

HALIFAX REGIONAL MUNICIPALITY

HALIFAX REGIONAL COUNCIL

MINUTES

March 1, 2011

PRESENT:

Mayor Peter Kelly
Deputy Mayor Jim Smith
Councillors: Steve Streach
Barry Dalrymple
David Hendsbee
Lorelei Nicoll
Darren Fisher
Bill Karsten
Jackie Barkhouse
Mary Wile
Jerry Blumenthal
Dawn Sloane
Sue Uteck
Jennifer Watts
Russell Walker
Debbie Hum
Stephen Adams
Brad Johns
Robert Harvey
Tim Outhit
Reg Rankin
Peter Lund

REGRETS:

Councillors: Gloria McCluskey
Linda Mosher

STAFF:

Mr. Wayne Anstey, Acting Chief Administrative Officer
Ms. Mary Ellen Donovan, Municipal Solicitor
Ms. Cathy Mellett, Municipal Clerk
Ms. Sheilagh Edmonds, Legislative Assistant
Ms. Shawnee Gregory, Legislative Assistant

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1. INVOCATION

Mayor Kelly called the meeting to order at 2:34 p.m.

2. SPECIAL COMMUNITY ANNOUNCEMENTS & ACKNOWLEDGEMENTS

This item was dealt with later in the meeting. See page 5

3. APPROVAL OF MINUTES – January 25, February 1 & 8, 2011

MOVED by Councillor Sloane , seconded by Councillor Karsten that the minutes of January 25, February 1 & 8, 2011 be approved. MOTION PUT AND PASSED.

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

Additions:

13.1 CAO Search Update

13.2 Citizen & Councillor Appointments to Boards, Committees & Commissions

Deletion:

11.1.2 Green Municipal Fund Financial Support for the Four Pad Arena

Council agreed to deal with item 13.1 as the first order of business.

MOVED by Councillor Sloane, seconded by Councillor Hum that the agenda, as amended, be approved. MOTION PUT AND PASSED

13.1 CAO Search Update

This matter was dealt with at an In Camera session held earlier on this date and was before Council for ratification.

MOVED by Councillor Streach, seconded by Councillor Karsten that Regional Council supports the unanimous recommendation of the CAO review Committee:

- 1. That Regional Council approve the selection of Mr. Richard Butts as Chief Administrative Officer of the Halifax Regional Municipality**
- 2. That Regional Council approve release of the February 28, 2011 report from the CAO Review Committee**

MOTION PUT AND PASSED UNANIMOUSLY.

Mayor Kelly retired from the meeting and Councillor Hendsbee assumed the Chair.

2. SPECIAL COMMUNITY ANNOUNCEMENTS & ACKNOWLEDGEMENTS

Councillor Sloane announced the Bid for Life fundraiser for the Aids Coalition of Nova Scotia on March 3, 2011.

Councillor Harvey noted that the Official Opening of the Sackville Outdoor Skating Rectangle would take place on March 5, 2011.

Councillor Nicoll announced that a skating party would take place on Bissett Lake, Colby Village March 6, 2011.

Councillor Dalrymple noted that last week the Federal and Provincial Governments announced a \$14 million investment in the Stanfield Airport, and this is in conjunction with matching dollars from the Airport Authority and will be used toward extending the main runway.

Councillor Watts advised of the following:

- A meeting regarding the Urban Farm Project on March 3, 2011 by Capital Health would be held at the Bethune Building.
- March 3 and 4, 2011 a new musical entitled *Out of Lunenburg*, put on by the Gilbert and Sullivan Society would take place at the Spatz Theatre, Citadel High School, and proceeds are in support of the construction costs of the new theatre.
- March 8, 2011 is the 100th anniversary of International Womens' Day.
- The Skating Oval was re-opened to the public and it is hoped it will be able to remain open until March 13.

Councillor Karsten expressed appreciation, on behalf of Regional Council, to the Canada Games Host Society for a job well done on the 2011 Canada Winter Games.

Further to this Councillor Hendsbee thanked the numerous volunteers and the athletes from HRM and across the Province who participated in the Games.

Councillor Hendsbee noted that today is St. David's Day, a special day to those of Welsh decent.

