

HALIFAX REGIONAL MUNICIPALITY

PENINSULA COMMUNITY COUNCIL MINUTES SEPTEMBER 12, 2005

PRESENT: Councillor Sheila Fougere, Chair
Councillor Patrick Murphy
Councillor Dawn Sloane
Councillor Sue Uteck

STAFF: Ms. Sherryll Murphy, Legislative Assistant

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1. CALL TO ORDER

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

2. APPROVAL OF MINUTES

MOVED by Councillor Murphy, seconded by Councillor Sloane that minutes of the July 11, 2005 regular meeting and August 3, 2005 special meeting of Peninsula Community Council, as circulated, be approved. MOTION PUT AND PASSED UNANIMOUSLY.

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

Deletions:

8.2.2 Appeal of the Development Officer's decision to approve a variance (No. 12090) at 5850 University Avenue, Halifax.

9.3.1 Presentation - HRM Economic Strategy - Betty MacDonald and Fred Morely
Deletions.

MOVED by Councillor Murphy, seconded by Councillor Sloane that agenda item 8.2.1, be considered immediately following Consideration of Deferred Business. MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillor Sloane, seconded by Councillor Murphy that the agenda, as amended, be approved. MOTION PUT AND PASSED UNANIMOUSLY.

4. BUSINESS ARISING OUT OF THE MINUTES

4.1 Status Sheet

4.1.1 Maintenance Rainnie Drive

No information has been received. This matter is to remain on the status sheet.

Councillor Fougere advised that she had forwarded photos to staff and the Legislative Assistant which illustrate the lack of grass maintenance.

Councillor Sloane referred to other areas in the municipality where the grass is not being maintained including Magazine Hill and some mediums in District 11. She expressed concern that HRM was not getting value for their grass cutting contracts.

4.1.2 Request for Update - 1999 Petition for Traffic Calming on Allan Street

- An information report dated August 18, 2005 was before Council for consideration.

This item is to be removed from the status sheet.

4.1.3 CN Property Maintenance

No information has been received. This matter is to remain on the status sheet.

4.1.4 Case 00544- Zoning Review - R-2A and R-2AV Zoned Properties

No information has been received. This matter is to remain on the status sheet.

4.1.5 Student Housing/Rooming Houses in Peninsula

- A staff report has been submitted as agenda item 10.1.1, Case 00821: Amendment to the Halifax Peninsula Land Use Bylaw Respecting the Definitions of "Dwelling" and "Rooming House" relative to this matter.

This item is to be removed from the status sheet.

4.1.6 Location of Reception Following Future Halifax Explosion Memorial Event

No information has been received. This matter is to remain on the status sheet. The Legislative Assistant will follow up with a view to having an update at the next meeting.

5. MOTIONS OF RECONSIDERATION - None

6. MOTIONS OF RESCISSION - None

7. CONSIDERATION OF DEFERRED BUSINESS - None

8.2.1 Appeal of the Development Officer's Decision to Refuse an Application for a Variance - 2750 Swaine Street, Halifax

- A staff report dated September 12, 2005 was before Council for consideration.

- Correspondence dated July 6, 2005 from Mr. Martin Alford, the appellant, was also before Community Council. Included with the correspondence is a petition signed by 16 area residents indicating no objection to the proposal.

Mr. Richard Harvey, Planner, on behalf of Steven Higgins, Development Officer, gave a brief overview of the September 12, 2005 staff report regarding the appeal of the decision of the Development Officer to refuse an application for a variance at 2750 Swaine Street, Halifax. During his presentation, Mr. Harvey noted the owner had applied for and been refused a permit to create a two unit dwelling. The second unit was created without a permit which would constitute intentional disregard for the requirements of the Land Use By-Law. However, the owner has indicated he was unaware of the refusal and intended no disregard of the land use bylaw.

Mr. Harvey indicated staff is recommending that Community Council uphold the decision of the Development Officer.

The Chair called for persons wishing to speak with regard to this appeal.

