

Councillor Request for Information

Included on Agenda
(Submitted to Municipal Clerk's Office
by Noon Thursday)

Added Item
(Submitted to Municipal Clerk's Office
by Noon Monday)

Date of Council Meeting: March 9, 2004

Subject: Interim Report of the Voluntary Planning Off-Highway Vehicle Task Force

Request:

I would like the item "Interim Report of the Voluntary Planning Off-Highway Vehicle Task Force" added to the Council agenda of March 9, 2004 for discussion and referral to the Provincial Voluntary Planning Off-Highway Vehicle Task Force."

Reason:

I would like for Council to discuss this report on ATV off-highway vehicles and referral to the Province of the Provincial Voluntary Planning Off-Highway Vehicle Task Force. The attached Cape Breton ATV by-law proposal can be used as a reference.

I would like this response as:

- Email to Mayor and/or Councillor/Municipal Clerk's Office
 Memo to Mayor and/or Councillor/Municipal Clerk's Office
 Information Report to Community Council Regional Council
 Recommendation Report to Community Council Regional Council

David Hendsbee

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Councillor (*Name*)

District (*Number*)

1. **INVOCATION**

Mayor Kelly called the meeting to order at 6:00 p.m. with the Invocation led by Councillor Hetherington.

2. **APPROVAL OF MINUTES - February 3, 2004**

MOVED by Councillor Harvey, seconded by Councillor Goucher, that the minutes of February 3, 2004, 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 Ministerial Order - Development Moratorium - Unserviced Areas, HRM
- 12.2 Councillor Hendsbee - Interim Report of the Voluntary Planning Off-Highway Vehicle Task Force
- 12.3 Property Matter - Street Closure - Portion of Mountbatten Avenue

The following Information Item was circulated to Council:

- 1. Memorandum from Director, Legal Services, dated February 17, 2004 re: District Boundaries Application - UARB

Councillor Hetherington requested that Administrative Order Number One, relating to cancellation of Council meetings, be added to the agenda. This item was addressed under Notices of Motion.

Councillor Goucher requested that Information Item 4 - Traffic Warrants for Crosswalks be referred to a future Committee of the Whole meeting.

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

4. **BUSINESS ARISING OUT OF THE MINUTES**

5. **MOTIONS OF RECONSIDERATION - NONE**

6. **MOTIONS OF RESCISSION - NONE**

**A BY-LAW GOVERNING THE OPERATION OF A.T.V.s
(ALL TERRAIN VEHICLES) WITHIN
THE CAPE BRETON REGIONAL MUNICIPALITY**

**MADE PURSUANT TO SECTION 172(1)(f)
OF THE MUNICIPAL GOVERNEMENT ACT OF NOVA SCOTIA**

BYLAW NO.

BE IT ENACTED by the Cape Breton Regional Municipality as follows:

Short title

1. This Bylaw maybe hereafter is cited as the “A.T.V. Bylaw”.

Purpose

2. The Cape Breton Regional Municipality deems it advisable to regulate the operation of All Terrain Vehicles within the Municipality to ensure public safety and protection of private and public property.

Interpretation

3. In this Bylaw the following terms have been defined as:

All Terrain Vehicles (ATV) - means any off-highway vehicle.

Authority Having Jurisdiction – means the Cape Breton Regional Police Services.

Dealer - means a person who in the ordinary course of business sells off-highway vehicles.

Highway – means any public highway, lane, road, alley, park, beach or place including bridges thereon.

Off-Highway Vehicle – means

- (1) Snow vehicle;
- (2) Three wheel or four wheel all-terrain;
- (3) Motorcycle;
- (4) Mini bike;
- (5) Four wheel drive or low tire pressure vehicle;
- (6) Dune buggy;
- (7) Any vehicle or class of vehicle designated as an off-highway vehicle by provincial or federal regulations which pertain to it.

Number Plate – means any proof of registration required to be affixed to a motor vehicle or trailer and issued by the **Nova Scotia Department of Motor Vehicles**.

Official Traffic Signs - means signs, markings and devices other than signals, not inconsistent with the MV ACT, placed or erected by authority of a public body or official having jurisdiction for the purpose of guiding, directing, warning or regulating traffic.