Councillor Hendsbee referred to the recent earthquake tragedy in Christchurch, New Zealand and suggested that on behalf of Regional Council, the Mayor forward a letter of condolence to the Mayor of Christchurch.

- 5. BUSINESS ARISING OUT OF THE MINUTES**
- 6. MOTIONS OF RECONSIDERATION – NONE**
- 7. MOTIONS OF RESCISSION – NONE**
- 8. CONSIDERATION OF DEFERRED BUSINESS – NONE**
- 9. PUBLIC HEARINGS**

9.1 By-Law N-200, Respecting Noise – Exemption Application, Canadian Cancer Society’s Relay for Life

This item was dealt with later in the meeting. See page 11.

10. CORRESPONDENCE, PETITIONS & DELEGATIONS

10.1 Correspondence – None

10.2 Petitions - None

11. REPORTS

11.1 CHIEF ADMINISTRATIVE OFFICER

11.1.1 Petition for Private Right-of-Way

This matter was dealt with later in the meeting. See page 11.

11.1.2 Green Municipal Fund Financial Support for the Four Pad Arena

This item was deleted from the agenda during the approval of the order of business.

11.1.3 Youth Advocate Program Sustainability

A letter dated November 10, 2010 from the Board of Police Commissioners, was before Council.

A report dated February 23, 2011 was before Council.

Mr. Paul Dunphy, Director, Community Planning addressed Council and provided background information on the program. He advised that the program was a four-year pilot project with funding from the Federal Government and, if at the end of the project it proved to be worthwhile, the Municipality agreed to find ways to continue the program. He explained that the purpose of the program was to address youth at risk of becoming involved in criminal activity and/or gangs. Mr. Dunphy indicated that the program has been successful and, therefore, staff were recommending continuance of the program.

Ms. Sharon Martin, Program Manager, provided a presentation on the youth advocate program.

At 2:56 p.m. Councillor Barkhouse entered the meeting.

At 3:08 p.m. Mayor Kelly returned to the meeting and assumed the Chair.

MOVED by Councillor Walker seconded by Councillor Sloane that Halifax Regional Council maintain the Youth Advocate Program as a Municipal Service by:

- 1. Allocating an additional \$550,000 to Community Development’s operating budget to sustain staffing and program costs;**

2. **Expanding the service to include priority communities beyond the 6 pilots; and**
3. **Pursuing funding partnership opportunities including federal and provincial governments and others.**

Ms. Martin, Mr. Dunphy, Mr. Andrew Whittemore, Manager, Community Relations & Cultural Affairs, Ms. Cathie O'Toole, Director of Finance, and Chief Frank Beasley, Halifax Regional Police responded to questions.

Ms. O'Toole and Mr. Dunphy responded to questions in regard to the staff recommendation to increase the tax rate in order to support the program as an added service. It was noted that in order to fulfill the requirement to submit a balanced budget staff will bring a report on funding options for the program to Council prior to tabling the budget.

Deputy Mayor Smith entered the meeting at 3:15 p.m.

A number of Councillors expressed the view that the Municipality should be pursuing funding from Federal and Provincial governments. Mayor Kelly noted that the motion indicates this would be a matter of course.

Councillor Nicoll suggested that, in addition, the Mayor should send a letter to the Minister of Community Services and the Premier of Nova Scotia highlighting the youth advisory program and ask to have them partner in delivering these services.

Mayor Kelly agreed with Councillor Nicoll's suggestion and advised that if it is the wish of Council to do this, it should also include the Provincial Minister of Justice, **to which Council agreed.**

MOTION PUT AND PASSED.

11.2 AUDIT AND FINANCE STANDING COMMITTEE

11.2.1 Audit and Finance Standing Committee Terms of Reference

A report dated February 10, 2011 was submitted from the Chair of the Audit and Finance Standing Committee.

MOVED by Councillor Walker, seconded by Councillor Karsten that Halifax Regional Council approve the Terms of Reference for the Audit and Finance Standing Committee as outlined in Attachment 1 of the February 10, 2011 report.
MOTION PUT AND PASSED.

