



**NORTH WEST COMMUNITY COUNCIL
MINUTES
September 10, 2018**

PRESENT: Councillor Tim Outhit, Chair
Councillor Lisa Blackburn, Vice Chair
Councillor Matt Whitman
Councillor Steve Craig

REGRETS: Councillor Steve Streatch

STAFF: Roxanne MacLaurin, Solicitor
Liam MacSween, Legislative Assistant

The following does not represent a verbatim record of the proceedings of this meeting.

The agenda, reports, supporting documents, and information items circulated are online at halifax.ca.

North West Community Council Minutes
September 10, 2018

The meeting was called to order at 7:02 p.m. and adjourned at 9:23 p.m.

1. CALL TO ORDER

Councillor Outhit called the meeting to order in the Gymnasium of the St. Margaret's Centre, 12 Westwood Boulevard, Upper Tantallon.

2. APPROVAL OF MINUTES – July 9, 2018

MOVED by Councillor Blackburn, seconded by Councillor Craig

THAT the minutes of July 9, 2018 be approved as circulated.

MOTION PUT AND PASSED.

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

Additions: None

North West Community Council agreed by consensus to move agenda Item 13.1.2 ahead of agenda Item 13.1.1.

MOVED by Councillor Whitman, seconded by Councillor Craig

THAT the agenda be approved as amended.

Two-third majority vote required.

MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES – NONE

5. CALL FOR DECLARATION OF CONFLICT OF INTERESTS – NONE

6. MOTIONS OF RECONSIDERATION – NONE

7. MOTIONS OF RESCISSION – NONE

8. CONSIDERATION OF DEFERRED BUSINESS – NONE

9. NOTICES OF TABLED MATTERS – NONE

10. HEARINGS

10.1 PUBLIC HEARINGS

10.1.1 Case 21564: Rezoning of 65 Halfway Lake, Hammonds Plains

The following was before Community Council:

- A staff recommendation report dated June 18, 2018
- A memorandum from the North West Planning Advisory Committee dated June 11, 2018
- An extract of minutes – June 6, 2018 North West Planning Advisory Committee
- Correspondence from Robert Sampson dated September 7, 2018

North West Community Council Minutes
September 10, 2018

Jesse Morton, Planner II provided a presentation on Case 21556.

In response to questions from Community Council, Morton clarified that the Land Use By-law for the area includes provisions that prohibit rooming houses in the community.

Councillor Outhit read the rules of procedure with respect to public hearings and invited the applicant to address North West Community Council.

Nicola Nicholas, property owner, provided a presentation on Case 21556. Nicholas advised that the purpose of the application is to rezone the subject property to allow for the auxiliary unit. Nicholas explained that at the time of purchase, the real estate agent did not disclose that use of the auxiliary dwelling was not permitted under the current zoning, even though its use was a condition of the sale. Nicholas advised that if that had been disclosed, the property without the auxiliary dwelling would not economically viable, and the property would not have been purchased.

Councillor Outhit opened the public hearing and invited members of the public to address North West Community Council.

Mike Young, of Halfway Lake Drive, noted that Council should not consider amendments to the Land Use Bylaw as the change in zoning would alter the fabric of the Community potentially allowing for larger residential development. Young inquired as to the number of people currently living at the subject property and whether or there are plans to keep up maintenance on the property.

Rob Sampson, of Halfway Lake Drive, sympathized with the applicant's situation and suggested that legal action should be considered against the real-estate company to recoup damages rather than rezoning the area. Sampson raised further concerns with respect to the condition of the property and the potential for larger residential development if the rezoning is approved.

David Wimberley, of Head of St. Margaret's Bay, spoke in support of the applicant noting that affordable seniors housing is very much needed in the municipality. Wimberly advised of an upcoming symposium on seniors housing which teaches navigating land use by-laws for senior citizens.

Councillor Outhit called three times for further speakers. There were no speakers present. Councillor Outhit invited the applicant to respond to points raised by the public.

Nicola Nicholas, apologized for the current state of the house and property and advised that work is underway to repair and clean up the property. Nicholas advised that the subject property is not or never has operated as a rooming house. Nicholas noted residency in the main with family and that there are two additional tenants living in the auxiliary structure. Nicholas further advised that legal action is being considered in the future with respect to disclosure on the subject property.

In response to a question from Community Council, Jesse Morton advised that an HRM Compliance Officer has visited the subject property and has determined that it is not a rooming house.

MOVED by Councillor Craig, seconded by Councillor Blackburn

THAT the public hearing close.

MOTION PUT AND PASSED.

MOVED by Councillor Whitman, seconded by Councillor Craig

THAT North West Community Council adopt the amendment to the Land Use By-law for the Beaver Bank, Hammonds Plains and Upper Sackville Plan Area, as set out in Attachment A of the staff report dated June 18, 2018.

North West Community Council Minutes
September 10, 2018

MOTION PUT AND PASSED.

