

# COMMISSIONERS REPORT

Mount Pearl Municipal Plan 2010 Amendment Number 17, 2016

Mount Pearl Development Regulations 2010 Amendment Number 52, 2016

(Pearlgate Recreation Area Amendment)

Ernest Boone, C.D., Q.C.  
Commissioner

## **General**

1. The Commissioner was appointed by the City of Mount Pearl Municipal Council by letter dated July 21, 2016 pursuant to Section 19 of *The Urban and Rural Planning Act, 2000* (the Act) to hold a Public Hearing and to report to Council on the concerns of citizens with respect to the proposed *Mount Pearl Municipal Plan 2010*, Amendment Number 17, 2016 (the Plan) and *Mount Pearl Development Regulations 2010*, Amendment Number 52, 2016 (the Regulations) (known as "the Pearlgate Recreation Area Amendment) and to submit to Council a written Report and recommendations with respect to the issues/concerns raised by citizens at the said Hearing.
2. The Hearing was held on Thursday, August 18, 2016 at Mount Pearl City Hall, 3 Centennial Street, Mount Pearl.
3. The Commissioner was assisted by Mr. Stephen B. Jewczyk, Director of Planning and Development, City of Mount Pearl and Mr. Christopher Hardy, Planner, Planning & Development Department, City of Mount Pearl.

## **Introduction**

4. The Hearing commenced at the advertised scheduled time of 19:00 hours (7:00 P.M.).
5. The Hearing was attended by two (2) members of the general public as well as two (2) staff members from the City of Mount Pearl in addition to those previously identified above.
6. In accordance with Section 17 of the Act the "Notice of Hearing" was duly advertised in *The Telegram*, a local newspaper of wide circulation, on Saturday, July 23, 2016 and Saturday, August 6, 2016. In addition, the Hearing was further publicized on the City of Mount Pearl website and the City's "Event Calendar." "Written Notice" was also mailed to all property owners within a 150 meter radius of the boundaries of the land parcel proposed for re-zoning.
7. Prior to the Hearing the City staff received five "phone inquiries" regarding the proposed Amendments from concerned citizens. The Planning & Development Committee staff responded to the concerns raised by each of these citizens. One citizen also submitted a formal written submission which was also responded to in writing by City staff.
8. The major issues raised by the citizen inquires made prior to the Hearing can be summarized as follows:

- (1) Was there a specific development identified to go on the site;
  - (2) clarification of the purpose of the Amendments;
  - (3) concerns with respect to the previous use of the land as a landfill site;
  - (4) sufficiency of the scope of the "Area Residents Notices; and
  - (5) concerns with respect to the impact of these proposed amendments on the Pearl Track & Field Club as well as on the 2025 Canada Summer Games which will involve the City of Mount Pearl and its summer sports facilities.
9. As indicated in the "Background Report" forming a part of the file history of these proposed amendments; all of the above issues were responded to by City staff through direct personal contact with the persons originating the issues.
10. In addition to visiting the site to attain an appreciation of the land boundaries involved in the proposed amendment, the following materials were reviewed by the Commissioner prior to the commencement date of the Hearing:
- (1) Background Report
  - (2) Council Resolutions;
  - (3) Proposed Plan & Revised Amendment;
  - (4) Citizen submissions and Letters of Objection;
  - (5) Urban & Rural Planning Act, 2000;
  - (6) Various maps of the affected area;
  - (7) Form of published Notices; and
  - (8) other historical reference materials.
11. No video/audio or written recording or other form of a transcript was kept of the proceedings. Accordingly; the Commissioner's personal notes constitute the only official record of the Hearing.

#### **Purpose of the Hearing**

12. The purpose of the Hearing was:
- (1) to receive public input and evaluate public response to the proposed (a) *Mount Pearl Municipal Plan 2010*, Amendment Number 17, 2016 (the Plan); and (b) *Mount Pearl Development Regulations 2010*, Amendment Number 52, 2016 (the Regulations) (collectively known as "the Pearlgate Recreation Area Amendment");

(2) to report to Council on the nature of the public input with respect to the proposals;  
and

(3) to make recommendations to Council with respect to the proposals.

