

HALIFAX REGIONAL MUNICIPALITY

HALIFAX REGIONAL COUNCIL MINUTES May 13, 2003

PRESENT:

Mayor Peter J. Kelly
Deputy Mayor Harry McInroy
Councillors: Steve Streach
Gary Hines
Keith Colwell
Ron Cooper
Brian Warshick
Condo Sarto
Bruce Hetherington
Jim Smith
John Cunningham
Jerry S. Blumenthal
Dawn M. Sloane
Sue Uteck
Sheila Fougere
Russell Walker
Diana Whalen
Linda Mosher
Stephen D. Adams
Brad Johns (afternoon session only)
Robert P. Harvey
Len Goucher
Reg Rankin
Gary G. Meade

STAFF:

Mr. George McLellan, Chief Administrative Officer
Mr. Wayne Anstey, Municipal Solicitor (afternoon session)
Mr. Barry Allen, Municipal Solicitor (evening session)
Ms. Jan Gibson, Deputy Municipal Clerk
Ms. Patti Halliday, Legislative Assistant

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1. INVOCATION

Mayor Kelly called the meeting to order at 3:50 p.m. with the Invocation led by Councillor Goucher.

MOMENT OF SILENCE

Later in the meeting, Council observed a Moment of Silence in memory of Dr. John Savage, former Premier of Nova Scotia and former Mayor of Dartmouth. Councillor Cunningham requested that the Mayor send a letter of condolence to the family of the late Dr. Savage.

2. APPROVAL OF MINUTES - APRIL 2, 2003

MOVED by Councillor Blumenthal, seconded by Councillor Hetherington, that the minutes of April 2, 2003 be approved, as circulated. MOTION PUT AND PASSED UNANIMOUSLY.

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

The following items were added to the agenda:

- 12.1 Councillor Smith - Refuse Containers for Apartment Buildings
- 12.2 Property Matter - Urban Transportation Showcase Proposal

Information Item - Data Sharing Agreement with CBRM and Province of Nova Scotia

The following items were deferred:

- 10.6.2 RFP 03-007, Wright Avenue Extension and Interchange Preliminary Design Study (deferred to May 20, 2003)
- 10.4.1 Case H00104 - Registration of 2223 Brunswick Street, Heritage Hearing (deferred to June 17, 2003)
- 10.7.1 Councillor Smith - Information Item #5 (May 6/03), Vacant and Boarded Up Buildings (deferred to May 20, 2003)

The following items were deleted from the agenda:

- 9.3.1 Presentation - Animal Control Contract - Mr. Ted Ryan, Stealth Security Inc.
- 9.3.2 Presentation - Animal Control Contract - Society for the Prevention of Cruelty (SPCA)
- 10.6.10 RFP 03-317 Consultant Award - Aerotech STP Upgrade/Biosolids Dewatering

- Facility
- 10.7.2 Councillor Rankin - By-Law O-103, Respecting Open Air Burning (issue addressed under Notices of Motion)

Councillor Fougere was requested that the following Information Item be placed on the May 20th Regular Agenda:

Information Item #6 - Memorandum from Real Property & Asset Management Services dated May 1, 2003 re: Parking Improvements - Grand Parade

Councillor Johns requested that Item 10.6.11 be moved up on the agenda to follow item 6 - Motions of Rescission.

Councillor Mosher requested that all items under 10.6 be moved up to follow Item 6.

Councillor Adams expressed concern with Items 9.3.1 and 9.3.2 being on the agenda, and stated that allowing these presentations to go forward would be contrary to the RFP. The Councillor asked that these items be deleted and the presenters notified of Council's decision.

MOVED by Councillor Adams, seconded by Councillor Blumenthal, that Items 9.3.1 and 9.3.2 be deleted. MOTION PUT AND PASSED.

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

4. BUSINESS ARISING OUT OF THE MINUTES

5. MOTIONS OF RECONSIDERATION - NONE

6. MOTIONS OF RESCISSION - NONE

As agreed to during Approval of the Order of Business, Item 10.6.11 was addressed at this time.

10.6.11 Award Tender 03-153 Beaver Bank/Kinsac Recreation Centre & Fire Hall

- C A staff report prepared for Dan English, Acting Chief Administrative Officer, regarding the above, was before Council for its consideration.

MOVED by Councillor Johns, seconded by Councillor Harvey, that:

- 1. The 2002/03 Capital Budget for the Beaver Bank Kinsac Recreation Centre (CB200399) be increased from \$900,000 to \$1,400,000; and**
- 2. The additional funding for this increase be provided for from the existing area rate for the Beaver Bank Kinsac Recreation Centre with the Beaver Bank Recreation Centre Association responsible for all operating costs; and**
- 3. The Tender 03-153 for the construction of the Beaver Bank Kinsac Recreation Centre and Firehall be awarded to Avondale Construction for a cost of \$2,382,831.00, plus net HST for a total of \$2,536,023.20; and**
- 4. That the funding for this tender be provided from Capital project CBF00444 for the Firehall portion, and from Capital project CB200399 for the Recreation Centre portion as outlined in the Budget Implications section of the staff report dated April 28, 2003. MOTION PUT AND PASSED UNANIMOUSLY.**

As agreed to During Approval of the Order of Business, Council addressed Item 10.6.1 at this time.

10.6.1 RFP 02-327, Animal Control Contract

- C A staff report prepared for Dan English, Acting Chief Administrative Officer, regarding the above, was before Council for its consideration.

MOVED by Councillor Mosher, seconded by Councillor Goucher, that:

- 1. Council authorize the award of RFP # 02-327 - Animal Control Services to the highest ranking evaluated proposal, Nova Scotia SPCA for a four(4) year period at a total cost of \$2,027,940.32 with funding authorized as per the Budget Implications section of this report. The award of this agreement would be subject to final negotiating of a formal contract with the Nova Scotia SPCA.**

Year 1 - \$488,366.12

Year 2 - \$488,366.12

Year 3 - \$512,784.43

Year 4 - \$538,423.65

2. Council authorize staff to exercise the option to extend this contract for an additional one(1) year term contingent upon an evaluation of the present level of service and budget allocation.

