

HALIFAX REGIONAL MUNICIPALITY

HALIFAX REGIONAL COUNCIL COMMITTEE OF THE WHOLE MINUTES October 23, 2001

PRESENT:

Mayor Peter J. Kelly (4:40 p.m.)
Deputy Mayor Jerry Blumenthal
Councillors: Stephen Streach
Gary Hines
Keith Colwell
Ron Cooper
Harry McInroy
Brian Warshick
Condo Sarto
Bruce Hetherington
Jim Smith
John Cunningham
Dawn Sloane
Sue Uteck
Sheila Fougere
Russell Walker
Diana Whalen
Linda Mosher
Stephen D. Adams
Brad Johns
Bob Harvey
Len Goucher
Reg Rankin
Gary Meade

STAFF MEMBERS:

Mr. George McLellan, Acting Chief Administrative Officer
Mr. Wayne Anstey, Municipal Solicitor
Ms. Vi Carmichael, Municipal Clerk
Ms. Patti Halliday, Assistant Municipal Clerk

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1. **CALL TO ORDER**

Deputy Mayor Blumenthal called the meeting to order at 3:30 p.m.

2. **APPROVAL OF THE MINUTES - OCTOBER 2 & 9, 2001**

MOVED by Councillor Hetherington, seconded by Councillor Adams, that the minutes of October 2 & 9, 2001, be approved, as circulated. MOTION PUT AND PASSED UNANIMOUSLY.

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

It was noted that there was a request from Mr. Barry Zwicker, Wallace Macdonald & Lively, Ltd., to address the Committee with respect to Item 4 - Construction and Demolition (C&D) Waste Management Strategy. The Committee agreed to grant Mr. Zwicker the opportunity to speak to the issue.

MOVED by Councillor Hetherington, seconded by Councillor Adams, that the Order of Business and Additions and Deletions, be approved. MOTION PUT AND PASSED UNANIMOUSLY.

4. **CONSTRUCTION AND DEMOLITION (C&D) WASTE MANAGEMENT STRATEGY**

C A supplementary staff report dated October 16, 2001, regarding the above, was before the Committee for its consideration. The report recommended that Regional Council adopt, in principle, the following:

- a) that all MPS and LUB documents be amended to recognize and permit C&D transfer stations and C&D recycling operations, as outlined in Attachment "II" of the September 20, 2001 staff report; and,
- b) that all MPS and LUB documents be amended to recognize and permit C&D disposal operations, as outlined in Attachment V of the September 20, 2001 staff report.

Mr. Kurt Pyle, Planner, presented the supplementary report to the Committee.

Councillor Adams expressed concern with decisions being made at the Community Council level, noting the Western Region Community Council only has three members. He suggested

decisions of the whole Council may be more balanced. The Councillor inquired which option would allow for participation of full Council to have this done on a regional basis. In response, Mr. Pyle stated Option 2 in the supplementary report allows the whole Council to decide whether or not a site is acceptable. He noted Option 2 may also provide a shorter time frame, but it would depend on how much discussion Regional Council has with respect to specific applications.

Responding to a question of Councillor McInroy regarding the Scotia Poultry Farm on Bissett Lake Road as a potential site, Mr. Pyle stated staff looked at the zone itself rather than the specific site. The Councillor stated it is his understanding that the last piece of property that HRM owned on Hines Road was recently sold, and he expressed concern with the timing of this in light of the proposed amendments before the Committee. Mr. Pyle agreed to follow up on this.

Councillor McInroy expressed concern with some of the identified sites for potential transfer stations in the Hines Road and Cole Harbour Road area and questioned whether or not they are appropriate.

(Councillor Whalen took her place at the meeting at 4:00 p.m.)

Councillor Cooper inquired what type of protection will be made available for the Lake Major watershed. In response, Mr. Pyle stated the MR zone is partially split by the watershed boundary. If this process goes forward, staff would look at excluding transfer or disposal sites from this area. Mr. Pyle noted this detail would be examined at the next step if Council directs staff to proceed with the process.

Councillor Walker expressed concern with recycling facilities being located in the middle of residential areas, noting these facilities could have stockpiles of C&D materials in place for a year.

Responding to a question of Councillor Adams, Mr. Pyle stated Council would have more control with the rezoning option. Therefore, Councillor Adams stated he would support Option 2 and put forth the following motion:

MOVED by Councillor Adams, seconded by Councillor Goucher that it be recommended to Regional Council that it adopt, in principle, Option 2: Create Three Zones, Zoning Based on Existing Use, Additional Rights for Existing Operators, as outlined in the supplementary staff report dated October 16, 2001.

(Councillors Mosher and Johns took their places at the meeting at 4:05 p.m.)