### **The Proposed Amendments**

13. The proposed *Mount Pearl Municipal Plan 2010*, Amendment Number 17, 2016 and *Mount Pearl Development Regulations 2010*, Amendment Number 52, 2016 are, respectively, proposed amendments that, if passed by Council, would:

(1) amend "Map 1, Future Land Use" to re-designate approximately 11,929 square meters of land located south of Old Placentia Road and adjacent to the Pearlgate Track & Field facility from its present designation of "Open Space" (OS) to a new designation of "General Commercial" (GC); and

(2) amend "Map 1, Land Use Zoning Map" of the Mount Pearl Development Regulations 2010 to re-zone the said approximately 11,929 square meters of land from its present zoning designation of "Open Space" (OS) to a new zoning designation of "General Commercial" (GC).

14. The purpose of the above proposed amendments is to modify the current "CG" zoning boundaries of the area to align with the development limits of the Pearlgate Track & Field facility.

### **The Hearing**

15. The Hearing was held in Council Chambers and was called to order by the Commissioner at 19:00 hours (7:00 P.M.).

16. Present, in addition to the Commissioner, was Mr. Stephen B. Jewczyk, Director of Planning & Development, representing the City of Mount Pearl, as well as four other persons: two staff members from the City staff and two members of the general public.

17. Two letters were received from members of the public to be submitted to the Commissioner: one from Mr. Terry Bell, a local businessman whose enterprise "The Bigs" is located in the proximity of the land in question; and one from Mr. Brian O'Keefe, a soccer coach and associate of the Mount Pearl Sport Alliance. Mr. O'Keefe attended the public Hearing. Mr. Bell did not attend.

18. Mr. O'Keefe had submitted two letters to the City. One letter dated June 10, 2016 was responded to by City staff by letter to him dated July 22, 2016. The second letter, dated

August 15, 2016 was submitted to the Commissioner to be addressed at the Hearing. Mr. O'Keefe had also previously made verbal inquiries of City staff. Staff members had met with and responded to the concerns raised by him at that time.

19. Also present at the Hearing was Mr. Michael Bugden, a member of the Mount Pearl Sports Alliance and local citizen active in sporting concerns in Mount Pearl.
20. Both Mr. Bugden and Mr. O'Keefe made oral representations to the Commissioner.
21. The Commissioner first confirmed with those present that there were no objections to his jurisdiction and status as a Commissioner and that there were no procedural objections to any aspect of the process to the date of Hearing. None were raised by those present. The Commissioner stated his satisfaction that the process was in accordance with all required regulatory procedures.
22. Mr. Stephen Jewczyk, Director of Planning & Development was invited by the Commissioner to provide a briefing and overview of the proposed amendments to those present. Mr. Jewczyk accepted the invitation and gave an in depth briefing followed by a question and answer session for the benefit of all present. He noted specifically that there were at present no plans by the City Council to expand or reduce the present Track & Field facility. He also stated that Council is most mindful of Mount Pearl's involvement in the 2025 Summer Games and that all can be assured that this situation will be considered with respect to the impact of any future decisions of Council regarding lands in the immediate area of the Track & Field Club. He stated that the main reason for the current re-zoning is simply to align the zoning boundaries with the current "CG" use boundaries so as to better position the city with respect to any future development opportunities.
23. Mr. Jewczyk also briefed on the possible need for a second "roundabout" in addition to the one recently completed at the intersection of Ruth Avenue and the road extension that interfaces with the Galway Development. It was explained that it is anticipated that a second one would also be required at the intersection of Ruth Avenue and Old Placentia Road to facilitate traffic flow in this area should the "old ball field" area eventually be approved for development. He explained that changed and increased traffic flow in the Olympic Drive area would be expected as a result of any future development of the new site. It is anticipated that development would likely cause traffic flow issues at the Ruth Avenue/Old Placentia Road intersection if the current "light controlled" system were to remain in place. The conversion of this area to a "roundabout" vice "traffic lights controlled" intersection would be the likely preferred option as this would significantly alleviate the anticipated traffic congestion at this very busy intersection.
24. Mr. Brian O'Keefe inquired of the Director as to when the land containing the area of the old Ball field had been changed from "OS" to "CG". Mr. Jewczyk stated that he thought it was about 2-3 years ago but undertook to inquire and to provide factual data. This was

done the following morning (Friday, August 19, 2016) when Mr. Jewczyk e-mailed to all concerned a copy of *The Newfoundland & Labrador Gazette* dated February 5, 2010 wherein it is published that the Minister of Municipal Affairs of the Province approved the Mount Pearl Municipal Plan Amendment 75, 2009 and Mount Pearl Development Regulation No. 195, 2009. These Amendments were with respect to the changing of the designations of "the old Ballfield" from "OS" to "CG" as referenced above by Mr. O'Keefe in his question to the Director.