MOVED by Councillor Hetherington, seconded by Councillor Sloane, that this matter be referred to the Municipal Solicitor for a ruling in one week on the legal correspondence on this issue received today by Council via email.

In response, Mr. Wayne Anstey, Municipal Solicitor, stated the letter only reiterated in part the contents of the written submission that the representative of Stealth Security filed with Council which was included in the agenda package. He stated the letter did not contain any further information about the point scoring other than that which was included in the submission. Therefore, he suggested Council should be fully apprized of the issue and he had nothing further to add.

Based on this information, Councillor Hetherington agreed to withdraw his motion. However, the Secunder did not agree and the motion remained on the floor.

The vote was taken on the deferral.

MOTION PUT AND DEFEATED.

Debate continued on the Main motion. Councillor Sloane stated she would like staff to perform further investigation on the issue of "no kill" shelters.

Staff responded to questions of Council making the following points:

- C There are some improvements in the new contract: stronger performance standards, an online database, the ability to reconcile the responses relative to the database with having GPS in vehicles, and policies and guidelines.
- C Both proponents have made it clear that they want to offer the service independently.
- C The possibility of HRM taking over the service has begun to be examined, but staff are not in a position to make a recommendation to Council at this time.
- C There are no restrictions in the by-law dealing with dangerous and fierce dogs. Staff are continuing to examine how other municipalities are addressing this issue. A staff report was given to Council last fall with the best information available and staff's position has not changed since that time. Staff believe the issue is more with the dog owners than with the animals. Addressing the lack of education in the community is a key area of focus in the contract.
- C With regard to response time for dogs at large, the new contract provides for immediate dispatch and arrival on site within four hours.
- C The original RFP was for a three year term with two one year extensions. Stealth

Security requested it be a four year term to allow for leasing of vehicles and financing and the contract was amended. If Council wants a shorter term agreement, staff could approach the SPCA to see if it is agreeable as they bid on a four year contract.

- C HRM could work towards a phase-in program to provide this service internally.
- C With regard to satellite offices, the SPCA staff only start and end their shifts in Burnside. The remainder of the time they are on the road and can be dispatched to any area.
- C There were only two proponents that put forth proposals and staff is doing the best they can with what is available at this time.
- C The difference between the current contract and the new contract is approximately \$200,000.
- C If performance standards are not met, there are provisions to terminate the contract.

A discussion ensued about the length of the term of the contract, and the following amendment was put forth:

MOVED by Councillor Fougere, seconded by Councillor Hetherington, that the motion be amended to direct staff to approach the SPCA to determine if they would be willing to enter into a two year contact with an option to renew, and, during that time, a staff report be prepared for Council providing the implications of HRM taking over the service should the performance reach the level to cause HRM to do so. MOTION PUT AND DEFEATED.

Members of Council voting **in favour** of the motion: Mayor Kelly, Councillors: Colwell, Smith, Uteck, Fougere, Walker, and Whalen.

Members of Council voting **against** the motion: Councillors: Streach, Hines, Cooper, Warshick, Sarto, Hetherington, Cunningham, Blumenthal, Sloane, Mosher, Adams, Johns, Harvey, Goucher, Rankin and Meade.

(Deputy Mayor McInroy was absent for the vote.)

As suggested by Councillor Warshick, Council agreed to amend the motion to include that a staff report be requested, before the next budget process, regarding the development of an internal animal control service. It was also agreed to remove the word "present" in the phrase "present level of service."

The vote was taken on the main motion, as amended, which read as follows:

MOVED by Councillor Mosher, seconded by Councillor Goucher, that:

1. Council authorize the award of RFP # 02-327 - Animal Control Services to the highest ranking evaluated proposal, Nova Scotia SPCA for a four(4) year period at a total cost of \$2,027,940.32 with funding authorized as per the Budget Implications section of this report. The award of this agreement would be subject to final negotiating of a formal contract with the Nova Scotia SPCA.

Year 1 - \$488,366.12

Year 2 - \$488,366.12

Year 3 - \$512,784.43

Year 4 - \$538,423.65

2. Council authorize staff to exercise the option to extend this contract for an additional one(1) year term contingent upon an evaluation of the level of service and budget allocation.
3. Council request a staff report, before the next budget process, regarding the development on an internal animal control service. **MOTION PUT AND PASSED.**

Members of Council voting **in favour** of the motion: Mayor Kelly, Councillors: Streach, Hines, Colwell, Cooper, Warshick, Sarto, Hetherington, Cunningham, Blumenthal, Uteck, Fougere, Whalen, Mosher, Adams, Johns, Harvey, Goucher, Rankin and Meade.

Members of Council voting **against** the motion: Councillors Smith, Sloane and Walker.

(Deputy Mayor McInroy was absent for the vote.)

RECESS

A recess was taken at 5:15 p.m. The meeting reconvened at 6:15 p.m. with all members present except Councillor Johns.

At this time, Council addressed Item 8 - Public Hearings.

8. **PUBLIC HEARINGS**

- 8.1 **Case H00103 - De-registration of Lot #2 (known as 6957 Armview Avenue) 6941 Tupper Grove**

- C A report from the Heritage Advisory Committee, dated April 1, 2003, regarding the above, was previously circulated to Council.

With the use of overheads, Mr. Kevin Barrett, Heritage Planner, presented the report, noting the issue is a housekeeping matter to de-register 6957 Armview Avenue which was created in conformance to the terms of an approved development agreement. Mr. Barrett noted the de-registration does not include the Sir Charles Tupper house nor its property. Mayor Kelly called for members of the public wishing to speak either in favour of or against the de-registration.

