

Item No. 12.2
Halifax Regional Council
March 27, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

Original signed

SUBMITTED BY: Councillor Reg Rankin, Chair, Western Region Community Council

DATE: February 28, 2012

SUBJECT: Land Acquisition/Exchange – Drysdale Bog

ORIGIN

The Western Region Community Council meeting of August 22, 2011 and February 27, 2012.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Support a request of the Western Region Community Council of August 22, 2011 for consideration of a land exchange/acquisition with a local property owner in regard to the recently rezoned Drysdale Bog lands, and;
2. Request an update from staff to the August 22, 2011 request of the Western Region Community Council.

BACKGROUND

At the August 22, 2011 Western Region Community Council meeting, the following motion was passed requesting that staff consider land acquisition/exchange for the recently rezoned Drysdale Bog lands:

12.1 Acquisition of Drysdale Lands

MOVED by Councillor Rankin, seconded by Councillor Adams that the Western Region Community Council request a staff report from HRM's Capital Asset Planning, Infrastructure and Asset Management exploring the acquisition of the Drysdale lands recently rezoned to residential either by purchasing the lands or through a land swap process in order to ensure a better measure of protection/conservation of those lands in perpetuity. MOTION PUT AND PASSED.

The motion forwarded to staff on August 23, 2011 also included the following information:

The land swap could be for lands of lesser conservation value in the Western Commons area or lands opposite the Ragged Lake Transit facility.

The Community Council also requested that staff act expeditiously on this request and that if required to be brought to Regional Council that it be done at the first opportunity.

No response has been received in regard to the motion of August 22, 2011.

DISCUSSION

The Western Region Community Council has not received a response from staff on this matter and request that Halifax Regional Council request that staff provide an update on the August 22, 2011 request of the Western Region Community Council to consider a land acquisition/exchange for the recently rezoned Drysdale Bog lands.

BUDGET IMPLICATIONS

None associated with this report.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The matter was raised and discussed at an open meeting of the Western Region Community Council.

ALTERNATIVES

1. Halifax Regional Council may choose not to request that staff provide an update to the August 22, 2011 request of the Western Region Community Council for consideration of a land exchange/acquisition with local property owner in regard to the recently rezoned Drysdale Bog lands. This is not the recommended option.

ATTACHMENTS

1. Extract of the August 9, 2011 Halifax Regional Council minutes re: Case 01213 – Municipal Planning Strategy Amendments for Industrially Zoned Lands Surrounding Drysdale Bog, Goodwood.

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: [Chris Newson, Legislative Assistant, 490-6732]

9. PUBLIC HEARINGS**9.1 Case 01213 – Municipal Planning Strategy Amendments for Industrially Zoned Lands Surrounding Drysdale Bog, Goodwood**

The following was before Council:

- A report from the Western Region Community Council dated June 28, 2011
- An extract from the draft Regional Council July 5, 2011 minutes
- A copy of the presentation
- Submissions from Lloyd MacLellan, President of MacLellan Construction, and Brian W. Murphy

Mr. Richard Harvey, Senior Planner, Community Development, delivered a presentation to Council respecting the Municipal Planning Strategy amendments for industrial zoned lands surrounding the Drysdale Bog, Goodwood.

Staff responded to questions of clarification respecting the ongoing legal action by Lloyd MacLellan Construction against the Municipality. It was noted Council's decision would not have an adverse affect on the Plaintiff's claim as those matters are separate from the land use planning process.

Further clarification was provided respecting the use of the land if rezoned to Residential B-1 (RB-1) and the impacts of an open space design. The following points were noted:

- The development would be limited to eight (8) lots under an as-of-right development
- Through an open space design process, an environmental study and other studies would be undertaken to determine the lot yield, which would be consistent with the allowances over other properties with similar zoning
- Applying residential zoning, not presently permitted under the I-3 designation, could potentially have more value than there is currently under I-3, given that the development of industrial uses on that property require a second access, which it does not presently have

Mayor Kelly reviewed the public hearing procedures and opened the public hearing, calling for any speakers for or against the matter to come forward at this time.

Mr. Frank Johnston, Goodwood, spoke in favour of Case 01213. Highlights were as follows:

- rezoning of land from I-3 to Residential B-1 is a positive change for the thousands of residents who receive their water from the three watersheds fed by the Drysdale Bog wetland
- The amendment to the zoning in District 4 has widespread community support, clearly shown by the concerns raised by those who attended the January 6, 2010 public information meeting regarding the future of lands around the Drysdale Bog

- The lands in the area of the Drysdale Bog have not had proper stewardship for many generations; this is exemplified in the many abuses of the area such as the dumping of slate from downtown construction projects years ago, which polluted local wells, to the current dumping of by-products of construction debris and metal salvaging
- As this area is the headwaters for homes fed by various rivers all heading towards Prospect/Shad Bay this practice should stop or at least not be allowed to grow
- Environmentalists such as Elizabeth May and wildlife experts such as those from the Nova Scotia Bird Society have stated that this area is worthy of preservation
- If the zoning is not changed, the area could host the most undesirable business activities ranging from abattoirs to mercury smelting; the lands are next to the largest wilderness preserve in the HRM, the Western Commons and the main tourist bus route to Peggy's Cove
- Changing the zoning around the Drysdale Bog benefits the vast majority of citizens of the Prospect Area, and indeed HRM as a whole; it helps to prevent contamination of a precious water supply and preserve an ecosystem near the Western commons for all to enjoy

A copy of Mr. Johnston's comments were provided for the record.