Parking - means the standing of a vehicle, whether occupied or not, upon a roadway, other than temporarily for the purpose of, and while actually engaged in, loading or unloading, or in abeyance to traffic regulations or traffic signs or signals.

Permit - means a permit for an off-highway vehicle issued pursuant to the *Nova Scotia Off-Highway Vehicles Act* and includes a temporary permit. containing such information as required and the identification number.

Private Property or Occupier- include:

- (1) A person who is in possession of land
- or -
- (2) A person who has responsibility for and control over land, on the activities carried on there, or control over persons allowed to enter land.

Private road or driveway - means a road or driveway not open to the use of the Public for the purpose of vehicular traffic.

Provincial Highway - means a highway outside the limits of a city or incorporated town.

Proof of Financial Responsibility - means a certificate of insurance, a bond or deposit of money or security given or made pursuant to Section 236 MVA.

Registered Owner - means a person in whose name a vehicle is registered under the MVA.

Registration Year - means the calendar year unless the Minister otherwise determines or the period ending on the date specified when the vehicle is registered under the staggered system of vehicle registration.

Offences

- 4.1 Any action that contravenes any Federal/Provincial Act or Regulation which applies to the operation of an ATV is also an offence under this Bylaw and the offender shall not be relieved from complying with any of the provisions of such other enactments.
- 4.2 The following are, in addition to any provisions of the aforementioned Federal/Provincial Act or Regulations, which apply to the operation of ATV's, considered to be an offence under this Bylaw and subject to the provisions under section six (6) Penalties:
- a. Driving on private property;
 - b. Driving on a Provincial, Federal, or Municipal highway, or road;
 - c. Driving or operating an ATV without an approved helmet;
 - d. Driving or operating an ATV in an unsafe manner in the opinion of the authority having jurisdiction.

Powers of the Authority Having Jurisdiction

- 5.1 The Authority Having Jurisdiction shall have the right to entry, without warrant or prior notice, for the purposes of administering any of the requirements of this Bylaw, to all premises at all reasonable times, in order to ascertain whether the regulation of this or any other Bylaws are being observed.
- 5.2 Should the premises being entered be a residence, at least 24 hours notice must be provided before entry.
- 5.3 The Authority Having Jurisdiction, for the purposes of this Bylaw, shall have the authority to immediately seize a vehicle found to be operating in non-compliance with this Bylaw, or any other federal or provincial act, legislation, regulation or municipal bylaw governing the operation of a vehicle for such periods as they may deem appropriate.

Penalties

- 6.1 Any person who violates any provision of this Bylaw is liable to seizure of the vehicle, without writ or warrant.
- 6.2 For first time offenders, a penalty of attendance at a training program for ATV uses, recognized and approved by the authority having jurisdiction for this Bylaw, and at the expense of the individual, shall be completed and verified to the authority having jurisdiction, prior to, and as a condition for the return of the vehicle.
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- 6.3 Every person who commits an offence of a continuing nature against this Bylaw shall have the vehicle confiscated and is liable to a fine not less than \$1,000 or more than \$5,000.
- 6.4 Should any condition or fine as applied in accordance with article 5.2 or 5.3 of this Bylaw, not be complied with within 90 days, the vehicle seized shall be sold at public auction.
- 6.5 No action shall be taken against the Municipality, its officers or agents for any work carried out in accordance with this Bylaw.

Repeal of Previous Bylaws

- 7.1 Any Bylaw, or any provision thereof passed and approved by any former Municipality within the boundaries of the County of Cape Breton prior to July 31, 1995, which conflicts with or acts contrary to the provisions of this Bylaw are hereby repealed with this Bylaw becoming law; and any other provisions of such Bylaws hereby ratified and confirmed insofar as they are not in conflict with the Bylaw.

PASSED AND APPROVED by Council this day of, AD., 20

**MAYOR –
JOHN MORGAN**

**MUNICIPAL CLERK –
BERNIE WHITE**

I, **Bernie White**, Municipal Clerk for the Cape Breton Regional Municipality, hereby certify that the above noted Bylaw was passed at a meeting of the Cape Breton Regional Council held on the day of r ,AD. 200
