



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No.
Executive Standing Committee
September 22, 2014

TO: Mayor Savage and Members of Executive Standing Committee

Original Signed

SUBMITTED BY: John Traves, Q.C., Director, Legal Services

DATE: September 19, 2014

SUBJECT: **Summary Report and Recommendations – Governance Review
(External Committees)**

SUPPLEMENTARY REPORT

ORIGIN

On June 24, 2013, Regional Council moved and passed the following motion:

That the Executive Committee, supported by staff, is directed to undertake a review of Council's governance & committee structure and the TOR of Standing Committees to ensure the structure supports Council's priorities.

On August 6, 2014, the Executive Standing Committee moved the following motion:

MOVED by Councillor Rankin, seconded by Councillor Whitman that the Executive Standing Committee recommends to Halifax Regional Council that:

- **Recommendation #1A:** Regional Council make no changes to the process for appointments to the Halifax Water Commission board, the Police Commission, the Community Monitoring Committee or the FCM and UNSM boards.
- **Recommendation #1B:** Regional Council reduce the number of Councillors appointed to the Regional Library Board and work with the Provincial Government to make appropriate changes to the relevant agreement.
- **Recommendation #2:** Regional Council, when dealing with appointments to other external boards and committees, consider first, competency based appointment of HRM residents, second, appointment of relevant HRM staff members, and third, appointment of elected officials only if suitable appointments cannot be made under the first two categories.
- **Recommendation #3:** Regional Council cease appointing councillors to the boards of Alderney Landing, Canada Games Centre, Neptune Theatre and the Business Improvement Districts, and to the boards of other organizations which might invite the appointment of councillors.

- **Recommendation #4:** Regional Council advise all councillors who sit on boards or committees to which they have not been appointed by Regional Council to inform the Municipal Clerk of those positions.

At the same meeting, the Executive Committee moved and passed the following motion

MOVED by Councillor Karsten, seconded by Councillor Whitman that the Executive Standing Committee refer the matter back to staff for supplementary report responding to the concerns and questions laid out in the discussion and that the supplementary report be considered at the next meeting of the Committee.

MOTION PUT AND PASSED

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Chapter 39 of the Acts of 2008 as amended

- Subsection 11(1) - The powers of the Municipality are exercised by the Council.
- Clause 20(1)(c) - Council may make Administrative Orders providing for committees and conferring powers and duties upon them, except the power to expend funds.
- Subsection 20(2) –The Council may, by Administrative Order, require that where a Council member is nominated or appointed by the Council to a board, commission or other position or is otherwise appointed as a representative of the Municipality, any remuneration from that position, excluding reimbursement of expenses, to which that Council member is entitled shall be paid to the Municipality.

RECOMMENDATIONS

It is recommended that the Executive Standing Committee move the following highlighted amendments to the August 6, 2014 motion:

Recommendation #1A:

Regional Council make no changes to the process for appointments to the Halifax Water Commission board, the Police Commission, the Community Monitoring Committee or the FCM and UNSM boards **at this time**.

Recommendation # 1B:

Regional Council reduce the number of Councilors appointed to the Regional Library Board and the Halifax-Dartmouth Bridge Commission Board to two (2) Council members from four (4) and, with respect to the Regional Library, work with the Provincial Government to make appropriate changes to the relevant agreements.

Recommendation #2:

Regional Council may consider the appointment of Council members to external boards or committees, as set out by Administrative Order, which in the opinion of Council:

- are regional in scope;
- affect or may affect a municipal interest; or
- is a community organization with a mandate to provide an alternate service delivery in respect of municipal property on behalf of HRM and to which the municipality is the primary funder.

Recommendations cont. on pg. 3

Recommendation #3- That staff be directed to draft an Administrative Order to implement recommendation #2 as set out in Table 1 and Table 2 of this report.

Recommendation #4: Regional Council advise all councillors who sit on boards or committees to which they have not been appointed by Regional Council to inform the Municipal Clerk of those positions, to annually review the list of those boards and committees and inform the Municipal Clerk of any errors or omission and that, in accordance with the NS *Municipal Conflict of Interest Act*, the list be retained in the Office of the Municipal Clerk as a public record.

BACKGROUND

On August 6, 2014, the members of the Executive Standing Committee discussed the staff recommendations found in the July 29, 2014 recommendation report in regard to external boards and committees. A copy of the July 29, 2014 report may be obtained from the following link: (<http://www.halifax.ca/boardscom/SCadmin/documents/140806spesc9.1.2.pdf>)

At the August 6, 2014 meeting, the members of the Executive Committee discussed:

- revising recommendations #2 and #3 of the July 29th 2014 staff report to provide more flexibility and options for Council to consider;
- clarifying on which external boards and committees Council members may serve on;
- adding wording respecting Council members and HRM Management in recommendation #4; and
- clarifying how the Office of the Clerk would implement and maintain the list of all the external boards or committees on which the Council members serve.

DISCUSSION

Based on the above discussions of the Executive Committee meeting, staff have revised recommendations 2, 3 and 4 for the Committee's consideration.