25. Mr. Michael Bugden was first to address the Commissioner. He noted that there was a general understanding in the Community that there were plans to place a hotel complex on the site of the old Ball field. He expressed a concern as to where any complex would be located with respect to the Track & Field facility notwithstanding an understanding and acknowledgment that the site must be developed at some time in the future and that a multi-use complex anchored by a hotel might probably be a very functional and timely use of the land especially if completed in time for the 2025 Summer Games. Nevertheless; he stated a concern of the MP Sport Alliance that any future use of the area, regardless of form, must, as a minimum, not reduce the size of the current area of the Pearl Track & Field Club to an extent that would negatively impact on the Clubs activities. He also expressed a further concern that should Council proceed with any plans for use of the empty space that would occur between now and 2025 that it be certain to ensure that any proposed use does not negatively impact upon Mount Pearl's ability to meet its obligations with respect to its involvement in the 2025 Games. He noted that Mount Pearl must not miss the opportunity to showcase the best quality aspects of life in the City through its involvement in the 2025 Canada Games.
26. Mr. Bugden also noted an issue regarding a piece of land located adjacent to the north and west area of the parking lot south of the Track & Field facility that is included in the re-zoning area. He stated that in this area there is a "site-line" that provides a viewer with an unobstructed panoramic view all the way to Signal Hill. He stated that the Sports Alliance would very much like to see this site-line preserved for the future enjoyment of all citizens of Mount Pearl. He stated that it is a very beautiful and impressionable sight and that it would undoubtedly make a very positive impression on fellow Canadians from other parts of Canada visiting the Province to participate in or spectate at the 2025 Canada Summer Games. He expressed concern as to whether any future development would obstruct this site-line. He stated an eloquent plea that every reasonable effort be made to preserve the ambience and importance of the Track & Field Facility to the overall sports and recreation programs within the city and, in particular, that the "site-line" referred to above, be preserved for the continued use and enjoyment of all local citizens and not be lost to future citizens in the name of development.
27. Mr. Brian O'Keefe offered his support to Mr. Bugden's position stating that it was only "common sense" to do so. He also questioned why the "boundaries" of the land parcel proposed to be re-zoned were not defined by survey. He noted that there are currently two

fences around the Track & Field facility and queried as to whether the proposed amendments would encroach inside the outer fence. It was noted that the outline of the proposed lands shown on the aerial view map would indicate that at least a portion of the land inside the outer fence between the old ball field and the Track would be involved in the land parcel that is the subject of the re-zoning. The Director noted that it has not been the custom to define via survey and a formal "metes & bounds" description of lands identified for "re-zoning". He noted that it was the understanding of Planning Staff that it is the inner fence and not the outer fence that constituted the outer boundaries of the Track & Field facility and referred Mr. O'Keefe to a letter he had received from staff dated July 22, 2016. This letter states in part: "The proposed re-zoning will not affect the existing Pearlgate Track & Field facility . . . There will not be any reduction in the land area or boundary of the Pearlgate Track & Field facility. This is land outside the boundaries of the Pearlgate Track & Field facility and is located between that facility and the lands currently zoned as "GC". (Commissioner's Note: this is in reference to the "old ballfield")."

28. After completion of discussion regarding Mr. Bugden's presentation, Mr. Brian O'Keefe made a verbal presentation to the Commissioner. Mr. O'Keefe stated a concern that the zoning amendment was to prepare for the approval of a hotel on the site. He stated that the Pearlgate recreational area has been "fantastic" over the past 25 years. He noted that both the Team Gushue Sports Complex and the Summit Complex have proven to be very popular and successful facilities for use by all Mount Pearl citizens young and old alike. He was of the opinion that in pursuing this re-zoning Council is now eliminating a prime area of recreational space that will reduce future options for further development in the sports & recreation areas. He stated that there would be a future need for additional upgrades to the sports and recreation needs of citizens in the future. He questioned the vision of Council in putting a hotel on this site.
29. Mr. O'Keefe also stated that he saw a potential use for a "seniors complex" in this space. He noted that in 2009/2010 there was a review conducted with respect to identifying an area to construct a seniors complex and opined that it was unfortunate that Municipal Avenue was eventually chosen for the site. Mr. O'Keefe further stated that the recreational area is "a jewel of an area" and an ideal location for seniors. He was of the view that there must be more consideration given by Council to accommodating the needs of seniors and that this area should be "...given back to seniors".

