

"THAT A LETTER BE SENT TO THE MINISTER OF HEALTH POINTING OUT THAT THE LONG TERM REQUEST HAS NOT BEEN ADDRESSED FOR THE EXAMINATION OF THE PRIMARY CHILDREN AS THEY ARE COMING IN THAT IT CONTINUE ON PAST 1992 AND THE FORESEEABLE FUTURE AND FURTHER COULD HE GIVE HER HIS ASSURANCES THAT THE HEALTH NURSE THAT IS PRESENTLY SERVING DISTRICT 14 CAN ADEQUATELY ADDRESS THE CONCERNS FOR A PUBLIC HEALTH NURSE IN THE COMMUNITY BECAUSE SHE IS NOT AS VISIBLE AS WHEN THERE WAS TWO"

MOTION CARRIED

11. Letter from Mr. Shalom Mandaville.

It was moved by Councillor Peters, seconded by Councillor Rankin:

"THAT THE LETTER BE RECEIVED"

Councillor Cooper stated that it would be appropriate at this time to recognize the effort and dedication Mr. Mandaville puts in to educate the Council with regards to the state of the water in lakes in the Municipality.

MOTION CARRIED

It was moved by Councillor Cooper, seconded by Councillor Peters:

"THAT A LETTER OF APPRECIATION BE SENT TO MR. MANDAVILLE"

MOTION CARRIED

1992 DISTRICT AREA RATES

Warden Lichter stated that if there was any item that Council did not want to approve to flag those and the rest could be dealt with.

It was moved by Councillor Snow, seconded by Councillor Giffin:

"THAT THE 1992 DISTRICT AREA RATES, AS OUTLINED IN THE PACKAGE, BE APPROVED"

MOTION CARRIED

EXECUTIVE COMMITTEE REPORT

Storm Drainage - Caldwell Road

The Executive Committee recommend to Council, for approval, Option 1 - Upgrade natural watercourse on Indian lands - \$163,800.00 subject to Halifax County obtaining a legal agreement from the Department of Indian and Northern Affairs to access and maintain watercourse.

It was moved by Deputy Warden Sutherland, seconded by Councillor MacDonald:

"THAT THE EXECUTIVE COMMITTEE RECOMMENDATION BE APPROVED"

Councillor Peters asked if the access to the land has been guaranteed.

Warden Lichter stated that to his knowledge the access was guaranteed at the last meeting he had with the Chief and the three representatives of Indian and Northern Affairs however this motion is subject to getting that in writing.

Councillor Cooper stated that he has great concerns about the precedent that might be established in paying for access to properties in order to install systems and then going in and paying the cost of the improvements. He stated an agreement had been reached with Shearwater to do a sewer across their property for a sum of \$295.00 per year for right of way. He stated that he is not sure that the agreement is going to be long lasting or whether the Municipality can be denied access. He stated that the basic point is that he does not feel that the Municipality should be paying money to go in and make use of a natural watercourse other than to upgrade it. He could see paying a nominal fee but to pay this type of money he does not agree with and he would be voting against the motion.

Councillor Brill asked if the amount of money in Option 1 the complete amount or are other costs such as compensation.

Warden Lichter stated that this includes the \$93,800.00 compensation to the Indian Band as well as the construction of the watercourse improvements. Total cost.

Councillor Brill asked what the recommendation of staff was.

Warden Lichter stated that staff had recommended Option 1.

Councillor Peters asked if she had received a reply from the Minister of Indian and Northern Affairs.

Warden Lichter stated that the motion was to defer the issue until today and Council would make a decision today whether an answer had been received or not.

Councillor McInroy stated that he was speaking against the motion. He feels that it is wrong for the County to be forced into the position where it is paying someone for permission to do something which is actually going to benefit the lands on which the work is being undertaken. He stated that he would suggest that if the motion does pass that the agreement to enter upon the land for maintenance purposes stipulate that it be a free and unencumbered

access.

