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Item No. 4

Halifax Regional Council
June 10, 2008

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:

A handwritten signature in black ink, appearing to read "Dan English".

Dan English, Chief Administrative Officer

DATE: June 6, 2008

SUBJECT: HRM Charter Amendments

INFORMATION REPORT

ORIGIN

On May 27, 2008, Regional Council passed the following motion directing staff to prepare a report on the proposed government changes to the *Charter*.

Council requested staff to provide a report responding to the Provincial Government's amendments to the HRM Charter, specifically:

- a) staff outline the time line on how this evolved
- b) explain why it did not come to Regional Council before it went to the Provincial Legislature
- c) when were the portions to the Auditor General changed

BACKGROUND

At the Spring 2008 session of the House of Assembly, the Government introduced Bill 179, the *Halifax Regional Municipality Charter* ("Charter").

DISCUSSION

a) What was the time line?

I. Bill 179 - *Halifax Regional Municipality Charter*

On September 11, 2007, Halifax Regional Council approved a Discussion Paper outlining the need for a *Charter* and directed staff to work towards obtaining a new legislative relationship between the Province and HRM. The Discussion Paper, as approved by Regional Council, advocated using the *MGA* as a template, with no substantive changes, except to:

- clarify that general powers are not limited by specific powers, a provision to this effect being included in section 196 of the *Charter*;
- reduce the need for province wide consultations for legislative amendments, section 391 of the *Charter* requiring consultations between the Minister and HRM; and
- grant Regional Council the power to provide greater notice of variances beyond the legislated 30 metres, the power being granted in section 260(1) of the *Charter*.

On May 23, 2008, the Province gave First Reading to Bill 179, the *Halifax Regional Municipality Charter* ("*Charter*"), in response to Regional Council's September 11, 2007 request .

With the exception of District Council and the Auditor General provisions (discussed below), the above changes made at the request of Regional Council, the *Charter* is essentially the *MGA* with some non substantive changes. The changes previously discussed with Regional Council relate to:

- updating language for drafting purposes, including changing "shall" to "must" and "if" to "where";
- adding "administrative orders" to the definition of "policies" since it is the practise of Regional Council to describe its policies as "Administrative Orders";
- adding the changes in Bill 138, the *Municipal Government Act* (Amended), Bill 138 being discussed below;
- responding to a prior request of Regional Council to increase the dollar amount for Ministerial approval for lease and lease purchase agreements, section 120(5) of the *Charter* increasing the dollar amount from \$100,000 to \$500,000;
- renumbering and reorganizing the sections so the HRM only provisions of the current *MGA* are located in the appropriate sections of the *Charter*; and
- adding specific preamble language about HRM.

MGA changes regarding the supplementary funding sections and a correction in the civic numbers power were inadvertently not incorporated in the *Charter*. These changes were passed by the Province in Bill 41 on December 10, 2007 but not proclaimed until February 26, 2008, after the *MGA* had been converted to the *Charter*. The Province intends to address them in the Fall Session of the Legislature.

The following is the time line of events in relation to the Charter and District Councils:

- C Charter sent to Province of Nova Scotia (Discussion Paper) following Council's approval in September 2007.
- February - May 2008 Staff working with the Province on draft *Charter*.
- Wednesday April 16, 2008 Staff write a letter to the NDP and Liberals requesting support for the *Charter* and outlining the changes in the *Charter* compared to the *MGA*, all in accordance with the Regional Council motion of September 11, 2007.
- Wednesday, April 23, 2008 Staff brief to the Liberal Caucus.
- Thursday April 24, 2008 The House of Assembly opens.
- Wednesday April 30, 2008 His Worship raises with HRM staff information relating to legislation for District Councils.
- Monday May 12, 2008 Staff receive the first draft of the District Council provisions, including a requirement of approval of 70% of the **electorate** in the polling district to establish a District Council. Mayor Kelly is briefed.
- Friday May 16, 2008 Staff receive revised provisions in relation to District Council. Plebiscite requirements have been amended to require 70% approval of the electors "in the plebiscite". The addition of "in the plebiscite" creates uncertainty whether 70% support is required of the electors who vote in the plebiscite or 70% support is required of all the electors in the polling district, whether or not they vote. This revision is the first indication that the District Council concept could become a reality.
- Tuesday May 20, 2008 No Regional Council meeting.

- Friday May 23, 2008
The *Charter* is given First Reading in the House of Assembly. The 70% requirement has again been reworded to clarify that 70% support of **voters** in a plebiscite is required before a District Council is created.

- Friday May 23, 2008
The Acting CAO sends a memorandum to the Mayor and Members of Council regarding District Councils. The memo noted the District Council concept could have significant implications for the municipality including:
 - a) allowing the creation of 23 new District Councils;

 - b) the potential for the election of 92 new District Councillors;

 - c) the failure of the legislation to specify whether the District Councillors are elected at large in the polling district or whether the polling district must be divided into 4 polling divisions;,

 - d) the failure of the legislation to specify whether the first term of the District Council will be the lesser of four years or the remainder of the term of Regional Council, thereby potentially requiring the municipality to hold a special election every four years to elect the District Councillors for each District Council;,

 - e) creating a third level of Council with the same powers as Community Council;

 - f) providing no mechanism for the dissolution of a District Council; and

 - g) having the potential for cost implications for the municipality.

