

HALIFAX REGIONAL COUNCIL
MINUTES
October 28, 2003

PRESENT:

Mayor Peter J. Kelly
Deputy Mayor Harry McInroy
Councillors: Steve Streach
Ron Cooper
Brian Warshick
Condo Sarto
Bruce Hetherington
Jim Smith
John Cunningham
Jerry Blumenthal
Dawn Sloane
Sue Uteck
Sheila Fougere
Russell Walker
Linda Mosher
Stephen Adams
Robert Harvey
Len Goucher
Reg Rankin
Gary Meade

ABSENT
WITH REGRETS:

Councillor Brad Johns

STAFF:

Mr. George McLellan, Chief Administrative Officer
Mr. Wayne Anstey, Municipal Solicitor
Ms. Vi Carmichael, Municipal Clerk
Ms. Julia Horncastle, Legislative Assistant

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1. INVOCATION

The meeting was called to order at 6:00 p.m. with the Invocation being led by Councillor Adams.

2. APPROVAL OF MINUTES - NONE

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

Additions

- 12.1 Councillor Rankin - Construction and Demolition Disposal Sites Status Report
- 12.2 Legal Matter - Settlement of Claim
- 12.3 Personnel Matter - Benefits Management
- 12.4 Councillor Uteck - Affordable Housing

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

4. BUSINESS ARISING OUT OF THE MINUTES - NONE

5. MOTIONS OF RECONSIDERATION - NONE

6. MOTIONS OF RESCISSION - NONE

7. CONSIDERATION OF DEFERRED BUSINESS

8. PUBLIC HEARINGS

8.1 By-Law L-117, An Amendment to By-Law L-100, Respecting Charges for Watermains, Phase II, Maplewood Subdivision, Hammonds Plains

- An extract from the October 7, 2003 Regional Council minutes, was before Council.
- A report prepared for Mr. George McLellan, Chief Administrative Officer, dated September 9, 2003, on the above noted, was before Council.

Mr. Jamie Hannam, Halifax Regional Water Commission, with the aid of overheads, presented the staff report.

Mayor Kelly called for those wishing to speak in favour of or in opposition to the By-Law. Hearing none, the following motion was placed.

MOVED by Councillor Hetherington, seconded by Councillor Sloane, that the public hearing close. MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillor Rankin, seconded by Councillor Streach, that Council adopt By-Law L-117, Respecting the Charges for Watermains, Phase II, Maplewood Subdivision, Hammonds Plains, attached to the September 9, 2003 staff report. MOTION PUT AND PASSED UNANIMOUSLY.

8.2 By-Law N-202, An Amendment to By-Law N-200, Respecting Noise

- An extract from the October 7, 2003 Regional Council minutes was before Council.
- A report prepared for Mr. George McLellan, Chief Administrative Officer, dated September 10, 2003, on the above noted, was before Council.

Mr. Wayne Anstey, Municipal Solicitor, advised under the current Noise By-law in order to obtain a conviction for a violation of the By-Law it is necessary for the By-Law enforcement officer to identify a person or persons who actually were making the noise on the property. As a result, neither the landlord or the tenant of the property is automatically issued a ticket. The proposed amendments would make both the owner of the property and the occupier (tenant) liable for any activity that took place on the property. Mr. Anstey advised under Section 3(a)(2) the word should be "occupier" and not "owner".

Mayor Kelly called for those wishing to speak either in favour of or in opposition to the proposed By-Law.

Paul Crawley

Mr. Paul Crawley, 7095 Abbot Drive, Halifax, President, Investment Property Owners Association of Nova Scotia, spoke in support of the By-law but expressed concern with the proposed amendment. He stated the most serious concern is that in charging landlords with noise violations brought about by tenants, the landlord would be put in a situation over which they have little or no control. The landlord/tenant relationship is governed by the Residential Tenancies Act and under the Act there is a lengthy process to follow for the eviction of a tenant for the violation of terms of the lease or of the Act. He advised the process can take up to several months and at a minimum takes five to six weeks and there is no guarantee at the end of the process that the landlord is going to be successful with the eviction.

Sheila MacKenzie

Ms. Sheila MacKenzie, 15 Middle Street, Dartmouth, spoke against the proposed By-law change. She stated she has worked in cooperative and private housing for approximately fifteen years and expressed concern that she or any other person working there as a superintendent could be fined. She advised that their leases advise that the tenant has to follow HRM By-laws and if they receive a noise complaint the tenant receives a three month notice to vacate.