Councillor Bates stated that he was speaking in favour of the motion. He stated that it was to be incorporated into the agreement that any at any time the County could have access for maintenance purposes.

Warden Lichter stated that staff have identified the development potential of the undeveloped lands that presently exist. They have identified that the brook, as is now, would not carry all the storm water flows that would be created by the developments taking place. It was identified in order to prevent flooding problems that have been experienced for some time in the Municipality.

Councillor Taylor stated that in effect the Indians would have a problem with their land.

Warden Lichter stated that they would have a problem and there are already people in the vicinity that already have problems. He stated that if we want the storm sewer, the road to be realigned and the paving to be done by the Provincial government then this work has to be done and the only way that it can be done is with Option 1 which is the cheaper option. He stated the letter that had been sent to the Minister of Indian and Northern Affairs had asked the Minister to assist in the negotiations with the Indian Band and to have a reply by May 19. There has been no reply. He stated unless some indication can be given to the Department of Transportation and Communications that this issue is somehow resolved they cannot guarantee that the project is going to be done.

Councillor Deveaux asked if this motion was approved this evening an agreement will be drawn up between the Indian Band and the Municipality and if so, will the agreement come to Council before any final agreement.

Warden Lichter stated that he did not have any difficulty with this although he did not see what purpose this would serve as long as it carries out whatever direction Council wants.

Councillor Richards stated that there are difficulties in trying to resolve this situation. It would have been to Council's favour if a response had been received from the Minister of Indian and Northern Affairs. Had an answer been provided a decision may have been easier. His problem with the motion is that it would commit Halifax County to the project even if the Minister responded tomorrow. He stated that he recognizes the importance of getting the Department of Transportation working on the project quite critical because Caldwell Road is in a terrible state. He stated there is a storm drainage problem in that area and to do nothing is not going to resolve the problem. He stated that he is not necessarily agreeing that Option 1 is the best solution to be

endorsed because the County could hear back from the Minister with an opportunity to cost share in the final figure.

Councillor Richards stated he would like the following amendment to the motion to say that Halifax County costs would be up to \$163,800.00 subject to the discussions with the Minister of Indian and Northern Affairs on any funding arrangements that are available through his department. He stated he felt funding arrangements between the County and Indian Affairs should be ironed out before proceeding. He stated he would like to have the motion worded so that the County is not committed to paying this sum of money if we can continue to negotiate with the Department of Indian and Northern Affairs to achieve a fair settlement. His intention is not to stop the motion but he would like to have the best financial deal that can be struck with the Department of Indian and Northern Affairs. He stated that the County did not want the Band council to sign the deal but the Department of Indian and Northern Affairs.

Councillor Bates stated that his understanding was that the Municipality was going to go with this project based on a cost of \$163,800.00 and attempt to recover some of the funds from the Department of Indian and Northern Affairs.

Mr. Crooks stated that as he understood the intention is to say, in effect, that the Municipality's financial participation is to be reduced by such amount as is agreed to be contributed by the Minister of Indian and Northern Affairs, if any, by a certain date and failing an agreement by the Minister by that date the Municipality will pay the full amount. He stated that as he understands the intention it may be unlikely that it would provide much leverage to the Municipality in terms of obtaining that result.

Councillor Peters stated that the Minister of Indian and Northern Affairs as well as the Minister of Transportation and MLA for the area in not realizing the possible ramifications to the Municipality. She stated that she would not want to make a decision on this tonight until an answer is received from the Minister of Indian and Northern Affairs. This may need another letter being sent asking for an answer on this as soon as possible and again send a copy to the Minister of Transportation saying that we want this project to proceed but we don't want to set a precedent by paying \$90,000.00 to do it.

Warden Lichter stated that what is being said now is write another letter, give another deadline. He stated that Chief Paul asked him the previous Council session to let him know what the outcome of the Council session is. He called him the next day and told him that Council had decided to write a letter to Indian Affairs asking for a reply by May 19, 1992 and that would be when Council would make a decision. Chief Paul had stated that he did not have any difficulty with this because the Minister would write to the

regional office and the regional office would write to them and they would say that it was a Council matter to do whatever negotiations that are to be done.