11.2.2 2011/12 Budget and Business Planning Process

A report dated February 17, 2011 was before Council.

MOVED by Councillor Walker, seconded by Councillor Karsten that Halifax Regional Council direct staff to work toward a hybrid model for the 2011/12 Budget and Business Planning process that would include informal Business Unit presentations for the Operating Budget and an Open House format for the Project (Capital) Budget.

On a point of information Mayor Kelly noted that, with the new Chief Administrative Officer starting soon, Council had agreed to allow him enough time to review the budget documents and, therefore, the tabling of the budget would occur at the end of April and not April 5.

Ms. Cathie O'Toole, Director of Finance and Mr. Phil Townsend, Director of Infrastructure and Asset Management responded to questions.

MOTION PUT AND PASSED.

11.2.3 Interim Award Policy – Proposed Amendments to Administrative Order 35 Respecting the Procurement Policy

A report dated February 10, 2011 from the Audit and Finance Standing Committee was before Council.

A staff report dated February 10, 2011 was before Council.

MOVED by Councillor Walker, seconded by Councillor Karsten that Halifax Regional Council approve in principle amendments to Administrative Order 35, the purpose of which is to amend Section 9, Award of Contracts as follows:

1. a) That the Interim Award Policy only be in effect during the Regional Council Summer and December Holiday breaks by eliminating the following wording from Subsection 5: "...and for occasions when a regular Regional Council meeting has been cancelled or the regular schedule creates more than eight (8) business days between Council meetings," to read as follows:

(5) During the summer (July-September) and the December Holiday break periods, the CAO or his designate, may approve the award of contracts under the following conditions...."
 - b) Modify the budget program / conditions to ensure purchases are within scope by adding "and within scope" to subsection 5(a) to read as follows: (5) (a) "Where the funds and program have been approved by the Halifax Regional Council as part of the annual business planning and budget process and the expenditure will not result in an over expenditure of the entire budget and is within scope."
2. Further, it is recommended that Halifax Regional Council consider Interim Award Authority for projects on a case by case basis.

MOTION PUT AND PASSED.

11.3 SPECIAL EVENTS ADVISORY COMMITTEE

11.3.1 Non Annual Festival & Event Grant Funding Requests – Second intake Process

A report dated February 14, 2011 was submitted from the Chair of the Special Events Advisory Committee.

MOVED by Councillor Uteck, seconded by Councillor Sloane that Halifax Regional Council approve:

- 1. An increase to the 2010/11 Non-Annual grant award for M Fest in the amount of \$31,000 funded from the Marketing Levy Special Events Reserve (Q315), as identified in Table 1, page 5, of the November 30, 2010 staff report attached as Attachment 2.**
- 2. An increase to the 2010/11 grants for a retroactive grant to the Aileen Meagher International Track Classic in the amount of \$3,000 from the Marketing Levy Special Event Reserve (Q315) based on the amended Scoring Sheet total of 54.5/100.**
- 3. The 2010/11 Festival & Events grant award of \$2,950 funded from the Community/Civic Events Operating Budget (C760-6933) as identified in Table 2, page 6, of the November 30, 2010 staff report attached as Attachment 2.**

Councillor Hendsbee advised that the Titanic 100 application had been deferred and will be further evaluated by the Committee at its March 9, 2011 meeting. He suggested that those Councillors who had concerns with the application attend the meeting. He added that he had a concern with the scoring factor in regard to 'geographic distribution' and noted that it scored low because it is considered 'urban'. Councillor Hendsbee indicated that he felt this was too restrictive and hoped that it could be re-evaluated.

MOTION PUT AND PASSED.

12. MOTIONS

12.1 Councillor Sloane

A motion from the March 1, 2011 meeting of the Transportation Standing Committee was submitted

Councillor Sloane advised that she spoke with her colleagues on the Transportation Standing Committee and was informed that the Committee has a report coming forward in regard to the parking ban and alternatives. Councillor Sloane requested that, rather than put forward her motion, Council refer her proposed amendments to the Transportation Standing Committee to be addressed in the staff report that the

Committee has requested on the winter parking ban, and that it come back to Council by April 5, 2011.