Ms. Barbara Blouin, 6940 Tupper Grove

Ms. Blouin questioned what are the possible short and long term implications of the de-registration of 6957 Armview Avenue. She noted she only learned by chance of the public hearing three days ago. Ms. Blouin stated the Daily News did not carry the notice and almost none of the local residents were aware of the hearing and its significance. Ms. Blouin stated the newspaper notice appeared to indicate the Tupper House could also be de-registered and, therefore, it should have been written differently. She also questioned the definition of a "single family dwelling" with respect to zoning. In closing, Ms. Blouin reiterated her concern with the process of notification followed for the public hearing, stating it is necessary for the public to be informed in advance. She requested that Council adjourn the public hearing until the neighbours have been properly notified and given enough time to prepare their questions and concerns. A copy of her submission was provided for the record.

Mr. Terry Cooper, 6920 Tupper Grove

Mr. Cooper echoed Ms. Blouin's comments and suggested the process should be recommenced as the notice was very ambiguous. He suggested a new notice be issued and the hearing adjourned with a new date for a public hearing.

In response, Mr. Barrett stated the public hearing advertisement was placed as per the Heritage Act of Nova Scotia which requires the municipality to give notice to the property owner and advertise it in the local newspaper. He noted that, normally, advertisements are placed in the Chronicle Herald, which was done in this case. In terms of future uses of the property, Mr. Barrett stated it is currently zoned R1 and the owner is permitted to do what is permitted under that zoning.

Mr. Anthony Metlej, Applicant

Mr. Metlej addressed Council stating he entered into the heritage agreement on a voluntary basis as he believed the Tupper property deserved some protection, and he has lived up to his end of the agreement. He stated he as a single family home where he lives with his wife,

children and parents. Mr. Metlej expressed concern with people questioning the fact that his home includes his extended family, which is part of his culture. Mr. Metlej stated he has owned the Tupper property for the last 12 years, and it has been maintained in better condition than ever as he has a lot of pride in ownership.

Mayor Kelly called three times for any further speakers. Hearing none, the following motion was put on the floor:

MOVED by Councillor Hetherington, seconded by Councillor Sloane, that the Public Hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.

COUNCIL DECISION

Councillor Uteck stated the notification process appears to be a concern and suggested that this issue be continued to be discussed internally. However, she noted the proper process was followed with respect to this application, and, therefore, she put forth the following motion:

MOVED by Councillor Uteck, seconded by Councillor Fougere, that Council approve the de-registration of Lot #2 (known as 6957 Armview Avenue), 6941 Tupper Grove, Halifax, as shown on Map 1 of the staff report dated March 7, 2003.

Several Councillors expressed concern about the notification process, and Mr. Paul Dunphy, Director, Planning and Development Services, advised Council that he has requested staff to expand the notification area as a matter of course for all public hearings, rather than sticking to a strict 250 foot notification area. He also agreed to discuss with staff the notification for heritage de-registrations.

MOTION PUT AND PASSED UNANIMOUSLY.

8.2 Case 00451 - Amendment to the Municipal Planning Strategy and Land Use By-Law 5576 Fenwick Street

C A report from the Peninsula Community Council, dated April 16, 2003, regarding the above, was previously circulated to Council. The amendments passed First Reading on April 22, 2003. The Community Council recommended that Regional Council adopt the amendments to the Halifax Municipal Planning Strategy and Peninsula Land Use By-law to permit a lounge use at 5576 Fenwick Street through development agreement as set out in Attachment "B" of the staff report dated April 2, 2003.

C A staff report prepared for Paul Dunphy, Director, Planning and Development

Services, dated April 2, 2003, to the Peninsula Community Council, was previously circulated to Council. The report recommended that Council deny the request to amend the Halifax MPS and LUB for the property located at 5576 Fenwick Street, Halifax, to permit a lounge.

- C Correspondence from the following was received by Council: Collette Saunders and Ian Colford; Joan Brophy; Louis A. Wolfson, Wolfson Schelew Zatzman, representing Donald Arron; David Silverman; Alan Hayman, Fort Massey United Church; Beth Poulos and Emily Savage; Rebecca Jamieson and Christopher Beaumont.

Mr. Angus Shaffenburg, Planner, presented the report to Council.

Mayor Kelly called for members of the public wishing to speaking either in favour of or against the amendment.

Mrs. Lee Carmichael, 1186 Queen Street

Mrs. Carmichael addressed Council stating she enjoys frequenting the restaurant located at 5576 Fenwick Street. However, she stated it would be drastic to serve liquor without food at this establishment. Mrs. Carmichael noted there are two senior manors in the area and converting this restaurant to a lounge will not be good for the neighbourhood and it is not fair to the seniors.

Ms. Marsha Parker, 1234 Church Street

Ms. Parker addressed Council speaking against the amendments. Copies of her submission were provided to members of Council.

In response to a question of Councillor Adams, Ms. Parker stated she spoke to about ten members of the Old South End Neighbourhood Watch, none of which voiced approval of a lounge licence for this establishment.

Ms. Joan Brophy, 1158 Queen Street

Ms. Brophy spoke against the amendment and submitted a petition containing 72 names of homeowners in opposition of it. She noted this is in addition to the 35 signatures previously submitted.

Ms. Rebecca Jamieson, 5670 Fenwick Street

Ms. Jamieson reviewed an overhead of a summary of the points of her letter provided to Council. Ms. Jamieson spoke in opposition to the amendment stating homeowners in the

area strongly oppose the establishment of a lounge, and, once it is approved, there is no going back. The present establishment is an asset to the area, but if the current or future owners decide to change or expand the operation there is not much the neighbourhood can do about it. She stated the recent history of development in the immediate area gives little confidence that HRM is in a position to enforce its regulations once the development agreement has been granted. Approving this will likely lead to similar applications. In closing, Ms. Jamieson stated if Council wants to reconsider its 1991 decision not to allow such establishments, it should do so openly with wide consultation and not by a site specific amendment.