Councillor Peters stated that she cannot support that Council set a precedent by spending in excess of \$90,000.00.

Councillor Merrigan stated that nothing has come from the Cole Harbour/Westphal Community Committee outlining what they want. He stated that the Community Committee should have come forward to Council with some unified recommendation.

Warden Lichter stated that the last discussion he had with Mr. Meech concerning this item Mr. Meech stated that David Nantes had called him and asked him when the issue was going to be resolved because they really can't guarantee that the project is going to be done if it is delayed too long. At the time of the second last negotiating session he had with the Department of Transportation the Honourable Ken Streach said that it seems to be a problem between the Municipality and the Indian Band and for them to work out the differences and when they have done this let him know. They cannot do anything until then. He stated that he does not know how long the provincial government can wait or be there to do the job.

Deputy Warden Sutherland stated that when all the options came to the Executive Committee and were looked at Option 1 was the best way to go. He stated that if this is approved tonight it may diminish the Municipality's negotiation position as far as Indian Affairs is concerned. He stated that if it is approved tonight he does not feel that it will jeopardize the negotiations for additional funding.

Councillor McInroy stated that the state of the road is such that it will be top coated on a short term basis. If the project to install the storm sewer doesn't proceed what that means is that the forty or so acres that the Indian Band owns and some other undeveloped lands will not have storm trunk line available to it but those existing dwellings will have a storm trunk line installed in the street in front of them. He stated that it's a dilemma for him as he represents the area and the people who own those lands and who may be impacted. He stated that depending what happens with regards to the position the County takes they may proceed with installing the storm sewer from the brook South to Atholea Drive and deferring the balance. There is a flooding problem on the Reserve lands because the brook bed is almost undefinable and needs to be upgraded before the new storm trunk line goes in. He stated that he does not want the services to be lost. He stated that he did not believe that you pay out money to go in and fix up someone else's property on an existing watercourse.

It was moved by Councillor Brill, seconded by Councillor Peters:

"THAT THIS MATTER BE DEFERRED TO THE COLE HARBOUR/WESTPHAL COMMUNITY COMMITTEE FOR A RECOMMENDATION WHICH IS TO BE BROUGHT BACK TO COUNCIL AT THE COMMUNITY COMMITTEE'S DISCRETION"

MOTION DEFEATED10 IN FAVOUR11 AGAINST

Warden Lichter asked Councillor Richards if he still wished to make an amendment to the motion.

It was moved by Councillor Richards, seconded by Councillor Randall:

"THAT THE MOTION BE AMENDED TO ALLOW THE MUNICIPALITY THE ABILITY TO CONTINUE THE NEGOTIATIONS WITH THE DEPARTMENT OF INDIAN AND NORTHERN AFFAIRS ON A SUM OF MONEY PAYABLE TO THE INDIAN BAND COUNCIL, IF ANY"

Councillor Bayers stated that it is necessary to get on with the project and he understands Councillor Richards amendment will approve the motion and then to continue to pursue the Department of Indian and Northern Affairs on the idea of being reimbursed for the portion that is paid for the lands. He stated that he does not see any simple way around this other than to approve the project and proceed to try and get money back from the Department of Indian and Northern Affairs.

Councillor Cooper advised there have been problems all along with this. The community has a development plan that won't apply to these lands and if the Indian Band is going to be part of this community then they should live and work with the community. He does not feel that the community appreciates that the province has come along offering money. He stated that he would much rather something like this go through the Community Committee so they can have input. He stated that he feels Halifax County should not be paying the \$90,000.00 to do something that is going to help the community but prepared to upgrade that watercourse so it can help drain the Indian lands and the other undeveloped lands.

Warden Lichter stated that he agreed that the amendment did not give anyone any negotiating power because on one hand we say we are going to go ahead with the project regardless and on the other hand we say we will try to negotiate the better price.