#### **Letter Received from "The Bigs"**

30. Although Mr. Terry Bell, author of the letter received from "The Bigs", did not appear at the public Hearing nor send any company representation, his letter was tabled.
31. In his letter, Mr. Bell expressed a concern regarding the historical use of the site as a landfill. This concern had been previously expressed by him in a telephone call he originated to City staff on March 28, 2016. His concerns as set out in his undated letter

were substantially the same as those discussed in his telephone conversation with City staff on March 28th. It was brought to his attention at that time that the City was very aware of the previous use of the land site and that Council will be paying close attention to that factor throughout any future development application should any be forthcoming to develop the said land area. It was also noted at that time that any future authorized development of the land would require considerations of environmental protection within the context of the mandatorily required LUIA. As a final note, the City staff pointed out that any development would require the developer to address any environmental contamination should any be uncovered during the process of development of the site.

32. Mr. Bell also expressed a concern with respect to a claimed "drop in revenues" that would occur with respect to the proposed second "roundabout" in addition to the claimed "drop in revenue" recently experienced during the construction of the "roundabout" recently completed at the intersection of the on/off ramps of Ruth Avenue/Pitts Memorial Drive where Ruth Avenue joins and melds with the Galway Development. The need for and rationalization of this second "roundabout" was explained by Mr. Jewczyk during his presentation (see paragraph 23 above).
33. At the conclusion of Mr. O'Keefe's presentation, there being no further persons wishing to address the Commissioner, the Hearing was adjourned at 20:15 hours (8:15 P.M.).

#### **Commissioner's Comments & Conclusions**

34. The Commissioner noted that both speakers at the Hearing, as well as all of those who made prior telephone inquiries of City staff, all appear to be of the view that the City has plans to place a hotel on the site. The Commissioner noted for those present that he is not aware of any approval of any project for this site at this time. He stated further that it is his understanding (as stated in paragraph 22 above) that the main reason for this re-zoning process at this time is to align the zoning boundaries of the subject parcel of land with the current "CG" use boundaries of the old "ballfield site" (see paragraph 24 above) so as to better position the city with respect to its flexibility and range of options when considering any proposals for development with respect to this site that may be forthcoming in the future.
35. The Commissioner notes that neither of the two speakers that addressed him at the Hearing expressed any direct objections or challenges to the proposed amendments proceeding. Nor were any legal challenges raised either with respect to substance or process. Both speakers spoke eloquently and passionately with respect to the concerns of their sports organizations should the site be developed in the future as well as offering their personal concerns and recommendations with respect to the future use of the site. The file materials indicate Council is well aware of many of the concerns and has indicated empathy with respect to them.

### Commissioner's Recommendations

36. After due consideration of the issues/concerns set out in the written submissions as well as the verbal representations of citizens raised and addressed at the Public Hearing held on the 18<sup>th</sup> day of August, 2016, I hereby recommend to Council that:

(1) the proposed *Mount Pearl Municipal Plan 2010*, Amendment Number 17, 2016, a resolution to amend the Future Land Use Map1 to re-designate approximately 11,929 square meters of land located south of Old Placentia Road and adjacent to the Pearlgate Track & Field facility from its present designation of "Open Space" (OS) to a new designation of "General Commercial" (GC) be approved without amendment; and

(2) the proposed Mount Pearl Development Regulations 2010, Amendment No. 52, a resolution to amend "Map 1, Land Use Zoning Map" of the Mount Pearl Development Regulations 2010 to re-zone the said approximately 11,929 square meters of land from its present zoning designation of "Open Space" (OS) to a new zoning designation of "General Commercial" (GC) to coincide with the revised land use designation be approved without amendment.

37. Respectively submitted this 29<sup>th</sup> day of August, 2016.



Ernest Boone, c.d., q.c.  
Commissioner