Mr. Hugh Pullen, 6262 Oakland Road

Mr. Pullen spoke in support of the previous speakers and stated that, given the overall nature of this family community, the proposal should not be accepted.

Ms. Joanna Faryniuk, 1122 Lucknow Street

Ms. Faryniuk addressed Council noting this restaurant is only one business in a five business building which does not have a lot of parking. Also, in the summer, the patio takes away most of the parking. Ms. Faryniuk stated the transformation of the restaurant to a lounge is inappropriate for this area. If it is approved, Council will receive similar applications in other areas.

As there was some confusion about those who were permitted to speak at this Public Hearing, Mr. Barry Allen, Municipal Solicitor, explained the process. Councillor Uteck apologized to the residents for any confusion regarding the process that resulted from information given at the Community Council meeting.

Dr. Lorraine Atherton, 1104 Lucknow Street

Dr. Atherton stated she was strongly opposed to the amendment as it is unsuitable for the area, noting the downtown core has been developed for such establishments. Dr. Atherton stated she has sympathy for the business community and what is fair for one has to be fair for the next. In closing, she stated she believed that Planning staff and Council need to think of the future of municipality and she supported staff's position.

Ms. Beverly Miller, 6182 South Street

Ms. Miller spoke against the amendment, quoting from Sections 1.2, 1.3 and 5 of the MPS regarding the residential environment of the South End. Ms. Miller stated she supports the staff report and the residents who have spoken this evening.

Mr. Dan Joseph, Applicant

Mr. Joseph addressed Council stating he has no interest in VLTs, live entertainment nor late hours. He stated he has had a liquor license for ten years and has had no problems during that time. Mr. Joseph stated most of the concerns of the neighbours are related to a lounge type atmosphere, and he realizes that conditions such as these would be extremely harmful to his business. In closing, Mr. Joseph noted over 300 signatures of support, including immediate neighbours, have already been submitted.

Mr. Dave Faryniuk, 1122 Lucknow Street

Mr. Faryniuk stated his main concern is that this establishment is very small and he fears that the washers and dryers will be taken out and the lounge expanded. He noted the roof is also available for expansion. He stated such an establishment is not appropriate in this area.

Mr. David Brophy, 1158 Queen Street

Mr. Brophy spoke against the amendment as the area is surrounded by seniors. He stated he was in agreement with the Discussion Section of the March 18th staff report.

Mayor Kelly called three times for any further speakers. Hearing none, the following motion was put on the floor:

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

COUNCIL DECISION

Providing background information on the matter, Councillor Uteck stated the area has, in fact, changed drastically since the 1992 proposal as there has been an influx of people in the area as well as several 24 hour businesses. With regard to how this issue has proceeded, she stated it sat with staff for fourteen months before the matter came before Peninsula Community Council, at which time it was unanimously decided to bring it forward to Regional Council.

MOVED by Deputy Mayor McInroy, seconded by Councillor Sloane, that the request to amend the Halifax MPS and Land Use By-Law for the property located at 5576 Fenwick Street, Halifax, to permit a lounge, be denied.

During the debate of the motion, questions were raised regarding the provision of the liquor license. Mr. Allen stated he would have to see the actual licence to comment on the conditions

of it.

In response to a question of Councillor Streach as to why the application sat for fourteen months, Mr. Paul Dunphy, Director, Planning and Development Services, stated there were extenuating circumstances that led to the poor service. He stated the fact that it took a long time to address is inexcusable, however, it should not be the basis for granting the approval: that decision should be based on the facts and the arguments presented.

With regard to the 1992 application, Mr. Shaffenburg stated it was withdrawn just prior to the Public Hearing. With regard to the liquor license and the VLTs, Mr. Shaffenburg stated it would be part of the development agreement and would require another hearing by the Alcohol and Gaming Commission with respect to restrictions in their license as well. Ownership of the property would be immaterial. Councillor Adams suggested this be deferred for one week to examine the opinion of the Liquor Licence Board.

MOVED by Councillor Adams, seconded by Councillor Blumenthal, that this matter be deferred for one week for clarification from the Liquor Licensing Board. MOTION PUT AND DEFEATED.

In response to a question of Councillor Harvey regarding providing a refund to the applicant due to the poor service received, Mr. Dunphy stated staff has already made the decision to do so.

MOTION PUT AND PASSED.

At this time, Council agreed to address the remaining items under Item 10.6.

10.6.2 RFP 03-007, Wright Avenue Extension and Interchange Preliminary Design Study

During Approval of the Order of Business, this item was deferred to May 20, 2003.

10.6.3 Award Tender 02-156 Highfield Park Fire Station

C A staff report prepared for Dan English, Acting Chief Administrative Officer, regarding the above, was before Council for its consideration.

MOVED by Councillor Smith, seconded by Councillor Sarto, that Tender 02-156 Highfield Park Fire Station be awarded to Castle Rock Construction for a cost of \$2,530,000.00 plus net HST for a total of \$2,692,653.70 from Capital Account CBF00444 Station Replacement, with funding authorized as per the Budget

Implications section of the staff report dated April 28, 2003. MOTION PUT AND PASSED UNANIMOUSLY.

10.6.4 Award of Unit Price Tender No. 03-044, Video Inspection of Sewers 2003

C A staff report prepared for Dan English, Acting Chief Administrative Officer, regarding the above, was before Council for its consideration.

MOVED by Councillor Cooper, seconded by Councillor Warshick, that Council award Tender No. 03-044, Video Inspection of Sewers 2003, to Pipetec Inc. based on the unit prices quoted for an estimated cost of \$162,600 plus net HST for a Total Project Cost of \$173,054 with funding provided as outlined in the Budget Implications section of the staff report dated May 5, 2003. MOTION PUT AND PASSED UNANIMOUSLY.

10.6.5 Award of Unit Price Tender No. 03-045, Materials Testing and Inspection 2003

C A staff report prepared for Dan English, Acting Chief Administrative Officer, regarding the above, was before Council for its consideration.