Councillor Merrigan stated that he did not feel that the amendment was in any way affecting the motion.

Warden Lichter stated that although he feels that the amendment does not help the negotiating process he does accept the amendment. He stated that the amendment approves Option 1 with the

understanding that the \$93,800.00 should be negotiated down with the Minister of Indian Affairs.

Councillor Peters stated that she felt, after reading the minutes and motion of the April 21, 1992 council session that this be deferred until an answer was received from the Minister of Indian Affairs.

Councillor Merrigan asked for a ruling from the Solicitor on the deferral.

Warden Lichter advised the solicitor would give the ruling.

Mr. Crooks stated that a review of the Minutes would indicate that the intent of the motion was not to defer to tonight but to defer pending receipt of a response to the letter which was to go to the Minister. In terms of the procedural implications of that, the position was that the matter cannot be dealt with or disposed of tonight unless Council were to decide, by majority vote of those Councillors present, that they wished to consider the matter tonight notwithstanding the previous deferral motion and, having decided that, then it would be open to Council to proceed to deal with the substantive issue. Mr. Crooks said that the item now before Council for decision by majority vote was whether or not to let the deferral pending a response to the Minister stand or to proceed tonight to deal with the issue. He said the reason he was satisfied that Council could, by majority vote tonight, decide to deal with the issue notwithstanding the previous motion, was that the Council Agenda clearly included this item as a matter to be discussed and considered tonight and so no unfairness or lack of notice would be presented for any Councillor who might not have otherwise been aware of this.

Councillor Peters stated she had made an assumption, when she saw the item on the Agenda, that response had been received back that would refer to this deferral in this letter and she had no concern with dealing with the matter at this time; however, she said had she known when she received the Agenda that there was no correspondence back from either the Minister of Indian and Northern Affairs nor any of the MLA's involved that it was copied to, then she would have raised objections at that time. She stated, therefore, that she had concern that Council was given ample notice but perhaps she was in error for making the assumption that correspondence had been received on this and an informed decision could be made because the Minister had replied.

Warden Lichter stated he could comment only that all letters Council received up to the time of printing of the Agenda were included in the Agenda booklet and there was no letter in the Agenda booklet which should have indicated to all that certain letters had not come from any of those parties.

Councillor Peters stated she thought, therefore, it was an omission and questioned it being on the Agenda without any information on it, having heard what the solicitor had said.

Councillor Deveaux stated, as indicated by Councillor Peters, he also presumed that some information had been received, even though it might not have been in the booklet. It was quite evident that it should have been indicated to Council, especially what the text of the motion was, which would have given Council a different perspective when dealing with the issue. My understanding is that there is a motion presently on the floor which has been debated at length, and nothing can be done tonight. He said he felt the motion which was presented was the one which should stand and a decision did not need to be made tonight. Council should wait until an answer was received from the Minister. In the meantime, if anything could be done to speed up the answer, he said he hoped it would be done.

Warden Lichter stated there was nothing to ask the question on because the two previous motions - the amendment to the motion and the original motion - had no validity now in view of what the solicitor said. He said that if someone puts a motion indicating that, in spite of the deferral motion, Council was prepared to deal with the issue tonight, there was no issue to deal with.

Councillor Bates stated surely that after Council had debated this for so long, he was prepared to make a motion and not defer to another night.

It was moved by Councillor Bates, seconded by Councillor Harvey:

"THAT THE MOTION AND THE AMENDMENT AS PRESENTED BY
COUNCILLOR RICHARDS BE DEALT WITH".

Councillor Merrigan stated he felt the motion was making it very difficult for him because he did not want to vote against support of the project but he would have to vote against the motion because there was no information back.

It was moved by Councillor Rankin, seconded Councillor Holland:

"TO LIMIT DEBATE TO FIVE MINUTES TOTAL".

MOTION CARRIED.

Councillor Bates stated some Councillors had already felt they needed more information from the Minister but some Councillors felt the money anyway so Council might as well get on with it. He said he put the motion on the floor so that Council could make up its mind.