Ms. Beth McGee, Seabright, spoke in favour of Case 01213. The following points were noted:

- In 1983 when the industrial area was created, the community did not operate in the backdrop of environmental concerns as they do in 2011
- To date many residents have huge concerns respecting the Drysdale Bog as it is the headwaters for several river systems, mainly the Prospect River
- Should there ever be an environmental disaster, such as contamination from an industrial site, the potential impact on residents and their water systems would be astronomical and HRM would not want to have to pay the bill for clean up

Mayor Kelly gave the third and final call for speakers; there being no further speakers, it was **MOVED by Councillor Johns, seconded by Councillor Sloane that the public hearing be closed. MOTION PUT AND PASSED.**

MOVED by Councillor Rankin, seconded by Councillor Lund that Halifax Regional Council approve the proposed amendments to the Halifax Regional Municipal Planning Strategy, the Land Use By-Law for Mainland Halifax, the Municipal Planning Strategy for Planning District 4, and the Land Use By-Law for Planning District 4, as contained in Attachments A, B, C and D of the June 8, 2011 staff report.

Councillor Rankin indicated that the June 8, 2011 staff report is in line with the community's vision. The first comprehensive review of the community took place in 1989. At that time, the subject lands were not part of the Goodwood community, as they were part of the former City of Halifax. He further recognized the community for coming forward to express their concerns. The community has made it clear that the

lands should not be zoned industrial. The subject lands are not inconsistent with surrounding lands and do conform to the present community planning. The Councillor requested Council's support with regard to this matter.

Councillor Adams questioned the difference for setback requirements and the protection of the Drysdale Bog between an I-3 zone and an RB-1 zone. He suggested making the entire area a conservation area to better protect the lands. Mr. Harvey advised that as a wetland, the area has special protection under Municipal and Provincial regulations. He could not confirm the exact setback requirements but noted that development would not be permitted within the wetland without special permission.

Further clarification was provided respecting the number of lots that could be developed based on an as-of-right development versus an open space development.

Councillor Adams requested additional information outlining the cost implications of making the subject lands a conservation area. He commented this option would protect the Drysdale Bog, protect the residents of the area, stop any development around the Bog, would not increase traffic and make the lands more consistent with surrounding areas. Councillor Adams clarified that he did not want to defer or delay this process but is seeking additional information. The Councillor asked what the impact would be on land value should Council approve this motion.

In response to concerns raised by Council, Ms. Mary Ellen Donovan, Municipal Solicitor, provided the following clarification:

- Industrial land values are not necessarily higher or lower than residential land values
- Currently without a second access road, it severely limits what industrial uses can be placed on the lands
- Certain residential uses of this land do not require a second access; however, Council may have to give future consideration as to whether they want to provide the easement for residential purposes that they were not prepared to grant when the use was intended for industrial development
- Commercial taxes are higher than residential taxes
- When determining assessed value there are two factors: the assessed value of the land times the rate; it is unknown what the current assessed value of the land is under an I-3 use without a second access road

Councillor Uteck concurred with Councillor Adam's comments and suggested putting the hearing in abeyance, pending the additional information respecting the environmental protection designation. Mr. Harvey advised that if the direction of Council is to not allow for development to occur through a conservation designation, this is not something that can be imposed upon a private property owner in this particular situation. The land must be zoned in such a way as to allow some use. In recognition of this, staff has undertaken a review to zone it in a way that is in keeping with the surrounding area. He suggested that Council could chose to pursue some form of acquisition.

In response to questions raised respecting fairness for the property owner, it was noted that staff was asked to examine the appropriate zoning and plan policy related to the piece of property. They do not appraise the land nor speculate on what the land's value might be after rezoning. The basis of staff's recommendation was not driven by how much money someone may or may not make, but what makes sense for the community.

Councillor Walker indicated that during the January 2010 public information meeting, as well as this evening, neither the property owner nor members of the community spoke against rezoning to RB-1.

Staff provided an overview of the map respecting the property lines between Mr. MacLellan's property and CHUM Limited. It was noted that the Drysdale Bog land is owned by CHUM Limited.

Councillor Johns noted that Council received correspondence from Mr. MacLellan requesting that Council await the Court's decision before considering a re-zoning to the property.

Further discussion ensued with Council agreeing to a recorded vote.

A recorded vote was taken.

MOTION PUT AND PASSED.

Those voting in favour were: Mayor Kelly, Deputy Mayor Smith, Councillors Barkhouse, Dalrymple, Hendsbee, Hum, Johns, Karsten, Lund, McCluskey, Mosher, Nicoll, Outhit, Rankin, Sloane, Uteck, Walker, Watts and Wile. (19)

Those voting against were: Councillors Adams and Fisher. (2)

Councillors Streach, Blumenthal and Harvey were absent for the vote.

15. ADJOURNMENT

The meeting was adjourned at 7:11 p.m.

Cathy J. Mellett
Municipal Clerk