Mr. Martin Alford, appellant, addressed Community Council and indicated that he had either lost or forgotten the refusal of the permit to create two units. He noted that his health had been poor and others were handling the paper work with regard to the second unit. Mr. Alford further indicated that HRM had provided a civic number for the back entrance very quickly and that based on this he believed the unit to be permitted. Mr. Alford indicated that as a two unit residence his property was within the requirements of the R2 zone.

The Chair called three times for persons wishing to speak with regard to the appeal.

Hearing none, it was **MOVED by Councillor Uteck, seconded by Councillor Sloane that the appeal hearing close. MOTION PUT AND PASSED UNANIMOUSLY.**

Councillor Fougere left the Chair and took a seat in Council. Councillor Murphy assumed the Chair.

MOVED by Councillor Fougere, seconded by Councillor Uteck that Peninsula Community Council overturn the decision of the Development Officer and grant the appeal.

Councillor Fougere noted that Mr. Alford wants continue to live in his home and has converted his home to a two unit with him using the back unit and renting the front portion.

Councillor Fougere indicated that the residents within the notification area are not opposed to the conversion.

MOTION PUT AND PASSED UNANIMOUSLY.

Councillor Fougere resumed the Chair and Councillor Murphy took his seat in Council.

8. HEARINGS

The Chair briefly reviewed the new public hearing procedures relating to the sign up sheet and reiterated that everyone wishing to speak would be given an opportunity. These procedures are included with the file for this meeting.

8.1 Public Hearing

8.1.1 Case 00789 - Amendment to Existing Development Agreement- 5620 South Street, Halifax

Ms. Randa Wheaton, Planner, briefly reviewed the proposal to amend the existing development agreement for 5620 South Street, Halifax to permit a multiple unit residential development as contained in the July 4, 2005 staff report. Ms. Wheaton noted that staff is recommending in favour of the application.

Using the sign up sheet, the Chair called **Mr. Dave Faryniuk, Halifax**

Mr. Faryniuk addressed Community Council expressing concern about the design of the apartments. He noted that he had expressed concern at the public information meeting and was expecting to receive a floor plan. Mr. Faryniuk indicated that he had not received this information as yet. Noting that he lived in an area where three bedroom apartments housed more than three people, Mr. Faryniuk pointed out that the floor plan for this property would be significant given the potential for abuse.

The Chair called **Ms. Joanne Faryniuk, Halifax**

Ms. Faryniuk addressed Community Council noting that the process involved with this application has been a lengthy, however, her concerns have remained the same. Ms. Faryniuk noted that her first concern related to noise and the existence and design of the balconies on each of the units which will allow for the escape of noise. Ms. Faryniuk also expressed concern regarding the difficulty in getting a floor plan for the units noting that there is a potential for conversion of the den to a bedroom.

Ms. Faryniuk noted that the most recent proposal called for a reduction in parking spaces. She noted that parking is a problem in the south end of Halifax and suggested that the By-law was archaic in this regard. Ms. Faryniuk indicated that this proposal does not include enough parking spots for the number of units.

The Chair called Mr. Reed Pleasant who indicated that he did not have a comment at this time.

The Chair called **Mr. Chris Beaumont, Halifax**

Mr. Beaumont noted that the minutes of the public information meeting chronicle a number of complaints. Quoting Councillor Uteck, Mr. Beaumont indicated that the onus was on the developer to get these things right or the proposal will be rejected at public hearing. Mr. Beaumont asked what specifically has been done to address these concerns.

Mr. Beaumont referred to Clause 2.2c which staff had developed in order to prevent the subversion of the intended use of a unit. He indicated concern that Clause 2.2c relies entirely upon the judgement of the Development Officer. Referring to a den with a 100 foot wall, Mr. Beaumont asked if, in Ms. Wheaton's opinion, this room could be converted. In conclusion, Mr. Beaumont asked how wide the opening would have to be to ensure it was not habitable.