MOVED by Councillor Sarto, seconded by Councillor Blumenthal, that Council award Tender No. 03-045, Materials Testing & Inspection 2003 to Jacques, Whitford Materials Ltd. based on the unit prices quoted for an estimated cost of \$166,523 plus net HST for a Total Project Cost of \$177,229 with funding provided as outlined in the Budget Implications section of the staff report dated May 5, 2003. MOTION PUT AND PASSED UNANIMOUSLY.

10.6.6 Award of Unit Price Tender No. 03-201, Desmond Avenue Culvert - West Region

C A staff report prepared for Dan English, Acting Chief Administrative Officer, regarding the above, was before Council for its consideration.

MOVED by Councillor Walker, seconded by Councillor Warshick, that Council:

- 1. Increase the budget amount in Account No. CGR00499, Desmond Avenue (Bayers to Scot) Culvert Rehabilitation, by an amount of \$16,135 with funding from CRESPOOL as indicated in the Budget Implications Section of this report.**
- 2. Award Tender No. 03-201, Desmond Avenue Culvert - West Region to A.C.L. Construction Limited for materials and services listed at the unit prices**

quoted for a Tender Price of \$183,985.50, plus net HST for a total of \$195,814 from Account No. CGR00499, Desmond Avenue (Bayers to Scot) Culvert Rehabilitation, with funding authorized as per the Budget Implications section of the staff report dated May 5, 2003. MOTION PUT AND PASSED UNANIMOUSLY.

10.6.7 Award of Unit Price Tender No. 03-223, Sidewalk Renewal and Pavement Resurfacing, Connaught Avenue - West Region

C A staff report prepared for Dan English, Acting Chief Administrative Officer, regarding the above, was before Council for its consideration.

MOVED by Councillor Blumenthal, seconded by Councillor Fougere, that Regional Council award Tender No. 03-223, Sidewalk Renewals and Pavement Resurfacing, Connaught Avenue - West Region to Basin Contractors Limited for materials and services listed at the unit prices quoted for a Tender Price of \$229,661.25, plus net HST for a total of \$244,427 from Account No. CKU00141, Sidewalk Renewals and CZR00357, Resurfacing, with funding authorized as per the Budget Implications section of the staff report dated April 30, 2003. MOTION PUT AND PASSED UNANIMOUSLY.

10.6.8 Award of Unit Price Tender 02-226, Twin Cities Pumping Station Power Back Up - Central Region

C A staff report prepared for Dan English, Acting Chief Administrative Officer, regarding the above, was before Council for its consideration.

MOVED by Councillor Goucher, seconded by Councillor Sloane, that Council:

- 1. Approve a change in the funding source for this project for Account No. CGR00371, Pumping Stations and Force mains Upgrades, from Account No. Q105, Environmental Protection Reserve to Q104, Sewer Redevelopment Reserve.**
- 2. Approve an increase in the Gross Budget for Account No. CGR00371, Pumping Stations and Force mains Upgrades, in the amount of \$330,596, with funding from Account No. Q104, Sewer Redevelopment Reserve.**
- 3. Award Tender 02-226, Twin Cities Pumping Station Power Back-Up - Central Region, to XL Electric Limited for materials and services listed at the unit**

prices quoted for a Tender Price of \$476,355.73, plus net HST for a total of \$506,981 from Account No. CGR00371, Pumping Stations and Force mains Upgrades, with funding authorized as per the Budget Implications section of the staff report dated May 5, 2003.

4. Approve the appointment of SNC-Lavalin for construction inspection services for an estimated fee of \$25,000 plus net HST for a total of \$26,608, with funding as outlined in the Budget Implications section of the staff report dated May 5, 2003. MOTION PUT AND PASSED UNANIMOUSLY.

10.6.9 Award of Unit Price Tender No. 03-227, Intersection Improvements, Bedford Highway at Hammonds Plains Road - Central Region

- C A staff report prepared for Dan English, Acting Chief Administrative Officer, regarding the above, was before Council for its consideration.

MOVED by Councillor Goucher, seconded by Councillor Whalen, that Regional Council award Tender No. 03-227, Intersection Improvements, Bedford Highway at Hammonds Plains Road - Central Region to Dexter Construction Company Limited for materials and services listed at the unit prices quoted for a Tender Price of \$134,400, plus net HST for a total of \$143,041 from Account No. CTU00419, Traffic Signal Rehabilitation and CZR00355, Main Artery Patching, with funding authorized as per the Budget Implications section of the staff report dated April 30, 2003. MOTION PUT AND PASSED UNANIMOUSLY.

10.6.10 Consultant Award - Aerotech STP Upgrade/Biosolids Dewatering Facility, RFP 03-317

- C A staff report prepared for Dan English, Acting Chief Administrative Officer, regarding the above, was before Council for its consideration.

During Approval of the Order of Business, this item was deleted from the agenda.

10.6.11 Award Tender 03-153 Beaver Bank/Kinsac Recreation Centre & Fire Hall

This item was addressed earlier in the meeting.

10.6.12 Otter Lake RDF, Closure of Cell #1 and Related Works

- C A staff report prepared for Dan English, Acting Chief Administrative Officer, regarding the above, was before Council for its consideration.

MOVED by Councillor Rankin, seconded by Councillor Meade, that Council approve an increase to the 2003/04 Capital Budget, not to exceed \$4 million including net HST, for the Closure of Cell #1 and Related Works at the Otter Lake Waste Resource Management Facility, as outlined in this report. Further, that Council authorize a withdrawal, not to exceed \$4 million including net HST, from the Otter Lake Landfill Closure Reserve Account Q-120 to fund this project.

Mr. Brian Smith, General Manager, Solid Waste Resources, responded to questions of Council.

MOTION PUT AND PASSED UNANIMOUSLY.

