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Item No. 16.2
Harbour East-Marine Drive Community Council
June 8, 2017

TO: Chair and Members of Harbour East-Marine Drive Community Council

SUBMITTED BY: Original signed by

Bob Bjerke, Chief Planner, Director of Planning and Development

DATE: May 23, 2017

SUBJECT: **Case 20573: Establishment of a Public Participation Committee for the CDD lands at 651 Portland Hills Drive, Dartmouth**

ORIGIN

Application by W. M. Fares for a residential and commercial mixed-use development, by development agreement, at 651 Portland Street in Dartmouth.

LEGISLATIVE AUTHORITY

See Attachment C.

RECOMMENDATION

It is recommended that Harbour East-Marine Drive Community Council:

1. Approve the formation of a Planning Advisory Committee (Public Participation Committee) to advise the Harbour East-Marine Drive Community Council with respect to planning matters for Portland Hills; and
2. Approve the Terms of Reference for the Planning Advisory Committee (Public Participation Committee) as provided in Attachment A of this report.

BACKGROUND

W. M. Fares has submitted a planning application to consider a residential and commercial mixed-use development, by development agreement, at 651 Portland Hills Drive in Dartmouth. Consistent with the approach taken in the past during the policy mandated approval process for other Russell-Morris Lake CDD applications, it is proposed that a Planning Advisory Committee, referred to as a Public Participation Committee in the Dartmouth MPS, be established to review the proposed development and prepare a recommendation report for consideration by the Harbour East-Marine Drive Community Council.

CDD (Comprehensive Development District) Lands

In July 1997, Regional Council initiated a municipal planning strategy amendment process that would ultimately designate 270 acres of land owned by Clayton Developments Ltd. as a Comprehensive Development District (CDD) (see Map 1). A portion of these lands, located between Portland Street and Morris Lake, have been developed and are now commonly known as Portland Hills Estates.

In December 1998, Regional Council, in a separate process, initiated master planning studies in four areas of the Municipality. Morris-Russell Lake was one of those study areas. The purpose of the studies was to provide policy guidance for future development, and to ensure that development occurred in an environmentally sensitive and comprehensive manner. This result of the study was subsequently incorporated within the CDD policies for this area.

The CDD designation required that development proposals be developed in consultation with a Planning Advisory Committee composed of local residents, other interested citizens and affected land owners. The Planning Advisory Committee would identify issues and constraints to development, determine alternatives and solutions, and collaborate to produce a concept plan. Beyond establishing a Planning Advisory Committee to advise on the initial CDD proposal, Policy H-3(AA) requires that a Public Participation Committee, as the Planning Advisory Committee is referred to in the Policy statement, also be established to deal with substantive amendments to CDD agreements. The subject planning application (Case 20573) for a mixed-use development at 651 Portland Hills Drive in Dartmouth would require this type of substantive amendment to the CDD agreement, and as such involvement of a Planning Advisory Committee is required.

Portland Hills Drive

The lands at Portland Hills Drive known as Parcels PH-4 and PH-5 extend from Morris Lake east to the boundary of the Innishowen subdivision and north to Portland Street. The development of this property is subject to the "Portland Hills Concept Plan", which was prepared in concert with the Morris-Russell Lake Master Development Plan by a sub-committee of the initial Morris-Russell Lake Public Participation Committee. The area is developed with mixed residential uses, an elementary school and commercial area. The application submitted for 651 Portland Hills Drive is within Parcel PH-4 of the Concept Plan (see Map 1).

In 2000, Harbour East Community Council entered into a development agreement with Clayton Developments to allow a mixed-use development for lands located at 635, 639 and 651 Portland Hills Drive in Dartmouth (see Map 1). Since then, Council has approved three amending development agreements:

- The first amending development agreement, (Case 00554 in 2004) allowed increased acreage, increased number of dwelling units, and prohibited the development of Phase E until Portland Hills Drive connected to Portland Street;
- The second amending development agreement, (Case 15925 in 2010) allowed an additional two pylon signs, and directional signage; and
- The third amending development agreement, (Case 17688 in 2014) allowed an eating establishment with accessory lounge area.