Councillor Uteck referring to her comments regarding the responsibility of the developer to address the concerns of area residents, indicated that following the public hearing this evening, she would be proposing an amendment relative to the dens. She further indicated that the issue of residential parking was being reviewed.

Ms. Wheaton referred to Clause 2.2c noting that it related to non-habitable rooms and dens are habitable rooms. Ms. Wheaton indicated that inhabitable rooms are things such as closet.

In response to a question from the Chair, Ms. Wheaton indicated that the Development Officer will determine what is a habitable room.

Responding to a question from the Chair regarding criteria for a habitable room, Ms. Wheaton further explained that according to common practice if there is one habitable room that is 400 square feet or less which has an opening of more than 40% of the wall area, then it is considered as part of a single habitable room and is not considered a second habitable room.

The Chair called **Ms. Rebecca Jamieson, Halifax.**

Ms. Jamieson addressed Community Council noting that she was interested to learn that a den was a habitable room. She indicated that this potentially increased the density of this project.

Ms. Jamieson went on to indicate that a number of issues raised during the public meeting were not addressed in this proposal including supervision and enforcement in the building. Ms. Jamieson further indicated that the issue of a habitable room and density is more complex than she had previously believed. Ms. Jamieson noted that although Clause 2.2c is retained in the agreement, she would like more information regarding the floor plan before this project is approved. Ms. Jamieson went on to note that the density for a two bedroom unit is three (3) while a one bedroom with den was only two (2). She suggested that these two situations are exactly the same. Ms. Jamieson indicated that based upon this she does not believe the project meets the density set out in the By-Law. Concluding her remarks, Ms. Jamieson indicated that the proposal does not adequately address parking or the concerns around the balconies.

As there were no further persons on the list, the Chair called for persons wishing to address Council in support of or against the proposal.

Mr. Michael More, Solicitor for the Applicant, addressed Community Council and, on the advice of his client, withdrew the application for an amendment to the existing Development Agreement at 5620 South Street. Mr. More noted that there was a existing Development Agreement in place on the property. He further advised that the floor plans were filed with HRM last Tuesday and available to the public.

The Chair ruled that the process has been terminated and no further action would be taken by Community Council in this regard.

Councillor Uteck clarified that the property reverted to the original Development Agreement.

The Chair expressed concern regarding the number of applications which have been made relative to this property, asked if there was any limit to the number of applications on a given property. She further asked if it would be possible to amend the process to curb an excessive number of applications on any given property.

8.2 Appeal Hearing

8.2.1 Appeal of the Development Officer's decision to refuse an application for a variance - 2750 Swaine Street, Halifax

This matter was dealt with earlier in the meeting. See page 5

8.2.2 Appeal of the Development Officer's decision to approve a variance (No. 12090) at 5850 University Avenue, Halifax.

This matter was deleted during the setting of the agenda.

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS

9.1 Correspondence - None

9.2 Petitions - None

9.3 Presentations

9.3.1 Presentation - HRM Economic Strategy - Betty MacDonald and Fred Morely

This matter was deleted during the setting of the agenda.

10. REPORTS

10.1 Staff Reports

10.1.1 Case 00821: Amendment to the Halifax Peninsula Land Use Bylaw Respecting the Definitions of "Dwelling" and "Rooming House"

- A staff report dated August 2, 2005 was before Community Council for consideration. Distributed to Community Council was a report from the District 12 PAC dated September 7, 2005.

Mr. Richard Harvey, Planner, gave a brief overview of the August 2, 2005 report noting that staff is proposing amendments to the Peninsula Land Use Bylaw which are intended to limit the development of:

- Dwellings containing an excessive number of bedrooms
- Large dwellings on comparatively small lots

within low and medium density neighbourhoods in Peninsula Halifax.