RECESS

A recess was taken at 8:05 p.m. The meeting reconvened at 8:25 p.m.

10.6.13 Regional Planning Committee

C A staff report prepared for Dan English, Acting Chief Administrative Officer, regarding the above, was before Council for its consideration.

MOVED by Councillor Walker, seconded by Councillor Streach, that Regional Council approve the Terms of Reference for the Regional Planning Committee (Attachment "A" of the staff report dated April 30, 2003).

Councillor Cooper requested that the inclusion of Excellence in Governance be developed further so Council has a better understanding of it.

MOTION PUT AND PASSED UNANIMOUSLY.

7. CONSIDERATION OF DEFERRED BUSINESS - May 6, 2003

7.1 Theodore Tug Boat Fund

C A staff report prepared for George McLellan, Chief Administrative Officer, regarding the above, was previously circulated to Council on May 6, 2003.

MOVED by Councillor Hines, seconded by Councillor Goucher, that the funds currently in the account in the amount of \$5,986.28, be forwarded to the Halifax Tugboat Society and that they consider all fundraising possibilities in order to reach

the goal of funding a business plan for options around Theodore Tugboat staying in Halifax Harbour. Further, that signing authority for disbursements be granted to Mr. Lew Rogers, Director, Tourism, Heritage and Culture. **MOTION PUT AND PASSED UNANIMOUSLY.**

**7.2 First Reading By-Law S-204, Amendment to Smoke Free Place By-Law S-203
Re: permitting of smoking in separately enclosed and ventilated areas of a
restaurant and exemption outdoor patios from municipal regulations**

C A staff report prepared for George McLellan, Chief Administrative Officer, regarding the above, was previously circulated on May 6, 2003.

Mr. Paul Dunphy, Director, Planning and Development Services, presented the staff report to Council.

MOVED by Councillor Adams, seconded by Councillor Warshick, that:

- 1. Regional Council amend the Smoke Free Places By-Law to exempt smoking on sidewalk cafes, sidewalks or other outdoor patios associated with a restaurant from municipal regulations (Attachment B of the staff report).**
- 2. Regional Council amend the Smoke Free Places By-Law to allow food service within a licensed drinking establishment's separately enclosed and ventilated smoking room (Attachment B of the staff report.)**
- 3. Regional Council provide a three month phase-in (July 31, 2003) to allow time for licensed drinking establishments and to install separately enclosed and ventilated smoking rooms, after which enforcement of the smoking by-law will take place.**
- 4. Regional Council amend the Smoke Free Places By-Law to allow separately enclosed and ventilated smoking rooms in restaurants (Attachment A of the staff report).**

Councillor Adams requested that each point be voted on separately. Deputy Mayor McInroy requested that they be recorded votes.

Following a brief debate, the votes were taken.

MOVED by Councillor Adams, seconded by Councillor Warshick, that Regional

Council amend the Smoke Free Places By-Law to exempt smoking on sidewalk cafes, sidewalks or other outdoor patios associated with a restaurant from municipal regulations (Attachment B of the staff report). MOTION PUT AND DEFEATED.

Members of Council voting **in favour** of the motion: Councillors: Streach, Hines, Warshick, Sloane, Uteck, Mosher, Adams, Harvey and Rankin.

Members of Council voting **against** the motion: Mayor Kelly, Deputy Mayor McInroy, Councillors: Colwell, Cooper, Sarto, Smith, Cunningham, Fougere, Walker, Whalen, Goucher and Meade.

(Councillors Hetherington, Blumenthal and Johns were absent.)

MOVED by Councillor Adams, seconded by Councillor Warshick, that Regional Council amend the Smoke Free Places By-Law to allow food service within a licensed drinking establishment's separately enclosed and ventilated smoking room (Attachment B of the staff report). MOTION PUT AND DEFEATED.

Members of Council voting **in favour** of the motion: Councillors: Streach, Hines, Cooper, Warshick, Sloane, Uteck, Mosher, Adams, Harvey and Rankin.

Members of Council voting **against** the motion: Mayor Kelly, Deputy Mayor McInroy, Councillors: Colwell, Sarto, Smith, Cunningham, Fougere, Walker, Whalen, Goucher and Meade.

(Councillors Hetherington, Blumenthal and Johns were absent.)

MOVED by Councillor Adams, seconded by Councillor Warshick, that Regional Council provide a three month phase-in (July 31, 2003) to allow time for licensed drinking establishments and to install separately enclosed and ventilated smoking rooms, after which enforcement of the smoking by-law will take place. MOTION PUT AND PASSED.

Members of Council voting **in favour** of the motion: Mayor Kelly, Deputy Mayor McInroy, Councillors: Streach, Hines, Colwell, Cooper, Smith, Cunningham, Sloane, Uteck, Fougere, Walker, Whalen, Mosher, Adams, Harvey, Goucher, and Rankin.

Members of Council voting **against** the motion: Councillors: Warshick, Sarto, and Meade.

(Councillors Hetherington, Blumenthal and Johns were absent.)

MOVED by Councillor Adams, seconded by Councillor Warshick, that Regional Council amend the Smoke Free Places By-Law to allow separately enclosed and ventilated smoking rooms in restaurants (Attachment A of the staff report). MOTION PUT AND DEFEATED.

Members of Council voting **in favour** of the motion: Councillors: Streach, Hines, Warshick, Sloane, Uteck, Mosher, Adams and Rankin.

Members of Council voting **against** the motion: Mayor Kelly, Deputy Mayor McInroy, Councillors: Colwell, Cooper, Sarto, Smith, Cunningham, Fougere, Walker, Whalen, Harvey, Goucher and Meade.

(Councillors Hetherington, Blumenthal and Johns were absent.)

7.3 District Boundaries Advisory Committee Report

C A report from the District Boundaries Advisory Committee regarding the District Boundaries Advisory Committee Recommendation Delineation of the Appropriate District Boundaries, was previously circulated to Council.