CDD Policies

The Dartmouth MPS, through Policy H-3(AA), requires the planning process for projects in the CDD Zone to include public consultation as follows:

Policy H-3(AA)

It shall be the intention of Council to establish a Public Participation Committee upon the Municipality receiving an application to develop lands within a CDD. The composition of the Committee should include local residents, other interested citizens, affected land owners, the proponent and municipal staff. The general purpose of the Committee is to collaborate to produce the conceptual plans and detailed plans for the area to be developed, as described by Policies H-3A, H-3B and H-3C. Council shall also establish a Committee to deal with substantial amendments to CDD Agreements.

Subject to section 215 of the *HRM Charter*, the Municipality may establish a Planning Advisory Committee (PAC) to advise the community council on planning matters related to the use and development of land. A PAC must include members of the public and be appointed by Council. The proposed Public Participation Committee (PPC) would be a PAC within the meaning of the HRM Charter.

Under section 3 of Administrative Order 48, the Community Council Administrative Order, Regional Council has granted to each Community Council the power to create two PAC's. Any additional PAC's beyond this number must be created by Regional Council and not a Community Council.

The Harbour East Marine Drive Community does not have an existing PAC, and therefore the matter of creating the required PPC for the substantive amendment to the existing development agreement for 651 Portland Hills is before Harbour East Marine Drive Community Council. The PPC would exist to provide guidance for the application discussed at the beginning of this report, as well as any applications submitted in the future which meet the criteria of the terms of reference.

DISCUSSION

An application has been made to develop a section of CDD zoned lands at Portland Hills Drive in Dartmouth within the PH-4 area. In accordance with the Dartmouth MPS policies for CDD zoned lands, a PPC is required to help ensure effective public engagement and to advise Council with respect to the preparation of amendments to the existing development agreement, or a new development agreement, in response to the proposed development.

Community Council is granted the authority to establish a new PPC as outlined above under the "CDD Policies" heading. In order to advertise for new members and convene a PPC, the matter of the Terms of Reference (TOR) must first be approved by Council.

Proposed Terms of Reference

Attachment A contains the proposed Terms of Reference (TOR) for the subject site and the conditions under which the development may occur. The proposed TOR addresses the following matters as required under Administrative Order 48:

- Membership;
- Terms of Appointment;
- Duties;
- Meetings;
- Procedure;
- Remuneration; and
- Resignation.

In the past, a sub-committee of the original Morris-Russell Lake PPC was re-convened to guide the detailed planning of the Portland Hills Concept Plan. With the formation of the current Community Council for the area (Harbour East-Marine Drive Community Council) by Regional Council, the original PPC created by the former Harbour East Community Council is considered dissolved and a new committee must now be formed.

Conclusion

Upon establishment, the PPC will commence the community engagement as per the HRM Community Engagement Strategy. Following community engagement, as determined by the PPC, the amending development agreement will be prepared and the PPC will advise Council in regards to the development concept, requirements and conditions. Therefore, staff recommend that the Harbour East-Marine Drive Community Council approve the formation of a public participation committee as per the proposed Terms of Reference contained in Attachment A.

FINANCIAL IMPLICATIONS

The PPC members are to be reimbursed for travel to meetings; the PPC is not expected to meet more than 3 times and meetings will be held within the community. The costs associated with this may be accommodated within the approved 2017/2018 operating budget for C310, Urban and Rural Planning Applications.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with the recommendations contained within this report.

ALTERNATIVES

Harbour East-Marine Drive Community Council may choose to amend the proposed Terms of Reference for the PPC, however such changes must be in keeping with the provisions of Administrative Order 48. Such modifications may require a supplementary staff report.