MOVED by Councillor Uteck, seconded by Councillors Sloane that Peninsula Community Council give Notice of Motion to consider the proposed amendments to the Halifax Peninsula Land Use Bylaw included as Attachment of the August 2, 2005 staff report and schedule a join public hearing of the Peninsula Community Council and the Chebucto Community Council. MOTION PUT AND PASSED UNANIMOUSLY.

A joint public hearing will be held on October 3, 2005 beginning at 7:00 p.m. in the Council Chamber, City Hall, 1841 Argyle Street, Halifax, Nova Scotia.

10.1.2 Request for Special Meeting: Regional Planning (Between October and November 4)

The Chair advised that a request has been received from Regional Planning to hold a special meeting between October 26 and November 7 to receive a briefing on the Regional Plan.

MOVED by Councillor Sloane, seconded by Councillor Uteck that the November meeting of the Peninsula Community Council be moved to November 7, 2005 from November 14, 2005, at which time the Peninsula Community Council will receive a presentation on the Regional Plan. MOTION PUT AND PASSED UNANIMOUSLY.

10.1.3 Case 00733: Amending Development Agreement- 6770 Jubilee Road, Halifax

- A staff report dated August 29, 2005 was before Community Council.

MOVED by Councillor Uteck, seconded by Councillor Walker that Peninsula Community Council:

- **Approve the Amending Development Agreement, as contained in attachment "A" of the August 29, 2005 staff report, to permit one (1) additional 2-bedroom dwelling unit through interior conversion, at 6770 Jubilee Road, Halifax.**
- **Require that the Amending Development Agreement be signed within 120 days, or any extension thereof granted by Council on the request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever approval is later, including applicable appeal periods; otherwise, this approval will be void and obligations arising hereunder shall be at an end.**

MOTION PUT AND PASSED UNANIMOUSLY.

10.2 District 12 Planning Committee Report

10.2.1 Gerard Lodge - Surveys for Development Agreements

- A report from the District 12 PAC dated August 16, 2005 was before Community Council.

MOVED by Councillor Sloane, seconded by Councillor Murphy that staff provide a report addressing the following:

1. **A full survey being undertaken, at the owners expense, on the Gerrard Lodge property.**
2. **Adoption of a working practice which would require a survey, at the owners expense, instead of location certificates for all developments requiring Development Agreements**

MOTION PUT AND PASSED UNANIMOUSLY.

11. **MOTIONS** - None
12. **ADDED ITEMS** - None
13. **NOTICES OF MOTION** - None
14. **PUBLIC PARTICIPATION**

Hugh Pullen, Halifax

Mr. Pullen expressed concern regarding the use of location certificates rather than a full survey and endorsed the District 12 Planning Advisory Committee recommendation. He went on to refer to the system in place in Lunenburg relating to the sale of land which requires a land survey.

Mr. Pullen went on to refer to landscaping which was recently carried out on the Connaught Avenue boulevard between Jubilee Road and Quinpool Road. Mr. Pullen noted that a great deal of top soil was used in creating flower beds which are now 'weed beds'. Mr. Pullen went on to indicate that what was a good idea has become an eyesore.

Councillor Uteck responded that the system referred to by Mr. Pullen is now in effect in HRM, but this Development Agreement was in place prior to the system coming into being. She further noted that the flower beds on the Connaught Avenue boulevard would be levelled this fall and more natural landscaping undertaken.

Beverly Miller, Halifax

Ms. Miller, referring to the recommendation of the District 12 PAC, Ms. Miller recommended that a survey, at the owners cost, be required on all Development Agreements and building extensions throughout HRM.

Chris Beaumont, Halifax

Mr. Beaumont addressed Community Council referring to clause 2c(c) suggested that the these kinds of amendments should include more clarity and not be discretionary. Mr. Beaumont expressed concern that significant deviations from what is the norm could result.

George Kovach, Halifax

Mr. Kovach thanked staff for the hard work in bringing forward the report relative to rooming houses.

15. NEXT MEETING - October 3, 2005

16. ADJOURNMENT

There being no further business, the meeting adjourned at 8:20 p.m.