

COMMITTEE OF THE WHOLE
MINUTES
SEPTEMBER 14, 1999

PRESENT: Mayor Walter R. Fitzgerald
Deputy Mayor Larry Uteck
Councillors: Gordon R. Snow
Ron Cooper
Harry McInroy
Jack Greenough
Condo Sarto
Bruce Hetherington
Clint Schofield
John Cunningham
Jerry Blumenthal
Graham L. Downey
Sheila Fougere
Russell Walker
Bill Stone
Stephen Adams
Robert Harvey
Peter Kelly
Reg Rankin
Jack Mitchell

REGRETS: Councillor Graham Read

STAFF: Mr. Ken Meech, Chief Administrative Officer
Mr. Wayne Anstey, Municipal Solicitor
Ms. Vi Carmichael, Municipal Clerk
Ms. Julia Horncastle, Assistant Municipal Clerk

TABLE OF CONTENTS

1.	APPROVAL OF MINUTES - July 6, 1999	03
2.	APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS	03
3.	NOISE BY-LAW	03
4.	MASTER PLAN - HEMLOCK NORTH - STATUS REPORT - PRESENTATION	06
5.	ADJOURNMENT	06

Mayor Fitzgerald called the meeting to order at 2:30 p.m.

At a later point in the meeting, Mayor Fitzgerald recognized Ms. Mary Ann McGrath, MLA, who was present in the gallery.

1. APPROVAL OF MINUTES - July 6, 1999

MOVED by Councillors Blumenthal and Greenough that the minutes of July 6, 1999 be approved as circulated. MOTION PUT AND PASSED.

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

MOVED by Councillors Mitchell and Snow that the Order of Business be approved. MOTION PUT AND PASSED.

3. NOISE BY-LAW

! A staff report prepared for Mr. George McLellan, Acting Chief Administrative Officer, on the above noted was before Council for consideration.

! An amended Schedule "C" was circulated to members of Council.

! An extract from the August 17, 1999 Regional Council minutes was circulated to members of Council.

! Correspondence from the following was circulated: Mr. John Murphy and Mr. Robert Grant of Stewart McKelvey Stirling Scales; Mr. Michael Ardenne, President, Music Industry Association of Nova Scotia; Mr. Marek Roland-Mieszkowski, President, Digital Recordings, Canada; Mr. David A. Egan, Montebello Drive, Dartmouth and Mr. John J. Alphonse, President, Atlantic Federation of Musicians.

Ms. Angela Jones, Solicitor, advised the proposed by-law imposes a general standard of noise which is unacceptable within the neighbourhood on the grounds that it unreasonably disturbs a person within that environment taking into consideration the location of the activities which generally take place within that area (Section 3 (1)). She advised Schedule "A" of the By-law sets out certain specific activities which, for greater certainty, are deemed to disturb the peace of a neighbourhood if the parameters set out in the Particular provisions are met. She noted these are in addition to, and not in substitution for, the general provision contained in Section 3(1).

Ms. Jones advised Schedule "A" has now been divided into three Parts; Part 1 lists activities that unreasonably disturb any neighbourhood, whether residential or not; Part 2

lists activities that unreasonably disturb a residential area no matter where the noise originates at the specified times. She noted, for the most part, the items listed in Part 2 are not restricted to commercial activities. Part 3 lists activities originating from within a residential area that unreasonably disturb a resident when they are heard at the specified times. She advised Part 3 will not apply to activities which occur in downtown Halifax, the Container Piers, the Dartmouth Marine Slips or Oland Breweries.

Ms. Jones advised the proposed amendments will address the concerns raised by the construction industry that the Schedule, as previously proposed, will restrict their activities. With the rewording, Part 3 of the Schedule will not apply to commercial or industrial activities outside of residential areas. Disturbing activities that do not fall within the specified parameters of Schedule "A" may still be covered by the General Prohibitions Section 3(1).

Ms. Jones advised it is being recommended that the word "only" be inserted at Section 2(i). She advised that by including the word "only" the definition of residential area is restricted to areas zoned exclusively for residential uses. This excludes all commercial and industrial zones within the Municipality, the entire Downtown Halifax is commercial zoned; therefore, with the reinsertion of the word "only", the central business district and similar areas will be excluded from the definition of residential area, noting Part 2 and 3 of Schedule "A" will not apply to noises heard within the downtown area.

Ms. Jones advised Sea-doods and Ski-doods have been added to the By-law at Section 13 in Part 2 of Schedule "A". She noted the change to the wording proposed in Section 4(2)(f) was made in order to avoid any ambiguity as there was some confusion as to whether or not those activities were totally municipal.