ATTACHMENTS

Map 1	Area of Application: Existing Development Agreement
Attachment A	Terms of Reference – Harbour East-Marine Drive Community Council Planning Advisory Committee
Attachment B	Relevant Policies from the Dartmouth MPS

Attachment C

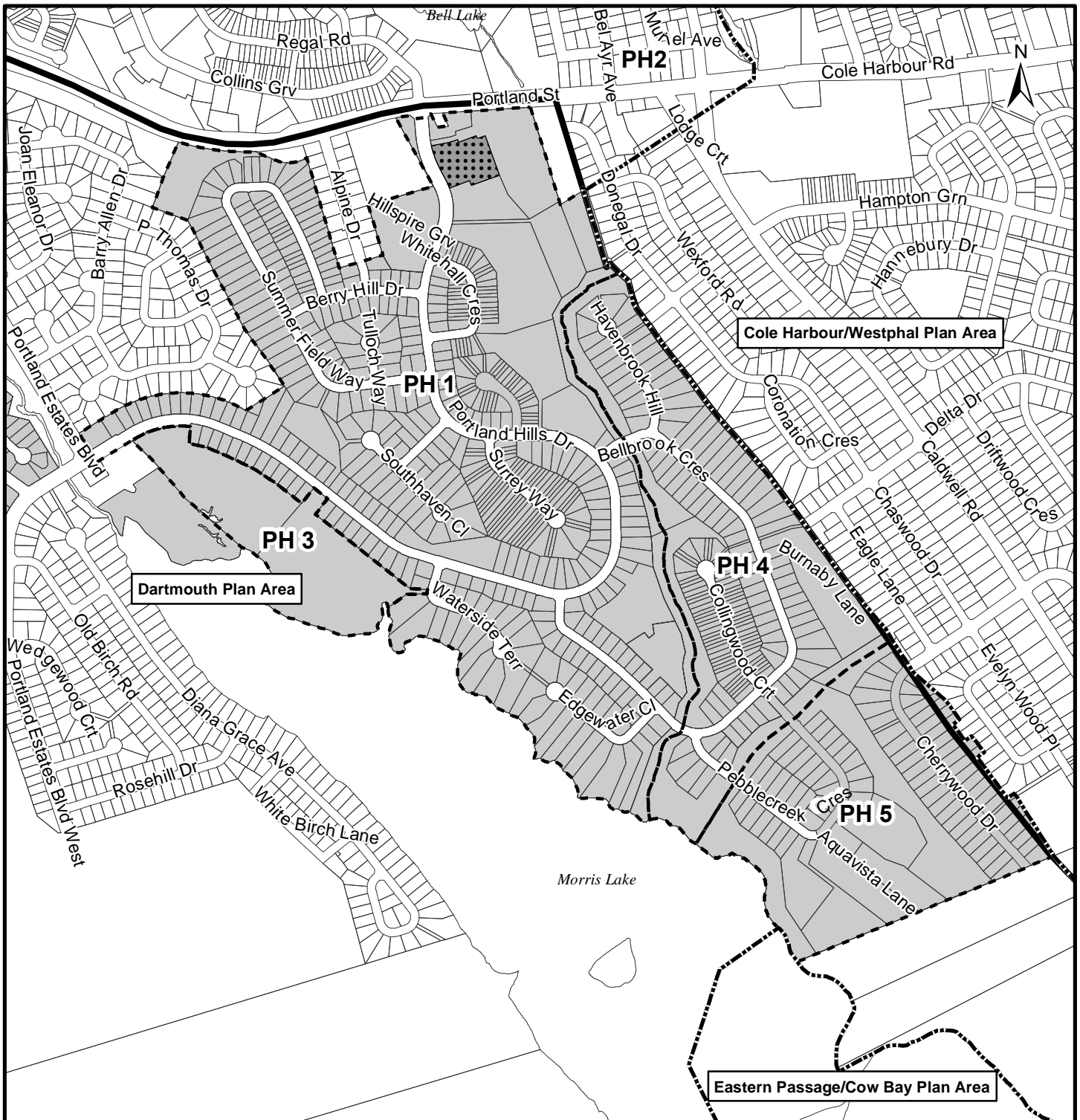
Legislative Authority

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Darrell Joudrey, Planner II, 902.490.4181

Report Approved by: Original signed by






Kelly Denty, Manager, Current Planning, 902.490.4800



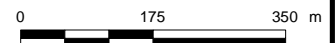
Map 1 - Area of Application; Existing Development Agreement

HALIFAX

PID: 00256420

-  Subject Property
-  Community Plan Boundary
-  Morris-Russell Lake Secondary Plan Boundary
-  Lands Under CDD
-  Morris/Russell Lake Parcel Boundaries

Dartmouth Land
Use By-Law Area



The accuracy of any representation on this plan is not guaranteed.