Recommendations #2 #3 - Revised

Recommendation #3 from the July 29, 2014 staff report has been consolidated with recommendation #2. The revised recommendation provides greater flexibility by removing the hierarchy of appointment of residents, staff and then Council members. The revised recommendation no longer requires the public to be considered first. Rather, the revised recommendation allows broader discretion by setting criteria for Council to consider when looking at appointments to boards or committees that:

- are regional in scope;
- affect or may affect municipal interest ; or
- is a community organization with a mandate to provide an alternate service delivery in respect of municipal property on behalf of HRM and to which the municipality is the primary funder.

The terms and conditions of the appointment to external boards and committees would be set out in a new Administrative Order. Accordingly, the revised recommendation #3 directs staff to draft the Administrative Order in accordance with Table 1 and Table 2 for Council's consideration.

If Council adopts the revised recommendation #2, the following will result:

Table 1: Council Members Appointed to Boards and Committee that Meet Recommendation #2			
Organization	Criteria	Action	Comment
Alderney Landing*	Meets criteria	Council could appoint a Council member or citizen as Council sees fit	None
Shubenacadie Canal Commission	Meets criteria	Provincial body- Council appointment	None
Canada Games Centre*, Halifax Forum*, Cole Harbour Place*, Dartmouth Sportsplex* and other Multi-district facility boards	Meets criteria	Council could appoint a Council member or citizen should Council so direct. <ul style="list-style-type: none"> Status quo 	Multi-district facilities governance structures are under separate review by motion of Council. All MDFs should be dealt with consistent with the recommendation from that review.
Destination Halifax/Greater Halifax Partnership	Meets criteria	Council could appoint a Council member or citizen as Council sees fit.	Changes to GHP bylaws will be required to provide Council with flexibility. Already in bylaws of DH.
Halifax Dartmouth Bridge Commission	Meets Criteria	Council to appoint two (2) Council members and two (2) members from the public.	The <i>Halifax Dartmouth Bridge Commission Act</i> does not require municipal appointments to be Council members.
Halifax Regional Library	Meets Criteria	Council to appoint two (2) Council members.	Requires amendments to relevant agreements.

Table 2: Council Members Appointed to Boards and Committee that Do Not Meet Recommendation #2			
Organization	Criteria	Action	Comment
Neptune Theatre Board (and/or other not for profit arts/culture organizations)	Do not meet criteria	No longer appoint a Council member.	No consistency in current approach
Business Improvement Districts (BIDs)	Do not meet criteria	Council would not formally appoint a Council member. Council members would be free to serve or not based on the bylaws of the BID.	Consistent with all other community based boards. Municipal Conflict of Interest would need to be considered by the Council Member.
Local or community based Boards or Committees	Do not meet criteria	Council would not formally appoint Council members. They would be free to serve or not based on the bylaws of the BID.	Consistent with all other community based boards. Municipal Conflict of Interest would need to be considered by the Council Member.

The revised recommendation removes staff from general consideration for appointments to external boards and committees. The appointment of staff to external boards and committee may put the staff member in a conflict of interest on issues involving HRM and the Organization. Accordingly, staff appointments should be considered on a case by case basis.

Recommendation #4 - Revised

Recommendation #4 was advanced in regard to the recent case law outlined in the January 23, 2014 Private and Confidential staff report. In accordance with the definition of “member” within the *Municipal Conflict of Interest Act*, the Act applies to “a member, in whatever capacity, of a council or a local board.” The intent of the Act is to assist those cited in the legislation in conducting themselves in accordance with the Act so as to protect both them and the public interest.

Recommendation #4 is put forward to provide full transparency in regard to subsection 7(3) of the Act which says:

Every municipality and local board shall keep a central record of disclosure, which shall be open to inspection by any elector without fee at all reasonable times.

The Office of the Municipal Clerk would maintain a list of all the external boards of committees on which Council members serve. Council members will be responsible to annually review the list and inform the Municipal Clerk of any errors or omissions changes. In accordance with the Act that list would be a public record kept in the Office of the Municipal Clerk.

If applicable, the CAO will direct the Directors to make a similar declaration respecting members of staff on external boards and committees.

Additional Amendment - Recommendation #1B

It was determined during the governance review that there is nothing within the *Halifax-Dartmouth Bridge Commission Act* that requires the four (4) municipal appointments by the municipality to be Council members. Accordingly, Council may consider reducing this number to two (2) Council members.

FINANCIAL IMPLICATIONS

There are no financial implications to this report beyond those in the staff report of July 29, 2014

COMMUNITY ENGAGEMENT

The request for a supplemental report did not seek additional input from the community.

ENVIRONMENTAL IMPLICATIONS

The request for a supplemental report did not seek additional input on environmental implications.

ALTERNATIVES

In addition to the recommendations contained in this report, the Committee has the following alternatives to consider:

- 1) Status Quo, with no changes to current appointments by Council of Council members to External Boards and Committees
- 2) Adopt the recommendations #2 and #3 as put forward in the staff report of July 29, 2014
- 3) Other direction as the Committee sees fit to provide.

ATTACHMENT

None

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Chris Bryant – Senior Advisor, Government Relations & External Affairs- 902.490 3729
Cathy J. Mellett, Municipal Clerk – 902.490 6456