Ms. Jones advised issues were raised by the residents at Dartmouth Cove with regards to Secunda Marine Slips noting, Parts 1, 2 and 3 of Schedule "A" will apply to their area. Part 3 of Schedule "A" lists activities originating from a residential, from within a residential area, that are deemed to unreasonably disturb the peace and tranquility of a neighbourhood at the specified prohibited times. Part 3 of the schedule will not apply to noises that originate from commercial activities next to a residential zone; therefore, the residents of Dartmouth Cove, who are bothered by the noises emitting from a commercial zone, will still have recourse from unreasonable noise under Section 3(1) of the General Prohibitions section while at the same time the industrial activity will not be prohibited but will be required to use reasonable noise abatement measures.

Ms. Jones advised any noise complaints concerning mowing at a golf course or the noise from a car wash will fall under the General Prohibitions Section 3(1).

Ms. Jones noted at Part 2 of Schedule "A", Section 1 restricts the detonation of fireworks or explosive devices not used in construction or quarrying and, Schedule "C" has been

amended to include "Activities at Pits, Quarries or Mining Operations for which a permit has been issued by the department of Environment which expressly regulates sound levels". Ms. Jones noted that a request had been made that Part 2, Schedule "A", section 12 be amended to remove the words "and open for vehicular traffic".

Councillor Kelly referenced page 11, Part C under Prohibited Times and requested 7:00 a.m. be inserted after the word forenoon to provide consistency. The Councillor expressed concern with the ability to enforce the by-law once it becomes effective.

Councillor McInroy noted that in some of the residential areas there is accommodation for a corner store and queried whether this would disqualify such an area from being zoned only for residential uses. In response, Ms. Jones advised that these uses may be permitted under the Land Use By-law but still be permitted in a residential zone. She advised if it is mixed commercial/residential then the residential only section will not apply but they will be protected under the General Prohibition Section 3(1).

Councillor Fougere referenced Schedule "A", Part 2, Section 12 regarding Bedford Place Mall and questioned whether singling out Bedford Place Mall would open the flood gates for every mall in the Municipality to apply for a similar exemption.

Councillor Downey suggested when a new building is being constructed it should be covered under this By-law but, when renovations are being made to existing buildings, stipulations should be made as to when work can and can't be carried out.

In response to Councillor Hetherington, Ms. Jones advised the police will be mainly responsible for enforcement at night when the by-law enforcement officers are not working.

Councillor Blumenthal expressed concern with heavy truck movement within the Community of Halifax throughout the night and queried what priority would be placed on such complaints.

Councillor Cooper referenced Part 2, Section 3 and received clarification that the exclusion of hobby aircraft was carried forward from the former Cities of Dartmouth and Halifax by-laws and, under this by-law, a person engaging in this hobby would do so somewhere where it would not disturb the peace and tranquility of residential areas.

Councillor Cooper advised that Municipal By-laws did not apply in Planned Unit Development areas of the former Halifax County and requested this be investigated to ascertain whether this By-law would apply.

MOVED by Councillors Rankin and Downey that Regional Council approve the suggested changes and give Second Reading to By-law N-200 Respecting Noise attached as Appendix "A" with the following:

- (a) the revised wording to Schedule “C”
- (b) the words “and open for vehicular traffic” being removed from Part 2, Section 12
- (c) with 7:00 a.m. being inserted after the word forenoon on page 11, Part C

MOTION PUT AND PASSED UNANIMOUSLY.

4. MASTER PLAN - HEMLOCK NORTH - STATUS REPORT - PRESENTATION

- ! A copy of the slide presentation entitled “Hemlock North/Prince’s Lodge Master Plan Area” was circulated to members of Council.

Ms. Donna Davis-Lohnes advised the purpose of this presentation is to provide Council with an update on the Hemlock North Master Plan exercise, noting the purpose of his exercise is to look at the feasibility or suitability of certain areas for major future development. She advised it is primarily to look at the servicing and cost implications and then develop a Policy Set to allow these areas to go forward in the form of a new secondary area or as a major section to a new regional plan.

Mr. Austin French advised Council approved the initiation of the master planning process in December, 1998 for the Hemlock Ravine North in Districts 16 and 21 and the Governors Lake North in District 22. He introduced Mr. Barry Zwicker, Wallace, MacDonald Lively Ltd., who presented the report outlining land ownership, significant features, overall objective, principles of smart growth, and the elements of a neighbourhood. The report also provided a land use table and suggested program of activities.

Mr. Zwicker advised the sight is approximately 900 acres in size with ownership by seven individual land owners who, in conjunction with HRM staff, are working towards a final concept plan, planning strategies, land use by-laws and an implementation strategy that will see this area move forward in terms of development.

After the presentation, Mayor Fitzgerald thanked Mr. Zwicker and staff for the presentation and update.

5. ADJOURNMENT

MOVED by Councillors Blumenthal and Greenough that the meeting be adjourned at 4:25 p.m. MOTION PUT AND PASSED.

Vi Carmichael
Municipal Clerk