Attachment A

TERMS OF REFERENCE HARBOUR EAST-MARINE DRIVE COMMUNITY COUNCIL PLANNING ADVISORY COMMITTEE

Serving the portion of District 3 that is located within Portland Hills Drive incorporated into the Harbour East-Marine Drive Community Council.

1. **Membership**

- Six (6) members shall be appointed from the subject community, as is consistent with the policies of the Dartmouth Municipal Planning Strategy. These members may be recruited on the basis of specific skills and expertise that contribute to balanced representation and good governance of the planning process.

2. **Appointment**

- **Term of Appointment**
The Committee shall be dissolved when its report and recommendations have been tabled with the Harbour East-Marine Drive Community Committee.
- Appointments shall be made by the Harbour East-Marine Drive Community Council.
- The Committee shall elect a Chair and Vice- Chair.

3. **Duties**

- To advise the Harbour East-Marine Drive Community Council with respect to the preparation of a Development Agreement or amendment to the Existing Development Agreement for Portland Hills, in accordance with the Comprehensive Development District (CDD) policies of the Dartmouth Municipal Planning Strategy and Land Use By-law requiring a public participation committee.

5. **Additional Duties**

- The Committee shall provide a public forum in which the landowner/developer, HRM staff and appointed citizens collaborate to comment and review the development proposal.
- The Committee shall ensure that property owners and interested parties have adequate opportunities to participate and express their opinion.
- Members shall advise the Chair by twelve noon on the day of a regular meeting if they are unable to attend any scheduled meetings.

6. **Meetings**

- The Committee shall meet at least once per month or as required to conduct business of the Committee.
- Additional meetings may be scheduled at the discretion of the Chair in consultation with staff.
- The quorum for regular meetings shall be in accordance with Section 132 of Administrative Order One, the *Procedure of Council Administrative Order*, Quorum of Committee.
- Any member of the Committee who fails to attend three (3) consecutive meetings, without having been excused by the Committee shall vacate the member's seat in accordance with subsection 3 of section 125 of Administrative Order One, the *Procedure of Council Administrative Order*, and subsection 1 of section 22 of the *Halifax Regional Municipality Charter*.

- All Planning Advisory Committee meetings shall be open to the public, or as allowed under Part VII Section 218 (1) of the *Halifax Regional Municipality Charter*.
7. **Procedure**
- Meeting procedures shall be governed by the HRM Administrative Order One, *the Procedure of Council Administrative Order*, as it relates to Committee procedures.
8. **Remuneration**
- Remuneration shall be paid related to travel for attendance at meetings at rates established by Halifax Regional Municipality.
9. **Resignation**
- Member may resign from the Committee at any time in accordance with Section 125 of Administrative Order One, *the Procedure of Council Administrative Order*, Vacating of Position on Committee.

Attachment B

Relevant Policies from the Dartmouth MPS

Policy H-3(AA) It shall be the intention of Council to establish a Public Participation Committee upon the Municipality receiving an application to develop lands within a CDD. The composition of the Committee should include local residents, other interested citizens, affected land owners, the proponent and municipal staff. The general purpose of the Committee is to collaborate to produce the conceptual plans and detailed plans for the area to be developed, as described by Policies H-3A, H-3B and H-3C. Council shall also establish a Committee to deal with substantial amendments to CDD Agreements.