At this time it was agreed to hear from **Mr. Barry Zwicker**, Wallace Macdonald & Lively. Mr. Zwicker addressed the Committee, making the following points:

- C His client, RDM, would prefer Option 2 as it establishes individual zones for the various processes, and it eliminates the fear of having transfer stations, processing operations, or disposal sites in a number of areas that are currently zoned for a variety of mixed industrial uses.
- C Currently, RDM is the only operation that has applied for anything under the new Licensing By-Law. They have applied for both processing and disposal.
- C RDM is the only C&D operation that has applied for disposal through the Department of the Environment. The only hold up for the approval is confirmation from HRM that the land is properly zoned.
- C Zoning is only one aspect of a disposal site, as the proper site conditions are also needed.
- C The only change to Option 2 that he would recommend is the addition of the words “or intended future use” to the end of policy SW-5.
- C With regard to separation distances and the change from 60m to 90m, this further encroaches on the site, and it was his understanding that the distances set during the licensing by-law process were maximums.

In closing, Mr. Zwicker stated his client supports Option 2 with the addition of the words “or intended future use” to the end of policy SW-5.

Deputy Mayor Blumenthal thanked Mr. Zwicker for his comments.

In response to Mr. Zwicker’s comments, Mr. Pyle noted the separation distance in the by-law states a minimum of 60m so there is flexibility that it could be increased. The reason for the increase to 90m was due to the noise factor associated with processing. With respect to the proposed wording addition to SW-5, Mr. Pyle stated staff would like more time to examine the wording.

Councillor Rankin stated the application of zoning across HRM has positive features, and Council needs to satisfy itself that the application is fairly balanced before going to the public. With respect to the separation distances, the Councillor stated they have to be clear. Councillor Rankin inquired whether or not staff is satisfied that Option 2 is defensible and a good alternative with regards to a level playing field. In terms of a level playing field, Mr. Pyle responded it depends on what Council decides to do. The only difference between Option 1 and Option 2 is that with Option 2 Council is going to give additional rights or opportunities to certain individuals, based on a request to do so. Under Option 1, everyone has to apply through the same process and it applies equally to everybody.

(Councillors Uteck and Fougere took their places at the meeting at 4:15 p.m.)

Responding to a question of Councillor Cooper, Mr. Jim Donovan, Coordinator, Planning and Development Services, stated there are actually three options. The first is the original direction outlined in the September 20th staff report, and the two options in the October 16th staff report. Mr. Donovan noted Council could choose either of the options for staff to take to the community, or make suggestions for revisions/modifications to any of them. Mr. Donovan clarified the purpose of this session was to get some clarification as to the overall package that will be taken forward to public participation, and, ultimately, brought back to Council for a Public Hearing.

Councillor Cooper questioned why a site plan approval process is being recommended rather than a development agreement, which would provide more protection for the residents. Mr. Pyle responded that the Development Officer would receive the application and make a decision as to whether or not it is consistent with the criteria set out in the Land Use By-Law. Following that decision, all residents within 250 feet of that property would be notified of it and they would have the right to appeal the decision to Community Council. With regards to a rezoning or development agreement, the decision of Council is final. Mr. Pyle noted Council could expand the 250 feet notification area.

Councillor Cooper suggested there should be a recognized listing of the present operations and what activities were agreed to by HRM for these sites.

Responding to a question of Councillor Smith, Mr. Pyle stated there would be no difference between Option 1 and 2 for the Burnside Industrial Park as there are no existing C&D operations in that area.

Councillor Walker stated he prefers Option 1 over Option 2 as it provides better control over the sites and a more even playing field.

Councillor Uteck spoke in support of Option 2, stating it is the most logical choice, and it allows for flexibility and is what she believes the public would like to see. With regard to the separation distances, the Councillor asked if it would be possible to say between 60m - 90m if Option 2 is chosen, as everything will be site specific. Mr. Pyle suggested the standard could be 90m, and the developer would have to show staff why it should be dropped to 60m. Councillor Uteck suggested the distance should be 90m (or less, or more, depending on the individual case). Mr. Pyle stated staff would have to examine the issue further to define the appropriate wording for that flexibility.

Councillor Adams stated if Option 2 is approved, it does not mean that the existing sites will be approved for disposal. It only means they can proceed with the rezoning process. (Councillors Sloane and Warshick took their places at the meeting at 4:35 p.m.)

Responding to a question of Councillor Sarto, Mr. Pyle stated both options recognize existing operations, but Option 2 provides the possibility for additional rights. In response to a further question of the Councillor, Mr. Pyle recommended that only one option go forward to the public and it can be modified, if necessary, based on the comments received during the public process.

Councillor Adams reiterated that his concern is with having the rezoning done on a Community Council basis and would prefer it to be done on a region wide basis to provide a more balanced decision, which Option 2 would provide.

Responding to a question of Councillor Cooper, Mr. Pyle stated someone would have to make a submission to Council to have their property considered as a site, and if Council decides to re-zone it, it would still have to go through site plan approval for the intended use at the Community Council level.

(Mayor Kelly took his place at the meeting at 4:40 p.m. and assumed the Chair.)

Councillor Cooper stated he would like to see the policies and amendments in place, and then conduct the re-zonings as necessary.

Responding to a question of Councillor McInroy, Mr. Pyle stated a property in a residential designation could not apply for a C&D operation.