Chris Crowell

Mr. Chris Crowell, 5578 Morris Street, spoke in favour of the By-law amendment. He advised he has been a landlord for over twenty five years and stated he fully supported this amendment and encouraged Council to fully implement this, noting any good landlord has no reason to fear this. He noted the majority of landlords are responsible and the Tenancies Board will uphold any lease agreement clauses. He stated the landlords responsibility does not end when you put a tenant in your building as your only job is not to collect the rent but a twenty four hour a day responsibility to the neighbours and other tenants. He suggested that if there is a persistent problem, then the option is there to revoke the occupancy permit and fines should be higher with each subsequent offence. He also suggested that both the owner and the tenant be given a ticket.

Don Valardo

Mr. Don Valardo, 34 Kingston Crescent, Dartmouth, expressed concern that he may be charged for a noise made by his tenants. He stated he does not feel this is a good By-law and it would be a mistake for Council to put this By-law in place.

Jan Farnick

Ms. Jan Farnick, 1122 Locknow Street, Halifax, advised that the people in her neighbourhood have waited until after 11:00 p.m. before calling the police and by the time they arrived the persons making the noise has left the area thus the only way to stop this would be to ticket the landlord.

Beverly Miller

Ms. Beverly Miller, 6182 South Street, Halifax, spoke in favour of the By-law stating that responsible landlords can include in their lease various stipulations and references can be requested as well as having parents as cosigners.

Patrick Murphy

Mr. Patrick Murphy, 5280 Young Street, Halifax, read a letter from Southwest Properties in opposition to the By-law which states that Southwest Properties ensure the tenants are familiar with all rules and regulations. If noise does become an issue it is addressed and they do not feel it is fair for landlords to be made responsible for tenants and have to carry an added expense of fines.

Joseph Metledge

Mr. Joseph Metledge, 10 Samuel Terrace, Halifax, advised they have never had any noise problems and their leases govern such things as pets, behaviour, rent and noise noting, all of these are equally enforced. He stated the problem with this By-law is that the Municipality is overriding the present system by trying to penalize the landlords. He stated they have not had any problems with tenants but are still in opposition to the By-law and encouraged Council not to approve the By-law. He stated fining the landlord will make the problem worse because it would alleviate the responsibility from the tenant.

Dave Farnick

Mr. Dave Farnick, 1122 Locknow Street, Halifax, stated this is a good By-law and this will not affect responsible landlords. He suggested that tenants be screened as much as possible.

Elias Metledge

Mr. Elias Metledge, 6941 Tupper Grove, Halifax, suggested that people coming in from another province may not be easily screened. He suggested a standard of care be established. If there are good landlords and if there is a prescribed standard of care and it is followed then the landlords should not be responsible. It would cover situations such as a landlord repeatedly asking for noise to stop. He stated it is not fair to simply impose this restriction and liabilities on the landlord without giving them an opportunity to do something first. Ticketing the landlord will not solve the problem.

Mayor Kelly three times for any additional speakers. Hearing none, the following motion was placed.

MOVED by Councillor Blumenthal, seconded by Councillor Warshick, that the public hearing close. MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillor Uteck, seconded by Councillor Hetherington, that Council approve the amendments to By-Law N-200 Respecting Noise attached as Appendix "A" to the staff report dated September 10, 2003.

Without a vote being taken on the motion on the floor, the following motion was placed.

MOVED by Councillor Uteck, seconded by Councillor Hetherington, that the motion be deferred for six months.

Councillor Uteck stated that this By-law was intended to address those problem landlords and absentee landlords that refuse to curb their tenants. The Councillor stated she will work with the landlords to get the needed changes made to the Tenancies Act.

MOTION PUT AND PASSED.

Those voting **in favour** of the deferral were Mayor Kelly and Councillors Streach, Sarto, Hetherington, Sloane, Uteck, Fougere, Adams, Goucher, Rankin and Meade.

Those voting **against** the deferral were Deputy Mayor McInroy and Councillors Cooper, Warshick, Smith, Cunningham, Blumenthal, Walker, Mosher and Harvey.

Councillor Johns was absent.

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS

9.1 Correspondence - None

9.2 Petitions - None

10. REPORTS

10.1 CHIEF ADMINISTRATIVE OFFICER

10.1.1 Tender 03-164 - Sandy Lake Park Multi-Purpose Building

- A report prepared for Mr. George McLellan, Chief Administrative Officer, dated October 14, 2003, on the above noted, was before Council.

MOVED by Councillor Goucher, seconded by Councillor Rankin, that Regional Council award Tender No. 03-164 to Avondale Construction Limited for materials and services for the quoted lump sum tender price of \$128,551.00 plus net HST, for a total amount of \$136,815.54 from Capital Account #CPC00676 - New Park Development, with funding authorized as per the Budget Implications Section of the report dated October 14, 2003. MOTION PUT AND PASSED UNANIMOUSLY.