Policy H-3A Pursuant to section 56 of the Planning Act, development within a CDD shall be subject to an agreement. Prior to considering any agreement within a CDD, Council shall require a concept plan for the entire land holding. The concept plan shall include the following information, some or all of which may be made part of any agreement as Council deems necessary to fully describe and control the development:

- (a) a map(s) and assessment of the physical nature of the land, including its topography, mature vegetation, natural features restricting development and any significant environmental characteristics;*
- (b) a transportation plan, including vehicular, pedestrian and public transit systems, and traffic impact analysis sufficient to evaluate the internal and off-site implications of the systems;*
- (c) the method of providing municipal sewerage, water and storm services to the development;*
- (d) the general phasing of development;*
- (e) the distribution and nature of all land uses; and*
- (f) the total number of dwelling units, the proportion of all units which are proposed to be in apartment buildings and the gross residential density of the whole development and each of its phases.*

Policy H-3B In addition to the provisions of Policy H-3A, Council shall consider the following prior to approving any agreement within a CDD:

- (a) the adequacy of the mix of residential uses to provide a range of housing options in terms of lot characteristics, building and dwelling type and design;*
- (b) the general guide that the maximum number of apartment units shall not exceed 40% of the total actual number of units within the CDD. Such figure may be increased to a maximum of 50% provided clear advantages are gained within the CDD by means of increased parkland or open space, increased areas of undisturbed terrain and vegetation, decreased amount of impermeable surfaces and/or improved environmental protection or an improved transportation*

- system. (RC- Mar 22/05;E-Apr 23/05)*
- (c) the location and concentration or dispersal of multi-unit residential buildings with respect to impacts on street networks, abutting uses and the physical environment;*
 - (d) the general guide of a maximum residential density of 8 units per gross acre, excluding acreage devoted to commercial use;*
 - (e) the compatibility of various land uses, within and adjacent to the development, and measures proposed to integrate and buffer uses. Compatibility refers to the type of land use, dwelling (housing) type and size and height of the development. Buffering refers to measures that mitigate impacts on adjacent uses, such as adequate separation distances, retention of existing vegetation and the installation of suitable screening features such as new vegetation, berms and or fencing;*
 - (f) the adequacy of measures to minimize disruption of existing terrain, vegetation, watercourses and other physical features and to mitigate against the potential effects of disruption;*
 - (g) the hours of operation of non-residential uses, including business uses located in dwellings;*
 - h) the safety and efficiency of all transportation systems, including the effects of driveways to and traffic from abutting uses to streets and walkways including the adequacy of pedestrian facilities (sidewalks/walkways);*
 - (i) the general guide that street frontage for single detached development not be less than forty (40) feet and that the total number of single detached lots having street frontage less than the minimum requirement as prescribed by the land use by-law and/or the subdivision by-law (RC-Jan 29/02;E-Mar 2/02) not exceed twenty-five percent of the total number of single detached units within the CDD;*
 - (j) that the size and type of commercial uses be designed to serve the shopping needs of residents within the local area, rather than the community or the region. Commercial uses to be considered are to be compatible with and sympathetic to the character of the surrounding residential community in terms of location, use, scale, design and traffic impacts. Uses to be considered may include, but not limited to, offices, financial institutions, convenience shops, drug stores, personal service outlets (dry cleaning depot, laundry mats, hair salons, tailors and so on), small food stores, gas bars, and restaurants (excluding drive-throughs). Uses not to be considered include, but are not limited to department stores, home improvement centres, drinking establishments, adult entertainment uses and large grocery stores;*
 - (k) Notwithstanding criteria “j”, larger commercial development containing a wider range of uses may be considered for lands adjacent Highway 111 at the proposed Woodside interchange;*
 - (l) within the Morris-Russell Lake area, all new development shall*

- adhere to the Morris Lake Watershed Management policies as contained in Policies ML-1 to ML-23 as applicable;*
- (m) the impact the proposed development may have on the quality of life of existing neighbourhoods, and notwithstanding criteria (b),(d),(i),and (j), Council may reduce the maximum allowable under each criteria in order to protect the quality of life of residents within existing neighbourhoods;*
 - (n) any and all other matters applicable to the subdivision and servicing of the lands, the provision of parkland and the effects of the development on community services as set out in policy IP- 1(c) and, for specific uses which are otherwise subject to development agreements, the specific considerations required by the text and policies of this Plan; and*

