

Executive Standing Committee
June 24, 2013

TO: Chair and ~~Members of the~~ Executive Standing Committee
Original Signed

SUBMITTED BY: Richard Butts - Chief Administrative Officer

DATE: June 20, 2013

SUBJECT: Powers of Standing Committees

ORIGIN

This report originates with staff in response to an ongoing review of Halifax Regional Municipality (HRM) operating procedures.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter Sections 20 and 34

RECOMMENDATION

It is recommended that the Executive Standing Committee recommend to Regional Council that:

Pursuant to Section 20(1)(c) of the Halifax Regional Municipality Charter, Regional Council delegate the power to direct staff to prepare reports to HRM Standing Committees provided that:

- a) The topic of the report is consistent with the mandate of the Standing Committee as expressed in the Committee's terms of reference approved by Regional Council; and
- b) The topic of the report is consistent with Regional Council's approved strategic priorities, budgets and policies.

BACKGROUND

HRM staff assessed the requirements of the Halifax Regional Municipality Charter (the Charter) regarding the powers of Standing Committees to direct staff. It has been determined there is some ambiguity in the Charter with respect to Standing Committee authority to direct staff to prepare reports. Strict technical interpretation of the legislation indicates that Regional Council approval is required for all direction to staff including requests for staff reports. However, a purposeful view of the legislation could be deemed to permit Council to delegate the authority to request staff reports to a Standing Committee if the topic of the report relates directly to a committee's mandate.

This report is presented to clarify the implications of the Charter wording and confirm that Standing Committee requests for reports can continue to be efficiently processed within the requirements of the Charter without specific direction from Regional Council on each individual Committee request.

DISCUSSION

Regional Council adopted a governance structure utilizing Standing Committees in October of 2010. This governance model has been in place since that time and Standing Committees have operated on the basis that their mandate includes the authority to direct staff to prepare reports.

At the same time, staff has been working to ensure HRM procedures are consistent with statutory obligations and efficient business practices. This review identified a potential conflict between the requirements of the Charter and Standing Committees' capacity to direct staff to prepare reports.

Generally, the Charter establishes Regional Council as the ultimate authority for decision making. It also provides for the ability of Council to establish Standing Committees and delegate duties and powers to those Committees as follows:

"20 (1) The Council may make policies ...

(c) providing for committees and conferring powers and duties upon them, except the power to expend funds;"

The Charter also prescribes the relationship between Council and Standing Committees relative to providing direction to staff. The relevant section states:

"34(2) The Council shall communicate with the employees of the Municipality solely through the Chief Administrative Officer, except that the Council may communicate directly with employees of the Municipality to obtain or provide information" and,

“34(4) No Council member, committee or member of a committee established by Council shall instruct or give direction to, either publicly or privately, an employee of the Municipality.”

Strict legal interpretation of these sections indicates that the proscribed authority given solely to Council in s.34(2), coupled with the prohibition against Council members, committees or members instructing or directing staff in s.34(4), constitute limitations on Council's authority to confer powers on committees under s.20(1)(c). In doing so, the Charter attempts to ensure the public service does not undertake work that is inconsistent with Council approved strategic priorities, business plans, budgets or policies.

However, from the perspective of operational efficiency it is a reasonable expectation that Standing Committees should have the ability to obtain staff reports on matters consistent with their mandate as long as the subject matter does not alter Regional Council's approved strategic direction, budgets or policies. Given this perspective, a purposeful view of the legislation could be deemed to permit Council to delegate the authority to request staff reports where reports relate directly to a committee's mandate.

Based on this interpretation, Standing Committee direction to staff to prepare reports would only be compliant with the Charter if Regional Council approved a motion specifically delegating this authority to Standing Committees in accordance with 20(1)(c). Staff believes this step would satisfy the Charter and maintain the capacity for Standing Committees to gather appropriate information in the form of professional staff reports in order to fulfil the mandates and responsibilities provided to them by Regional Council.

In order to carry out this objective, staff recommends the following motion be referred to Council by the Executive Committee:

That, pursuant to Section 20(1)(c) of the Halifax Regional Municipality Charter, Regional Council delegate the power to direct staff to prepare reports to HRM Standing Committees provided that:

- a) The topic of the report is consistent with the mandate of the Standing Committee as expressed in the Committee's terms of reference approved by Regional Council; and
- b) The topic of the report is consistent with Regional Council's approved strategic priorities, budgets and policies.

FINANCIAL IMPLICATIONS

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets policies and procedures regarding withdrawals from the utilization of the Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

There are no community engagement implications associated with this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications have been identified.

ATTACHMENTS

None

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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Report Approved by: Richard Butts – Chief Administrative Officer