Councillor Harvey stated the matter had been discussed thoroughly tonight and at Executive and he was surprised at the debate tonight because a lot of it did not come up at Executive when the recommendation was made. If the Ministers of other governments had intended to respond by May 19, they would have done so; therefore, their silence is their answer.

Councillor Deveaux stated the debate which took place tonight occurred because the full information was not brought forward. The motion that was later brought forward by Councillor Peters indicated what should have been done in the first place, i.e. not debate the issue any further and he was not willing to make a decision until the information came forward.

Councillor Taylor referred to a statement by Mr. Meech which stated that this particular capital works project, which was to provide internal servicing to the Indian lands, was already paid for by the Federal government and this was where the money came from in the first place. Mr. Meech stated that from the Federal point of view, they did provide the money through an allocation of funds to the Indian Band Council and the Minister was asked to intervene and reach a settlement so that Halifax County could get access to the watercourse without having to pay compensation. Councillor Taylor stated, therefore, that he would not be supporting the motion either.

Warden Lichter called for the question.

MOTION DEFEATED.

Warden Lichter stated the matter was deferred, as was the original motion previously. He asked if there was a new deadline or was it to be deferred without any time. He said he had to ask that question because, if the Ministers decide not to respond, then what did Council wish to be done.

Mr. Crooks stated that the motion passed at the last meeting stood and, with appropriate notice, in the absence of that correspondence being received by the time of the next meeting, it would be open to a Councillor wanting to have the matter discussed, to give notice of that and have it included in the Agenda.

Councillor Brill asked, as a recommendation, if it would be possible to have Cole Harbour/Westphal Community Committee come forward with a recommendation in the interim.

Councillor McInroy stated he could not speak for the others on the Community Committee but he was sure the Committee would take it under advisement. He stated that it had been his experience that a lot of people did not respond necessarily in writing to having received a copy of a letter so it might be worthwhile to actually send individual letters to those who were previously copied as they

may not realize Council was waiting for them to respond. He stated a follow up letter should also be sent to the Minister of Indian and Northern Affairs, rather than just wait.

It was moved by Councillor McInroy, seconded by Councillor Peters:

"THAT FOLLOW-UP LETTERS BE SENT TO ALL THOSE INVOLVED PREVIOUSLY AND THAT COPIES BE SENT TO THE M.P. REPRESENTING THE AREA".

MOTION CARRIED.

PLANNING ADVISORY COMMITTEE REPORT

1. Plan Review - Eastern Passage/Cow Bay Plan Area

It was moved by Councillor Deveaux, seconded by Councillor Giffin:

"THAT PUBLIC HEARING BE HELD ON JUNE 22, 1992, AT 7:00 P.M. IN EASTERN PASSAGE AT THE TALAHASSEE SCHOOL"

MOTION CARRIED

2. File No.'s PA-1&3-36-91 & ZAP-1&3-36-91 - Application by Courtland Properties Inc. - Amendments to the Municipal Planning Strategy and Land Use By-Law for Planning Districts 1 & 3

It was moved by Councillor Snow, seconded by Councillor Meade:

"THAT PUBLIC HEARING BE HELD ON JUNE 15, 1992, AT 7:00 P.M."

MOTION CARRIED

3. File No. ZA-PD5-02-92 - Application by the Harrietsfield-Williamswood Ratepayers Association to amend the Land Use By-law for Planning District 5

It was moved by Councillor MacDonald, seconded by Councillor Taylor:

"THAT PUBLIC HEARING BE HELD ON JUNE 15, 1992, AT 7:00 P.M."

MOTION CARRIED

4. File No. ZA-SA-05-92 - Amendments to the Sackville Land Use By-law re: pennant flags and stringlights

It was moved by Councillor MacDonald, seconded by Councillor Brill:

"THAT PUBLIC HEARING BE HELD ON JUNE 15, 1992, AT 7:00