10.1.2 First Reading - Proposed By-Law P-501, An Amendment to By-Law P-500, Respecting Liability of Owner for Parking Tickets

- A report prepared for Mr. George McLellan, Chief Administrative Officer, dated October 6, 2003, on the above noted, was before Council.

MOVED by Councillor Hetherington, seconded by Councillor Cooper, that Regional Council Give First Reading to By-Law P-501, An Amendment to By-Law P-500, Respecting Liability of Owner for Parking Tickets and set a public hearing date. MOTION PUT AND PASSED.

10.2 HERITAGE ADVISORY COMMITTEE

10.2.1 Case H00116 - Application for Registration of 2901 Windsor Street, Halifax (The Halifax Forum)(Heritage Hearing)

- An extract from the September 23, 2003 Regional Council minutes, on the above noted, was before Council.
- A copy of the report from the Heritage Advisory Committee, dated September 16, 2003, on the above noted, was before Council.

Ms. Randa James, Acting Heritage Planner, with the aid of overheads, presented the staff report.

Mr. George Findlay, Chairman of the Board of the Halifax Forum Community Association, spoke in support of the designation, noting it would coincide with the 75th Anniversary of the Forum and the Heritage Designation could be included in the celebrations.

MOVED by Councillor Blumenthal, seconded by Councillor Warshick, that Regional Council approve the registration of 2901 Windsor Street (The Halifax Forum) as a registered heritage property as per the HRM Heritage Property Program. MOTION PUT AND PASSED UNANIMOUSLY.

10.2.2 Case H00110 - Application for Registration of 6247-49 Jubilee Road, Halifax (Buckley's Health Centre)(Heritage Hearing)

- An extract from the September 23, 2003 Regional Council minutes, on the above noted, was before Council.
- A copy of the report from the Heritage Advisory Committee, dated September 16, 2003, on the above noted, was before Council.

Ms. Randa James, Acting Heritage Planner, with the aid of overheads, presented the staff report advising the owners are in favour of the registration.

MOVED by Councillor Uteck, seconded by Councillor Fougere, that Regional Council approve the registration of 6247-49 Jubilee Road, Halifax (Buckley's Health Centre) as a registered Heritage Property as per the HRM Heritage Property Program. MOTION PUT AND PASSED UNANIMOUSLY.

10.3 TAXI AND LIMOUSINE COMMITTEE

10.3.1 By-Law T-127, An Amendment to By-Law T-108, Respecting Criminal Records Checks

- A report from Councillor Steve Adams, Chair of the Taxi and Limousine Committee, dated October 21, 2003, on the above noted, was before Council.

MOVED by Councillor Adams, seconded by Councillor Smith, that Regional Council approve in principle the amendment to By-Law T-108 found in Attachment "A" of the staff report and arrange for their formal adoption by Council. MOTION PUT AND PASSED UNANIMOUSLY.

10.4 MEMBERS OF COUNCIL

10.4.1 Councillor Cooper - Info Item #2 - Smoke Free Places (Oct. 21/03)

Mr. Paul Dunphy, Director of Planning and Development and Ms. Barb Nehiley, Special Projects Advisor, with the aid of overheads, made a presentation summarizing the October 21, 2003 information report. Mr. Dunphy noted a full ban comes into effect in 2008; however, if you are a tobacco bar, you are not only exempt from the current nine o'clock cutoff but you are also exempt from the complete ban after 2008. He noted the issue of tobacco bars does not relate to restaurants, bingos, public places such as offices and taxis. It is restricted to drinking establishments. He noted the critical factor is 10% or more of the gross annual income which can either be from the sale of tobacco products or the rental of an on site humidor. Mr. Dunphy outlined the four proposed options being presented to Council for consideration and recommendation.

MOVED by Councillor Blumenthal, seconded by Councillor Sloane, that Council approve recommendation #2, Restrict Smoking to Smoking Rooms Until 10% Revenue Threshold Met.

Councillor Mosher suggested the two existing cigar bars be grandfathered and no approvals

given for new bars.

MOTION PUT AND PASSED.

Those voting **in favour** of the motion were Mayor Kelly and Councillors Streach, Warshick, Hetherington, Smith, Cunningham, Blumenthal, Sloane, Uteck, Harvey and Rankin.

Those voting **against** the motion were Councillors Cooper, Sarto, Fougere, Walker, Mosher, Adams, Goucher and Meade.

Deputy Mayor McInroy and Councillor Johns were absent.

10.4.2 Councillor Adams - Parkmoor Avenue Incident Update

Councillor Adams advised that on July 11th a garbage collection truck ran into some wires on Parkmoor Avenue in Spryfield and subsequently took them down. As a result, the residents were without power, telephone and cable. It has been over three months and there is yet to be resolution to this particular situation.