MOVED by Councillor Sloane, seconded by Councillor Ranking that the following proposed amendments to the parking ban be forwarded to the Transportation Standing Committee to be addressed in the staff report that the Committee has requested in regard to the parking ban:

1. **An amendment to the ban regarding this issuance of tickets if no snow has fallen or there are no snow removal operations being performed.**
2. **An amendment to the ban regarding the adoption of alternative side of the street parking for the older areas of the Municipality where parking is at a premium and off street parking is not a viable option.**
3. **An amendment to the ban regarding different regulations for the urban, suburban and rural areas of the municipality as each of these areas are unique and cannot be serviced with the same regulations.**

MOTION PUT AND PASSED.

13. ADDED ITEMS

13.1 CAO Search Update

This item was dealt with earlier in the meeting. See page 4.

13.2 Citizen & Councillor Appointments to Boards, Committees & Commissions

The following motion was dealt with at an In Camera session held earlier on this date and was now before Council for ratification.

MOVED by Councillor Fisher, seconded by Councillor Blumenthal that Halifax Regional Council approve:

1. **Recommendations 1-4 of the Administrative Standing Committee regarding appointments to the HRM Stadium Steering Committee as outlined in the Private and Confidential staff report dated February 28, 2011.**
2. **Recommendation 5 of the Administrative Standing Committee, regarding appointments to the Police Commission, as outlined in the Private and Confidential staff report dated February 28, 2011.**

MOTION PUT AND PASSED.

14. NOTICES OF MOTION:

14.1 Councillor Watts

“Take notice that at the next Regional Council meeting on March 8, 2011, I propose to move a request for a staff report which outlines the process of rules and regulations concerning meetings between Councillors and proponents of projects, community and interest groups and HRM staff.”

14.2 Councillor Walker

“Take notice that, at the next regular Regional Council meeting, to be held on Tuesday, the 8th. Day of March, 2011, I propose to move approval of a motion adopted by the Audit and Finance Standing Committee, to amend Administrative Order 35, Respecting he Procurement Policy, the purpose of which is to amend Section 9 Award of Contracts.”

The meeting recessed at 4:30 p.m.

The meeting reconvened at 6:02 p.m.

9.1 By-Law N-200, Respecting Noise – Exemption Application, Canadian Cancer Society’s Relay for Life

Superintendent Colleen Kelly, Halifax Regional Police, provided the presentation on By-Law N-200, Respecting Noise – Exemption Application, Canadian Cancer Society’s Relay for Life.

Mayor Kelly reviewed the Rules of Procedure for Public Hearings. He called for those wishing to speak for or against the proposed Exemption Application for the Canadian Cancer Society’s Relay for Life.

Ms. Helle Haven Petersen, Halifax, stated that she was speaking on behalf of the Canadian Cancer Society. She indicated that the Relay for Life was the largest fundraising event in the world; noting that 25 events would be taking place in Nova Scotia this year, including six in HRM. Ms. Haven Petersen stated that these events were supported by volunteers, staff and those who wanted to fight back against cancer, remember those who have lost their battle and support those who have survived. She advised that having the support of Council was key to the success of these events and she thanked them for their time and support over the past 10 years.

MOVED by Councillor Blumenthal, seconded by Councillor Nicoll, that the Public Hearing be closed. MOTION PUT AND PASSED.

MOVED by Deputy Mayor Smith, seconded by Councillor Lund that Halifax Regional Council approve the Canadian Cancer Society’s Relay for Life application for an exemption from the provisions of the Noise By-law pursuant to the contents of the report dated February 7, 2011 and any matters raised at the hearing. MOTION PUT AND PASSED.

11.1.1 Petition for Private Right-of-Way

A report dated February 17, 2011 was before Council.

Ms. Mary Ellen Donovan, Municipal Solicitor, provided background on the Petition for a Right-of-Way process. She advised that this was the first petition to be filed under the Private Ways Act in 13 years; noting that the petitioner's father had filed at that time in regard to the same property. She indicated that the petitioner was entitled to file under the Act and was also permitted the right to speak. She proposed Ms. Karen MacDonald, HRM Solicitor, be permitted to provide Council with background information first and then that the petitioner be permitted to speak for five minutes in keeping with the rules of procedural fairness. Ms. Donovan advised that, as this matter affects the property abutter as well, they too would be given the opportunity to speak; noting that their legal council would be speaking on their behalf as they were not present.