In response to a question of Councillor Smith regarding Option 2, Mr. Pyle stated if an existing operation wishes to have disposal, they would have to make a formal request to Council to have their site considered.

MOTION PUT AND PASSED.

Mr. Pyle inquired if the more detailed amendments need to come back to Council before going to the public process. It was agreed that this was not necessary and staff can proceed as directed. With respect to the suggested amendments regarding the separation distances and the wording change to SW-5, Mr. Donovan stated staff will respond to these suggestions in a covering report that will be taken to the public. When the issue comes back to Council at a Public Hearing, Council will have the opportunity to review these details.

5. HARBOUR SOLUTIONS

Mayor Kelly noted there has been a request from the Harbour Solutions Committee to make its presentation on Monday, October 29th, as not all the members are able to attend on Tuesday, October 30th.

MOVED by Deputy Mayor Blumenthal, seconded by Councillor Sarto, that Council meet In Camera on Monday, October 29th at 2:00 p.m. for a presentation from the Harbour Solutions Committee.

Councillor Walker noted some members of Council have other commitments on Monday and stated the meeting should take place on Tuesday, as originally agreed. Mayor Kelly suggested the Monday meeting could take place for two hours, and be continued on Tuesday, if necessary.

Mr. George McLellan, Acting Chief Administrative Officer, stated the Harbour Solutions Committee only became aware of the October 30th meeting date last week and some members advised they could not be present on that date. Mr. McLellan noted it is very important that as many members of the Committee as possible be in attendance, so the decision was made to ask for the date of October 29th. Mr. McLellan explained the intent would be to go through the process, preferably In Camera, and then it would be Council's decision whether or not it wanted to go into a public forum, either Committee of the Whole or Council, to refer the recommendations one way or another. He noted this may involve meeting the next day, or not.

Councillor Walker noted it is important for all members of Council to be present as well. Mayor Kelly noted only two Councillors have indicated they would not be available on Monday: Councillors Fougere and Johns.

With regard to the regular Council agenda for October 30th, Mayor Kelly inquired if Council was prepared to deal with any regular Council agenda items that may get deferred this evening to next week. Councillor Uteck noted there is an issue of urgency with respect to the tenders on this evening's agenda, and asked that Items 11.2.1, 11.2.2, 11.2.3, 11.2.4 and 11.2.9 be moved up on the agenda to ensure they are addressed this evening. Mayor Kelly advised this request could be addressed this evening, but it appears to have the support of Council.

Councillor Cooper noted there is a joint Community Council meeting scheduled for Monday evening, and he asked that no more than two hours be set aside for the afternoon session. The Councillor also inquired why the issue would be discussed In Camera. Mayor Kelly responded that it is to ensure that all the legal implications can be clarified. He noted if Council wanted to move into an open forum following that, it could do so. Councillor Cooper stated he would prefer to have the recommendations in open session. Mr. McLellan stated this situation needs to be managed very carefully, and the intent would be to allow for questions of Council In Camera relating to legal and contractual matters. Subsequent to that, Council may then want to hold a public session, either Committee of the Whole or Council, whereby the public and media could receive the presentation and recommendations. Council

would then decide how it wanted to consider the recommendations, which he suggested could take place the following day.

Responding to a question of Councillor Warshick, Mr. McLellan stated written background information will not be provided to Council in advance. The Councillor noted a motion was previously adopted not to hold a Committee of the Whole session on October 30th. Mayor Kelly noted Council had originally planned to meet on October 30th In Camera to discuss this issue, and if a two-thirds majority agrees to change that to a Committee of the Whole session, this can be done.

Councillor Warshick suggested In Camera recommendations should be moved up on the regular agenda as there is no debate permitted on these items. Mayor Kelly responded that staff can review this suggestion.

Councillor Rankin spoke in support of holding the meeting on Monday, noting consideration should be given to the volunteer members of the Committee.

Councillor Hetherington stated he could support a maximum of two hours for the meeting on Monday due to the joint public hearing. The Councillor further stated that the discussion of the Harbour Solutions issue needs to be done In Camera due to the legal ramifications. Councillor Hetherington suggested that if this decision is made In Camera, it should be debated in an open Council session. Mr. Wayne Anstey, Municipal Solicitor, stated this could be done by a two-thirds majority vote of Council. Another option suggested by Mr. Anstey was that Council not make a decision while In Camera, and then the item would be put on the regular agenda. Councillor Hetherington stated he would prefer the matter be discussed at Council rather than Committee of the Whole as Council sessions are more structured. Mayor Kelly noted this is a very important issue and the Committee of the Whole option provides the opportunity for more discussion and flexibility.

Councillor Harvey suggested all that is needed during the In Camera session is the recommendation of the Committee, an explanation as to how they arrived at that recommendation, and a briefing of where the project is now and where it is going. The Councillor stated any discussion or debate should be done in open session.

Mayor Kelly stated Council will receive the presentation on Monday and, at that time, Council will decide how it wants to deal with it.

MOTION PUT AND PASSED UNANIMOUSLY.

As there was no further business, the meeting adjourned at 5:05 p.m.

Vi Carmichael
Municipal Clerk