10.1.2 Case 21099: Development Agreement for Fourth Street, Bedford

The following was before Community Council:

- A staff recommendation report dated June 15, 2018
- Memorandum from the North West Planning Advisory Committee dated May 4, 2018
- An extract of draft minutes – May 3, 2018 North West Planning Advisory Committee
- Correspondence from Fredrick Lai dated September 10, 2018
- Correspondence from Dmitry Trukhachev dated September 10, 2018

Melissa Eavis, Planner III provided a presentation on Case 21099.

Councillor Outhit read the rules of procedure with respect to public hearings and invited the applicant to address North West Community Council.

The applicant did not wish to address Community Council on Case 21099.

Councillor Outhit opened the public hearing and invited members of the public to address North West Community Council.

Councillor Outhit called three times for further speakers. There were no speakers present.

MOVED by Councillor Craig, seconded by Councillor Blackburn

THAT the public hearing close. MOTION PUT AND PASSED.

MOVED by Councillor Blackburn, seconded by Councillor Whitman

THAT North West Community Council:

1. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A of the staff report dated June 15, 2018; and
2. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

MOTION PUT AND PASSED.

Liam MacSween, Legislative Assistant left the meeting at 7:34 p.m.

Simon Ross-Siegel, Legislative Support joined the meeting at 7:34 p.m.

10.2 VARIANCE APPEAL HEARINGS

10.2.1 Case 21429: Appeal of Variance Approval - PID No. 40304198, St. Margaret's Bay Road, Head of St. Margaret's Bay

The following was before Community Council:

- A staff recommendation report dated August 17, 2017
- Correspondence received by the Municipal Clerk's Office from John Whyte and Dana MacKenzie, Bernie Power and Valerie Wentzell, E.P Fay Lee and Christina Lee, Dana MacKenzie, E. P. Fay Lee; John Whyte, Dana MacKenzie

North West Community Council Minutes
September 10, 2018

Dana McKenzie, appellant, requested that this matter be deferred to the next scheduled meeting of Community Council based on the appellants having received the city's report on the Friday prior to the hearing. When the appellants launched the appeal, they asked the development office for answers to several questions as well as whether a Freedom of Information Application (FOIPOP) was required to obtain information requested as part of the appeal. They received an email one business day prior to hearing, with no direction regarding the process or details of the information request. Subsequently, the appellants filed a FOIPOP request. The appellant stated in reply to questions, that they expect to receive a reply from the province within thirty days of the initial FOIPOP submission. The appellant also clarified that while they believe this appeal is multi-faceted, there is an element of it that is based on procedural fairness. Therefore, the appellant stated that this is the relevance of the FOIPOP request to the decision before the Community Council. The appellant stated that the property owner has proposed to meet with the appellants prior to the hearing, although the appellant states that there was not sufficient time to substantially address their concerns.

John Risser, property owner, spoke before Community Council. The owner stated that although the property is small, all other elements of it are covered under the land use bylaw. The variance was approved in January of this 2018, and the owner and their family has been subsequently waiting for certainty to continue the development of their property.

Roxanne MacLaurin, Senior Solicitor, informed the Community Council that in variance matters like the present one, they are heard directly by community Council and the Planning Advisory Committee (PAC) does not hear these types of matters. The solicitor, clarified that there were two issues associated with the variance. The first involved a variance for the setback from St. Margaret's Bay Road. The second involved a reduction of the watercourse buffer. This issue is not permissive, and the LUB instructs the development officer to vary the setback where there cannot be a main building on the property because of the size of the lot. In compliance with this section the LUB, the property owner confirmed it is a single variance that is being requested.

Councillor Whitman inquired how long Community Council could consider deferring the matter. Community Council clarified that they were considering a deferral to the next ordinary meeting of the North West Community Council on Oct 1st, 2018.

While Councillor Craig believed there is sufficient information before Community Council to make a decision, the Councillor stated they would benefit for further time to review the material.

MOVED by Councillor Craig, seconded by Councillor Blackburn

THAT North West Community Council defer consideration of Case 21429 to the October 1, 2018 meeting of North West Community Council.

MOTION TO DEFER PUT AND PASSED.

Simon Ross-Siegel, Legislative Support left the meeting at 7:44 p.m.

Liam MacSween, Legislative Assistant rejoined the meeting at 7:44 p.m.

11. CORRESPONDENCE, PETITIONS & DELEGATIONS

11.1 Correspondence

The Legislative Assistant noted correspondence received for agenda items 10.1.1, 10.1.2, 10.2.1, and 13.1.2 which was previously distributed to members of North West Community Council.

11.2 Petitions

North West Community Council Minutes
September 10, 2018

Councillor Whitman submitted a presentation containing 700 signatures from area residents in opposition to Case19461: Site Specific Amendments to the Planning Districts 1 and 3 MPS and LUB to permit an asphalt plant at PID# 40042822, north of Highway 103 and west of Little Indian Lake, Head of St, Margaret's Bay.