- Monday May 26, 2008
The CAO sends a memo to the Mayor and Members of Council advising that the *Charter* had been given First Reading and that staff will maintain a position of strong support of the *Charter*, but against the inclusion of the District Councils concept, this approach being consistent with the Charter Discussion Paper.

- Tuesday May 27, 2008 The CAO writes the leaders of the NDP and Liberals expressing HRM's concerns with the District Council provisions, urging support in removing the District Council concept from the *Charter* while still supporting the *Charter*)
- Tuesday, May 27, 2008 The matter is discussed at In Camera, Regional Council.

b) Why did it not come back to Council before it went to the provincial legislature?

As is standard practice, the Province does not share Bills with Regional Council before they proceed to the Legislature.

c) When were the provisions in the Charter relative to the Auditor General changed?

As far as HRM staff were aware, there were never any provisions, relative to the Auditor General, that were changed.

Between the original motion of Council in December 2006 and the Spring of 2007, extensive research and discussion took place at the Audit Committee with a number of models being reviewed and revised.

Further to direction provided by the Audit Committee, the power to appoint a Municipal Auditor General was requested by the Mayor.

The Province did include in Bill 138, respecting amendments to the *Municipal Government Act*, provision for the appointment of a Municipal Auditor General for all municipal units. This was announced at the Fall UNSM Conference where the SNSMR and UNSM MOU was signed. The following is the chronology of events relating to the introduction of the Municipal Auditor General in the HRM Charter:

- February 12, 2007 Audit Committee - A staff report is requested concerning any required changes to the *MGA* to allow for the proposed Internal Audit Governance structure;
- March 29, 2007 Audit Committee - Draft report to Halifax Regional Council dated March 6, 2007 - Matter deferred to April 18, 2007 pending review by the Municipal Solicitor concerning the necessary changes to the *MGA*.
- April 18, 2007 Audit Committee - Draft Audit Committee Report dated March 21, 2007 - Matter deferred pending clarification and discussion with Service Nova Scotia and Municipal Relations.
- May 2007 Meeting with Minister Muir, the Mayor, and the Municipal Solicitor to review the limitations of the *MGA* as it related to the appointment of a Municipal Auditor General.

- June 6, 2007 Audit Committee -Verbal report on meeting with Minister of Service Nova Scotia. There are discussions relating to how the proposed new Auditor General structure will impact the municipality. The report was to be circulated to the Audit Committee members for review and changes.
- June 20, 2007 Audit Committee - There are discussions concerning the municipality's legislative authority and changes are made to the report; and the Mayor requested the matter proceed to the July 3, 2007 session of Regional Council, it was subsequently delayed.
- August 8, 2007 - Audit Committee - Draft Audit Committee Report (dated June 14) scheduled to go to Regional Council in early August or September. The recommendation from the Audit Committee was as follows:

That Halifax Regional Council approve, in principle, the following:

- 16. Seek changes to the MGA to allow the appointment by Council of a Chief Internal Auditor.*
- 17. Subject to legislative approval, establish the position of Chief Internal Auditor, reporting for audit planning and findings, to Regional Council through the Audit Committee of Council with assignment of the responsibility for oversight of the Chief Internal Auditor for personnel, business planning, and budgeting, to the Chief Administrative Officer (CAO).*
- 18. Change the name of Business Systems and Control to Audit Division.*
- 19. Instruct Human Resources to carry out an internal/external recruitment program for a Chief Internal Auditor.*
- 20. Council, on the recommendation of the Audit Committee appoint a Chief Internal Auditor.*
- 21. Direct staff to draft the Terms of Reference for the Audit Committee to reflect the recommended governance model.*
- 22. This report be released to the public upon approval by Council.*

September 2007 The Province advised that provisions for a Municipal Auditor General would be embedded in the HRM Charter and made the announcement at the Fall UNSM meeting. That being the case there was no longer a requirement to advance the recommendation to Council until the provisions under the Charter was clearly defined.

January 2008 Mayor Kelly and Councillor McCluskey met with Minister Muir to outline the MGA/Charter provisions that were being requested relative to this matter.

April 28, 2008 Bill 138, the MGA amendments, received First Reading.

- May 12, 2008 Staff received a draft of the Municipal Auditor provisions and provided a number of comments to SNSMR. Comments related largely to qualifications, length of appointment, etc.
- May 16, 2008 Staff received an updated draft of the Municipal Auditor provisions.
- May 23, 2008 The Charter received First Reading.
- May 27, 2008 Bill 138 received Royal Assent.

BUDGET IMPLICATIONS

There are no budget implications associated with this report.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ATTACHMENTS

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

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