

13. PUBLIC PARTICIPATION - NONE

14. NEXT REGULAR MEETING DATE - April 27, 2006

15. ADJOURNMENT

The meeting adjourned at 9:45 p.m.

Stephanie Parsons
Legislative Assistant