The Councillor noted Aliant has come through with payment for half of the damages; however, both Eastlink and NS Power have yet to come forward with help for the residents, who through no fault of their own, are the victims of circumstance and are without help.

MOVED by Councillor Adams, seconded by Councillor Warshick, that the Mayor send a letter to Aliant thanking them for their contribution and to East Link and NS Power asking they help the residents of this particular area. MOTION PUT AND PASSED UNANIMOUSLY.

11. MOTIONS - NONE

12. ADDED ITEMS

12.1 Councillor Rankin - Construction and Demolition Disposal Sites Status Report

CONFLICT OF INTEREST

Councillor Streach declared a Conflict of Interest on this issue and removed himself from the meeting.

Councillor Rankin noted two appeals have come forward with regards to site plans and one

of the appeals would come under the jurisdiction of the Marine Drive, Valley and Canal Community Council. The Councillor noted the Community Council was no longer active and would not be until after the by-election. He advised a notice of motion would be given to dissolve the Community Council in order that Regional Council to deal with the appeal.

At a later point in the meeting Councillor Goucher served a Notice of Motion to dissolve the Marine Drive, Valley and Canal Community Council to allow Regional Council to hear the appeal of Halifax C&C's site plan approval.

12.2 Legal Matter Settlement of Claim

- 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 Mosher, seconded by Councillor Hetherington, that the claim be settled for the payment to the claimant of \$185,000.00 in return for the release of the claimant's interest in the right of way. Further, the report not be released. MOTION PUT AND PASSED UNANIMOUSLY.

12.3 Personnel Matter - Benefits Management

- 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 Cooper, seconded by Councillor Hetherington that Halifax Regional Council:

- 1. Direct Senior Staff to implement an annual reporting process of the costs and activity associated with Employer sponsored programs such as the "Early Retirement Program", grievance settlements, severance, benefit plans and other compensation strategies.**
- 2. Review the Claims Settlement Policy for financial transactions relating to all legal contracts (ie. insurance, labour, benefit, employment) greater than \$10,000, giving consideration to ensuring that there are adequate monitoring and reporting functions built in.**
- 3. Direct staff to communicate the relevant findings of the attached Audit Committee Report to the affected employee groups prior to any public**

comment.

4. **That the Audit Committee continue with its current inquiries and research into the matter.**
5. **Not release the Audit Committee Report to the public.**

MOTION PUT AND PASSED UNANIMOUSLY.

12.4 Councillor Uteck - Affordable Housing

Councillor Uteck noted that in September, 2002 the Federal Government committed \$18.6 million for affordable housing. The Province of Nova Scotia committed to matching these funds. Since the Federal funding was announced, only \$2.17 has been accessed. She noted it has been stated that funding is available under very specific circumstances. Councillor Uteck requested Mayor Kelly write to the Minister of Housing requesting clarification of what these circumstances are when the majority of the funding can be accessed.

Councillor Sloane requested the letter also question when funding will be released for the Creighton Gerrish Association.

13. NOTICES OF MOTION

13.1 Councillor Mosher

Take Notice that, at the next regular Regional Council meeting to be held on Tuesday the 4th day of November 2003, I propose to introduce for First Reading By-Law Number S-306, Part 1 - Removal of Snow and Ice from Sidewalks, the purpose of which is to amend By-Law Number S-300, Respecting Streets.

13.2 Councillor Meade

Take Notice that at the next regular meeting of Halifax Regional Council to be held on Tuesday, the 4th day of November 2003, I propose to move First Reading of By-Law O-105, the purpose of which is to amend Section 4(e) fo By-Law O-103 Respecting Open Air Burning to read:

4. (e) Notwithstanding any other sections of this bylaw but subject to sections 5, 6, 12 & 13 no person shall conduct burning less than 125 feet from the nearest adjacent dwelling outside the No Burn Zone.

13.3 Councillor Adams

Take Notice that at the next regular meeting of Halifax Regional Council to be held on November 4, 2003, I propose to place before Council a motion to move First Reading of By-Law T-127, an amendment to By-Law T-108, respecting Taxi and Limousine Licensing re: Criminal Records Checks

13.4 Councillor Goucher

Take Notice that at the next regular meeting of Halifax Regional Council to be held on Tuesday the 4th day of November, 2003, I propose to move the repeal of Administrative Order Number 3, the Marine Drive Valley and Canal Community Council Administrative Order, in order that Regional Council may deal with some time sensitive planning issues during the time that the Community Council is without a quorum.. Following the Municipal by-elections, the Community Council may be re-instated by Council.

14. ADJOURNMENT

The meeting was adjourned at 9:25 p.m.

Vi Carmichael
Municipal Clerk