Ms. MacDonald provided the background presentation on the Petition for a Private Right-of-Way as outlined in the staff report dated February 17, 2011. She advised that, to staff's knowledge, 9 Milton Drive, Halifax, was the only property in HRM that did not have a driveway and was in this unique situation. Ms. MacDonald advised that the private way, if granted, would become part of 9 Milton Drive even if sold. She indicated that it should be taken into consideration that the appeal hearing in HRM's jurisdiction under the Private Ways Act would be heard in September 2011; however, it was unknown when a decision on the matter would be made.

Ms. Susan Sheehan, Applicant and owner of 9 Milton Drive, stated that almost 50 years ago, her parents bought a house in Jollymore under the impression that they had a right-of-way deed. She advised that when they moved in, the neighbors challenged this idea and her family lost their right of way during court proceedings with the exception of a footpath. She indicated that her parents were not wealthy and legal costs were expensive so they had to accept the court's decision. Ms. Sheehan outlined the issues related to not having right-of-way access to her home, such as not having the ability for utilities such as oil to be delivered, the fact that the fire marshal told her that a fire truck could not access her home, having to carry her groceries to her home in a wheelbarrow, having to shovel the adjacent parking lot as no plow would do so, loss of insurance and being unable to sell her home. She stated that she had lost both of her parents to illness and that when her father learned he had a brain tumor and requested to be cared for at home; her neighbors denied the family's request for an ambulance which prompted their first petition in 1997. Ms. Sheehan advised that her family had no easement or access to their home which caused mental and physical anguish. She stated that while she recognized that Council would have financial issues with this request, it was not reasonable for her to have to ask neighbors for access to safety and utilities. She provided photographs to convey the difficulty of not having access to her home including the fact that she must transport oil in jerry cans two to three times per week in order to heat her home; noting that her friends recently held an oil relay to help her with this issue. In closing, Ms. Sheehan stated that she was not asking to take land from neighbors; she simply wanted reasonable access to her home.

Mr. John Keith, Solicitor for Dr. and Mrs. Charles Cron, apologized for his clients not being present as they find this situation difficult and are elderly, private people. Mr. Keith advised that there were two reasons for Council to support the recommendation before them; in order for Ms. Sheehan to access emergency and heating services. He indicated that his clients were prepared to help Ms. Sheehan have the necessary access to obtain electric heating and that they also had no difficulty with allowing emergency services to access her home. He advised that the original right-of-way was located on the side of Ms. Sheehan's property which bordered the Marterra Inc. lands; therefore, this would be the most reasonable place for a driveway. Mr. Keith stated that his clients had concerns regarding liability issues as the right-of-way would not be HRM's responsibility and that replacing the slip way with new infill would mean oil trucks would be going along the Northwest Arm; noting that his clients would have to assume occupiers liability insurance. He indicated that his clients have suffered from anxiety over this issue as they have received threatening calls and have been demonized in the press and community; noting that their enjoyment of their property has been diminished. Mr. Keith stated that his clients did not intend to deny Ms. Sheehan access for any reasonable measures. He advised that the previous right-of-way was put in by the Crown without his client's authority or consent; indicating that Dr. Cron, who was also a botanist, had his plants and driveway damaged in this process. In closing, Mr. Keith stated that his clients were prepared to cooperate on every level with the exception that they did not want a permanent driveway of convenience over their property.

MOVED by Councillor Hendsbee, seconded by Councillor Adams that Halifax Regional Council:

- 1. Appoint a Commissioner pursuant to Section 17 of the *Private Ways Act*, to consider the petition of Susan Sheehan; and**
- 2. Before the Commissioner is engaged, Council enter into an agreement with Susan Sheehan for reimbursement to HRM of any and all expenses incurred by HRM as the result of Ms. Sheehan's petition and which are recoverable by HRM under the *Private Ways Act*. Specifically, all expenses associated with the Arbitrators, and any compensation payable to Dr. and Mrs. Charles Cron.**

Discussion on the motion ensued with staff responding to questions.