11.3 Presentations – NONE

12. INFORMATION ITEMS BROUGHT FORWARD – NONE

13. REPORTS

13.1 STAFF

13.1.1 Case 20634: LUB amendment for 130 and 148 Mann Street to rezone the lands from Heavy Industrial (IHI) Zone to CD-1 (C&D Materials Transfer Stations) Zone

The following was before Community Council:

- A staff recommendation report dated August 7, 2018

MOVED by Councillor Blackburn, seconded by Councillor Craig

That North West Community Council give First Reading to consider approval of the proposed amendment to the Land Use By-law for Bedford, as set out in Attachment A of the staff report dated August 7, 2018 to rezone lands from the Heavy Industrial (IHI) Zone to the CD-1 (C&D Materials Transfer) Zone and schedule a public hearing.

MOTION PUT AND PASSED.

13.1.2 Case 19461: Site Specific Amendments to the Planning Districts 1 and 3 MPS and LUB to permit an asphalt plant at PID# 40042822, north of Highway 103 and west of Little Indian Lake, Head of St, Margaret's Bay

The following was before Community Council:

- A staff recommendation report dated July 11, 2018
- Correspondence dated September 10, 2018 from Nick Horne
- Correspondence dated September 10, 2018 from Gary Rudolph, Manager Quarry Operations, Dexter Construction

Shayne Vipond, Planner III provided a presentation on Case 19461.

In response to questions from North West Community Council, Vipond provided clarification with respect to the evaluation of land use compatibility for the proposed asphalt plant, distance separation from existing residential uses, nuisance impacts such as sound and odour emissions, and vehicular access to the site. Vipond provided further clarification on the jurisdictional responsibilities of the province and municipality in evaluating and approving environmental and public health concerns related to the project.

Thea Langille, Principal Planner advised that staff have reached out to the province respecting the application from Scotian Material, of which no concern was raised. Langille further advised that staff received a copy of the correspondence from Dexter Construction. Langille advised that staff's evaluation of Case 19461 is specific to application submitted by Scotian Materials.

In response to follow up questions from Community Council, Joudrey and Langille noted the following:

- The Provincial Government provided permission to operate an asphalt plant on adjacent Crown Lands on the basis of provincial interest. This type of provincial permission can supersede HRM By-laws.

North West Community Council Minutes
September 10, 2018

- The subject property is currently zoned to allow for the operation of a quarry, in its evaluation of the application, staff recognized that an asphalt plant is a synergistic use for a quarry.
- The current MPS and LUB have not been updated since the late 1980's. There are different land uses that occur in this area since the MPS was conceived.
- There is adequate distance separation to sensitive residential uses to mitigate impact.

Members of North West Community Council expressed concern that the proposed asphalt plant is beyond the scope of a "light industrial use" contemplated in MPS Policy RE-7 to undertake discretionary planning approval for non-resource related light and service industrial uses for Plan Area 1 and 3. North West Community Council expressed further concern that the circumstances under which policy was originally conceived have not changed to such an extent to warrant an overall change in policy.

In response to a question from Community Council, Roxanne MacLaurin, Senior Solicitor advised on the applicability of Section 59(2) of Administrative Order One if Council is considering a recommendation in opposition to a staff recommendation. MacLaurin further advised that an alternative motion could go forward with the first part of the motion remaining the same as the staff recommendation, to move first reading and schedule a public hearing, and the second part of the motion to replace the word "approve" with "refuse", if it is the intent of Community Council to do so.

MOVED by Councillor Whitman, seconded by Councillor Craig

THAT North West Community Council recommend that Halifax Regional Council:

1. Give First Reading to consider the proposed amendments to the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Planning Districts 1 and 3, (St. Margaret's Bay) as set out in Attachments A and B of the staff report dated July 11, 2018, to permit an asphalt plant on a portion of PID# 41457821 north of Highway 103 and west of Little Indian Lake, Head of St, Margarets Bay and schedule a public hearing; and
2. Refuse the proposed amendments to the MPS and LUB for Planning Districts 1 and 3 as set out in attachments A and B of the staff report dated July 11, 2018.

MOTION PUT AND PASSED.

14. MOTIONS – NONE

15. IN CAMERA (IN PRIVATE) – NONE

16. ADDED ITEMS – NONE

17. NOTICES OF MOTION – NONE

18. PUBLIC PARTICIPATION

Steve Warburton, of Bedford, provided commentary on the recent vote to create a Business Improvement District in Bedford. Warburton advised that although the most recent vote to form a Business Improvement District was not successful, another attempt should be made in the future as it would greatly benefit the community. Warburton offered assistance in bringing the issue forward later.

19. DATE OF NEXT MEETING – October 1, 2018.

20. ADJOURNMENT

The meeting was adjourned at 9:23 p.m.

**North West Community Council Minutes
September 10, 2018**

Liam MacSween
Legislative Assistant