MOVED by Councillor Hines, seconded by Councillor Goucher, that Council submit an application to the Utility and Review Board to maintain the status quo (23 Districts) until the next scheduled review in 2006 as required by the Municipal Government Act, and further that Mayor Kelly forward a letter to Minister Peter Christie urging his support of this recommendation to the Utility and Review Board.

Councillors speaking in support of the motion made the following points:

- C The residents have indicated they want the status quo of 23 Districts to remain.
- C The URB can determine for itself the findings of the public consultation
- C It was prevalent in the second round of public information meetings that the residents do not want a reduction.
- C The last time this issue was before Council, it was forwarded to the URB without a recommendation.
- C As many comments that came out in the process as possible should go along with the package so the URB can hear what residents have said with regard to community of interests and if it was accomplished with the second proposal.
- C The public process was flawed due to lobbying by councillors with districts being changed as a result.

Councillors speaking against the motion made the following points:

- C The URB requested Council to make a recommendation with respect to a reduction in the number of Districts before the next election.
- C The District Boundaries Committee worked very hard with respect to this very time consuming exercise, and the Committee's recommendation should be forwarded to the URB.
- C The URB will also be holding public hearings before making a decision.
- C This motion will send a recommendation that will not work to the URB,
- C The URB will not accept 23 Districts.
- C The Committee worked based on the Terms of Reference given to them by Council.
- C Any concerns with respect to the proposed boundaries can be expressed during the URB public hearings.
- C This exercise was undertaken due to the current inconsistencies in parity of voters.
- C Council agreed to give this issue to the Committee and not be involved.
- C Council has a vested interest in the outcome.
- C This motion will mean in 2008 the districts will still be the same as they were in 1995.
- C The majority of Council previously voted to accept 20 districts.
- C This issue should be addressed by an independent body, not Council.

A recorded vote was requested.

MOTION PUT AND PASSED.

Members of Council voting **in favour** of the motion: Councillors: Streach, Hines, Colwell, Cooper, Warshick, Sarto, Smith, Sloane, Uteck, Mosher, Adams and Goucher.

Members of Council voting **against** the motion: Mayor Kelly, Deputy Mayor McInroy, Councillors: Cunningham, Fougere, Walker, Whalen, Harvey, Rankin and Meade.

(Councillors Hetherington, Blumenthal and Johns were absent.)

8. PUBLIC HEARINGS

8.1 Case H00103 - De-registration of Lot #2 (known as 6957 Armview Avenue) 6941 Tupper Grove

This item was addressed earlier in the meeting.

8.2 Case 00451 - Amendment to the Municipal Planning Strategy and Land Use By-Law 5576 Fenwick Street

This item was addressed earlier in the meeting.

9. CORRESPONDENCE, PETITIONS & DELEGATIONS

9.1 Correspondence - None

9.2 Petitions

9.2.1 Councillor Adams

Councillor Adams served a petition containing approximately 77 signatures of taxi drivers requesting that Dartmouth tax drivers be prevented from picking up and dropping off in the Halifax Zone.

9.2.2 Councillor Fougere

Councillor Fougere served a petition containing approximately 661 signatures of residents requesting that HRM restore the Pavilion on the Halifax Commons.

9.3 Presentations

9.3.1 Animal Control Contract - Mr. Ted Ryan, Stealth Security Inc.

During Approval of the Order of Business, this item was deleted from the agenda.

9.3.2 Animal Control Contract - Society for the Prevention of Cruelty (SPCA)

During Approval of the Order of Business, this item was deleted from the agenda.

10. REPORTS

10.1 NORTH WEST COMMUNITY COUNCIL

10.1.1 Infilling of Moirs Pond, Bedford - Easement and Right of Way

C A report from the North West Community Council dated May 6, 2003, regarding the above, was before Council for its consideration.

MOVED by Councillor Goucher, seconded by Councillor Sarto, that Regional Council not extinguish, relocate nor vary its right of way contained in the Grant of Easement

and Right of Way dated May 26, 1989 between Sobey Leased Properties Limited and the Town of Bedford, and which Right of Way is referred to in an e-mail dated April 9, 2003 from Mr. Wayne Anstey, Municipal Solicitor, to Mayor Peter Kelly.

MOVED by Councillor Walker, seconded by Councillor Whalen, that this matter be referred to staff for a report for next week. **MOTION PUT AND PASSED.**

10.2 PENINSULA COMMUNITY COUNCIL

10.2.1 Case 00572 - Amendment to Halifax Municipal Planning Strategy - Height Precincts, South End

C A report from the Peninsula Community Council dated May 5, 2003 regarding the above, was before Council for its consideration.

MOVED by Councillor Uteck, seconded by Councillor Fougere, that Halifax Regional Council instruct staff to initiate a process to amend Section V of the Halifax Municipal Planning Strategy with respect to the establishment of height precincts; and, further, that the public participation be undertaken in accordance with the Public Participation Resolution adopted by Regional Council on February 25, 1997. **MOTION PUT AND PASSED UNANIMOUSLY.**

10.3 CHEBUCTO COMMUNITY COUNCIL

10.3.1 Case 00062 - Amendment to Halifax Municipal Planning Strategy and Land Use By-law for Block F, Kelly Street (to set Public Hearing date - June 17, 2003)

C A report from the Chebucto Community Council dated May 6, 2003, regarding the above, was before Council for its consideration.

MOVED by Councillor Mosher, seconded by Councillor Adams, that Regional Council give First Reading to the proposed amendments, as amended, to the Halifax Municipal Planning Strategy and the Halifax Mainland Land Use By-Law, presented as Attachment 1, and to schedule a Public Hearing for June 17, 2003. **MOTION PUT AND PASSED.**

10.4 HERITAGE ADVISORY COMMITTEE

10.4.1 Case H00104 - Registration of 2223 Brunswick Street (Heritage Hearing)

During Approval of the Order of Business, this item was deferred to June 17, 2003.