Policy H-3C *For each phase of development in the CDD, detailed site plans shall be submitted.*

In addition to the provisions of any agreement pursuant to Policy H-3B, detailed site plans shall provide the following information:

- (a) the design, exterior appearance, signage, elevations and landscaping of multi-unit buildings, institutional buildings and commercial buildings;*
- (b) the dimensions of all yards and the physical nature of measures to integrate or buffer adjacent uses;*
- (c) the details of layout, lighting and landscaping of parking areas for multi-unit residential development, institutional and commercial development;*
- (d) the provision of useable amenity areas including indoor and outdoor recreational facilities for multi-unit residential developments;*
- (e) a tentative subdivision plan showing all municipal services and proposed building locations;*
- (f) grading plans or other information regarding the method of developing, protecting or restoring significant physical features of the site during construction;*
- (g) a projected time frame for construction;*
- (h) the location, size and number of vehicular access points to all developments;*
- (i) landscaping and maintenance plans for multi-unit residential, commercial and institutional uses;*
- (j) the details of street scape aesthetics (landscaping, street trees, etc.); and*
- (k) any additional information required to be able to assess the proposal in terms of the concept plan and any approved development agreements.*

Attachment C – Legislative Authority

Planning Advisory Committee By Community Council

Halifax Regional Municipality Charter:

Planning advisory committee

215 (1) The Municipality may, by policy, establish a planning advisory committee and may establish different planning advisory committees for different parts of the Municipality.

(2) The Municipality and one or more other municipalities may, by policy, establish a joint planning advisory committee.

(3) A planning advisory committee or joint planning advisory committee must include members of the public and may include a representative appointed by a village.

(4) The purpose of a planning advisory committee or a joint planning advisory committee is to advise respecting the preparation or amendment of planning documents and respecting planning matters generally.

(5) The duties assigned, pursuant to this Part, to a planning advisory committee or a joint planning advisory committee may only be carried out by the committee.

(6) The Council shall appoint members of a planning advisory committee or a joint planning advisory committee by resolution. 2008, c. 39, s. 215

Community Committee by Community Council

Community committees

32 (1) The Council may establish, by policy, a community committee for an area.

(2) A policy establishing a community committee must

- (a) define the boundaries of the area for which the committee is responsible and set out the duties of the committee; and
- (b) include such other matters as the Council deems advisable.

(3) The powers and duties of a community committee may include

- (a) monitoring the provision of services to the area for which the committee is responsible and recommending the appropriate level of services, areas where additional services are required and ways in which the provision of services can be improved;
- (b) the establishment of one or more advisory subcommittees;
- (c) making recommendations to the Council respecting any matter intended to improve conditions in the area for which the committee is responsible including, but not limited to, recommendations respecting
 - (i) inadequacies in existing services provided to

the area and the manner in which they might be resolved, additional services that might be required and the manner in which the costs of funding these services might be raised,

(ii) by-laws or regulations, including those regarding planning, that are required, and

(iii) the adoption of policies that would allow the people of the area to participate more effectively in the governance of the area. 2008, c. 39, s. 32.

Administrative Order Number 48

The Administrative Order respecting the Creation of Community Councils.

Powers

3. (1) Subject to subsection (3) of this section, sections 29, 30 and 31 of the *Halifax Regional Municipality Charter* apply to each Community Council.
- (2) Repealed.
- (3) A Community Council shall create no more than two planning advisory committees.
- (4) If a Community Council creates a planning advisory committee, the terms of reference for the planning advisory committee shall be as set out in Schedule 3 of this Administrative Order.
- (5) Nothing in this section prevents a Community Council from:
- (a) limiting or adding to the duties of a planning advisory committee from those duties prescribed by section 4 of Schedule 3 of this Administrative Order; or
 - (b) specifying the number of community citizens that must be appointed to a planning advisory committee from a specified District or portion of a District