Councillor Hendsbee stated that there may be the opportunity for secondary access to Ms. Sheehan's property via a new road access that Marterra Inc. was proposing on the adjacent property; however, this would not occur until it was built by Marterra some time in the future.

In response to a question posed by Councillor Fisher, Ms. MacDonald stated that if Council denies the petition, the court appeal would still go forward as it was a matter of law.

Regarding why Council could not wait to make a decision after the appeal goes to court in September, Ms. MacDonald reiterated that while the appeal would be heard in September, it was unknown as to when a decision on the matter would be made. She

stated that, given the safety concerns related to this matter, staff felt it was prudent to bring the recommendation to Council now and she also noted that it would provide time for the Commissioner, if appointed, to conduct their work.

Ms. Donovan also clarified that no stay had been issued with respect to this matter, therefore, Council could legally decide to allow the driveway to be put in; noting that there was a potential for the appeal to be granted and the driveway taken out as a result.

Ms. MacDonald clarified that approval of the motion would mean that Council agrees Ms. Sheehan should have a right-of-way. She indicated that the only way there would not be a right-of-way over the Cron's property would be if the appointed Commissioner deems it to not be the most reasonable means of access.

Councillor Adams submitted a petition containing 27 signatures in support of Ms. Sheehan's petition for a private right-of-way.

Ms. MacDonald noted that Ms. Sheehan would be liable to maintain the right-of-way, if granted.

In response to a question posed by Councillor Uteck, Ms. MacDonald advised that HRM did not have the authority to grant Ms. Sheehan a temporary easement as the Municipality was only involved because of the Private Ways Act since, at this time, there was no other means for Ms. Sheehan to obtain a right-of-way to her property.

Ms. MacDonald indicated that there was a process of appeal in the Private Ways Act.

Regarding how this matter and the Private Ways Act relate to the Municipal Charter, Ms. Donovan advised that they were two separate pieces of legislation that did not have any linkage as the Act was completely independent of the Charter.

Councillor Karsten moved an amendment to the motion to state that the process not proceed until the decision before the court is rendered.

As there was no seconder for the motion, the motion was lost.

Councillor Sloane noted that quality of life and health and safety issues were municipal responsibilities under By-law M-100 and stated that accessing your property was a necessity of life.

In response to Councillor Rankin's comments, Ms. MacDonald advised that Council would have the final vote on whether the land assessment provided by the Commissioner for the right-of-way was appropriate.

Councillor Watts expressed concern with the small potential that the Commissioner's decision would impact another property owner who was not being represented that evening.

Ms. MacDonald advised that the Commissioner could not award a driveway over the Marterra property as they could not award anything other than what Ms. Sheehan has requested in her petition. Ms. MacDonald stated that if the Commissioner determines that the Marterra property is the best site for a right-of-way, Ms. Sheehan may have to petition Council again.

A vote was taken on the motion.

MOTION PUT AND PASSED.

15. ADJOURNMENT

The meeting was adjourned at 7:37 p.m.

Cathy J. Mellett
Municipal Clerk

INFORMATION ITEMS
March 1, 2011

1. Proclamation – Liver Health Awareness Month – March 2011
2. Memorandum from General Manager, Halifax Water dated February 16, 2011
re: Halifax Regional Water Commission 2008 / 2009 Annual Report
3. Memorandum from General Manager, Halifax Water dated February 21, 2011
re: Halifax Harbour Solutions Project Activity Report – August 1, 2010 to
December 31, 2010
4. Memorandum from Director, Legal Services & Risk Management
dated February 17, 2011 re: Status of By-Law Prosecutions, October 1 – 31,
2010
5. Memorandum from Chair, Audit & Finance Standing Committee
dated February 10, 2011 re: Councillor Appointments to the Special Events
Advisory Committee
6. Memorandum from Chair, Audit & Finance Standing Committee
dated February 18, 2011 re: Advanced Capital Funding Policy – Review of
Report Process
7. Memorandum from the Municipal Clerk dated February 25, 2011
re: Requests for Presentation to Council - None