10.5 PRIVATE ROADS COMMITTEE

10.5.1 Future of Private Roads in Halifax Regional Municipality

C A report from the Private Roads Committee, dated May 6, 2003, regarding the above, was before Council for its consideration.

MOVED by Councillor Adams, seconded by Councillor Goucher, that this matter be referred to staff for report. MOTION PUT AND PASSED.

10.5.2 Building Permits - Private Roads

C A report from the Private Roads Committee, dated May 6, 2003, regarding the above, was before Council for its consideration.

MOVED by Councillor Adams, seconded by Councillor Hines, that this matter be referred to staff for report.

Councillor Uteck asked that the report address if this will include homes on the North West Arm that choose to build a boathouse or if it will affect island development throughout HRM.

The Councillor noted if the Committee's recommendation was adopted, it would have huge impacts on the North West Arm.

Councillor Rankin stated he would like the considerable and substantial property rights that attend to these properties and considerations, including notice to be given, also be taken into consideration in the report.

MOTION PUT AND PASSED.

10.6 CHIEF ADMINISTRATIVE OFFICER

This item was addressed earlier in the meeting.

10.7 MEMBERS OF COUNCIL

10.7.1 Councillor Smith - Information Item #5 (May 6/03), Vacant and Boarded Up Buildings

During Approval of the Order of Business, this item was deferred to May 20, 2003.

10.7.2 Councillor Rankin - By-Law O-103, Respecting Open Air Burning

During Approval of the Order of Business, this item was deleted from the agenda.

10.7.3 Councillor Sloane - Outdoor Skating Rink

MOVED by Councillor Sloane, seconded by Councillor Goucher, that Council request a staff report detailing ways to obtain funding from both the provincial and federal governments in support of outdoor skating rinks throughout the Halifax Regional Municipality, and more specifically, the Capital District. MOTION PUT AND PASSED.

11. MOTIONS

11.1 Councillor Cooper - Administrative Order No. 33 Respecting Open Air Burning

C A supplementary staff report prepared for George McLellan, Chief Administrative Officer, regarding the above, was circulated to Council.

MOVED by Councillor Cooper, seconded by Councillor Goucher, that Council adopt as a policy pursuant to the Municipal Government Act, Administrative Order No. 33 - Respecting Open Air Burning. This policy has been developed to implement the details of By-Law O-103 - Respecting Open Air Burning.

Councillor Cooper noted a correction in the Discussion Section of the report in that the bottom portion of Ritcey Crescent should be included in the Burn Zone.

MOTION PUT AND PASSED UNANIMOUSLY.

12. ADDED ITEMS

12.1 Councillor Smith - Refuse Containers for Apartment Buildings

Councillor Smith commented on the issue of the lack of refuse containers for some apartment buildings and the fact that HRM has no way to enforce their requirement.

MOVED by Councillor Smith, seconded by Councillor Walker, that Council request a staff report on how HRM can go about getting a bylaw to address a requirement for garbage containers for apartment buildings or boarding homes with less than seven units.

Councillor Sloane suggested the different types of containers should also be addressed. with respect to being fire retardant. Councillor Colwell suggested a minimum standard for such containers should also be examined.

MOTION PUT AND PASSED UNANIMOUSLY.

12.2 Property Matter - Urban Transportation Showcase Proposal

C This matter was discussed during an In Camera session held prior to the Regular Session and was now before Council for ratification.

MOVED by Councillor Fougere, seconded by Councillor Goucher, that Council authorize submission of a proposal to Transport Canada for a 13,300,000 showcase project consisting of an integrated development of two Bus Rapid Transit corridors within HRM and further that the May 12, 2003 Private and Confidential staff report not be released. MOTION PUT AND PASSED UNANIMOUSLY.

13. NOTICES OF MOTION

13.1 Councillor Mosher - Section 22 of Administrative Order Number One

TAKE NOTICE that at the next regular meeting of Regional Council to be held on Tuesday, May 20, 2003, I propose to move an amendment to Section 22 of Administrative Order Number One to provide that reports from the Chief Administrative Officer be scheduled immediately following Correspondence, Petitions and Delegations.

13.2 Councillor Rankin - First Reading of By-Law O-104

TAKE NOTICE that at the next regular meeting of Halifax Regional Council to be held on Tuesday, the 20th day of May 2003, I propose to move First Reading of By-Law O-104, the purpose of which is to amend Section 4(e) of By-Law O-103, the Open Air Burning By-Law to amend the distance parameters under which burning may be conducted outside the No Burn Zone.

13.3 Councillor Walker - FCM National Guide to Sustainable Municipal Infrastructure

TAKE NOTICE that at the regular meeting of Halifax Regional Council to be held on Tuesday, May 27, 2003, I propose to place before Council a report for adoption of a resolution respecting the FCM National Guide to Sustainable Municipal Infrastructure.

13.4 Councillor Cunningham - Administrative Order SC-29

TAKE NOTICE that at the next regular meeting of Halifax Regional Council to be held on Tuesday, the 20th day of May 2003, I propose to introduce for consideration of Council as a Policy pursuant to Section 315 of the Municipal Government Act, Administrative Order SC-29, the purpose of which is to effect closure of a portion of the former South or Boggs Street, Parcels C.D.-4, C.D.-3, and C.D.-12, between King Street, Alderney Drive and Prince Street.

13.5 Councillor Blumenthal - Amendment to Administrative Order #23

TAKE NOTICE that at the next regular meeting of Halifax Regional Council to be held on Tuesday, May 20, 2003, I intend to introduce a motion to add the substance Acetic Acid to the Permitted Pesticides List in Administrative Order #23.

14. ADJOURNMENT

Before the meeting adjourned, Councillor Warshick requested that the Mayor send a letter to the Halifax Mooseheads hockey team congratulating them on their successful season.

There being no further business, the meeting adjourned at 10:00 p.m.

Jan Gibson
Deputy Municipal Clerk