



**HALIFAX REGIONAL COUNCIL
COMMITTEE OF THE WHOLE MINUTES
April 15, 2014**

PRESENT: Mayor Mike Savage
Deputy Mayor Darren Fisher
Councillors: Barry Dalrymple
David Hendsbee
Bill Karsten
Lorelei Nicoll
Gloria McCluskey
Waye Mason
Jennifer Watts
Linda Mosher
Russell Walker
Stephen Adams
Matt Whitman
Brad Johns
Steve Craig
Tim Outhit

REGRETS: Councillor Reg Rankin

STAFF: Mr. Richard Butts, Chief Administrative Officer
Mr. John Traves, Municipal Solicitor
Ms. Sherryl Murphy, Acting Municipal Clerk
Ms. Jennifer Weagle, Legislative Assistant

The following does not represent a verbatim record of the proceedings of this meeting.

*A video recording of this meeting is available:
<http://www.halifax.ca/council/agendasc/cagenda.php>*

*The agenda, supporting documents, and information items circulated to Council are available
online: <http://www.halifax.ca/municipalclerk/April152014COW.php>*

The meeting was called to order at 10:00 a.m., and recessed at 12:30 p.m. Council reconvened at 1:05 p.m. and adjourned at 1:32 p.m.

1. CALL TO ORDER

Mayor Savage called the meeting to order at 10:00 a.m.

2. APPROVAL OF THE MINUTES – NONE

3. Temporary Sign By-Law Amendments – Proposed By-Law S-801 – Respecting Requirements for the Licensing of Temporary Signs

The following was before Council:

- A staff recommendation report dated December 2, 2013
- A private and confidential information report dated August 24, 2012
- An extract of the Regional Council minutes of December 10, 2013
- A copy of the April 15, 2014 staff presentation

Mr. Chris Davis, Right-of-Way Engineer, Traffic & Right-of-Way Services, and Mr. David Lane, Senior Planner, Planning and Infrastructure, presented the Temporary Sign By-law (S-801) proposed amendments. A copy of the presentation is on file and online.

Councillor Mosher joined the meeting at 10:13 p.m. Councillors Hendsbee and Johns joined the meeting at 10:15 a.m.

The Mayor introduced Ms. Kathleen Lewellen-Thomas, Acting Director of Transportation and Public Works.

Councillor Adams inquired about third party signage for community events, noting that it sometimes makes sense to have signage in a location other than where the event will be held. Mr. Trevor Creaser, Development Officer, clarified that the by-law does allow third party signage and that the proposed by-law would allow the sign to be posted for 60 days, then requiring it to be taken down for 60 days. He further clarified that the sign rules apply for the property, not the sign, and that another location could be used to advertise the event after the 60 days posted on a property expired.

Councillor Adams inquired as to when industry was last consulted. Mr. Lane indicated that the industry was consulted prior to the public information meeting, and that one written submission was received from an industry stakeholder.

MOVED by Councillor Karsten, seconded by Councillor Whitman, that Committee of the Whole recommend that Halifax Regional Council:

- 1. Move first reading to consider the adoption of the proposed By-law S-801 Respecting Requirements for the Licensing of Temporary Signs as contained in Attachment A of the staff report dated December 2, 2013 which will repeal and**

replace By-Law S-800 Respecting Requirements for the Licensing of Temporary signs; and

2. Set a date for a public hearing.

Councillor Karsten spoke largely in support of the proposed amendments. He commented on the importance of signage to small businesses and on the fine line between allowing signs and clutter.

In response to a question from Councillor Karsten, Ms. Cathy Mellett, Municipal Clerk, indicated that election signage is permitted in the right of way area between a sidewalk and a street curb.

Councillor Karsten noted a concern with restricting banner signs on light standards in large retail parking lots to six times per year, questioning the rationale for limiting these signs at all. Mr. Creaser indicated changes were proposed in response to clutter and to clarify where they could be placed.

Councillor Karsten indicated that it has recently come to his attention that planter box signs are not permitted in C-2 zoning areas under the Eastern Passage/Cow Bay Land Use By-law, and inquired whether this By-law would supersede that zoning.

In response to questions from Councillor McCluskey, Mr. Creaser indicated that there is nothing proposed in the by-law to regulate real estate open house signs. He noted they have not been an issue in the past, and were not raised during consultation.

Responding to questions from Councillor McCluskey, Mr. Davis indicated that signs posted on utility poles would be within the street right of way and are not currently permitted and would continue to not be permitted.

Responding to further questions from Councillor McCluskey, Mr. Lane clarified that community event signage would not be permitted in residential zoning areas.

Deputy Mayor Fisher noted that a local business purchased a small property separate and apart from the business for the purpose of erecting advertising signage, and were told that they could not advertise on the property. He indicated that he finds this and other similar examples restricting to small businesses.

MOVED by Deputy Mayor Fisher, seconded by Councillor Hendsbee, that the motion be amended that Regional Council request a staff report and a draft amendment permitting additional temporary signage on private property of a business which is separate and apart from the property that the business is located.

At the request of Mayor Savage, Mr. Creaser clarified that if the sign were of the temporary classification of signs (such as a mobile or box type sign) it would fall under the Temporary Sign By-law. If the sign were a permanent type of sign, it would fall under the land use by-law.

Councillor Karsten noted concern with the proposed amendment to the motion and the difficulty of enforcing such a rule. He inquired whether requesting a supplemental staff report prior to first reading would be a contradiction to the motion on the floor. Mr. John Traves, Municipal Solicitor, clarified that Deputy Mayor Fisher's motion would be to amend the motion on the floor. He further clarified that the request for a supplementary staff report would in effect be deferring first reading until after receipt of the report. Mr. Traves indicated that Council has an obligation to advertise the proposed by-law amendments before the by-law is passed, and if any amendments were requested subsequent to first reading, Council would have to re-advertise.

Councillor Hendsbee suggested that property ownership in terms of temporary signage should be considered long term leases as well.

The amendment was voted on at this time.

MOTION PUT AND PASSED.

In response to further questions from Councillor Whitman, Mr. Davis clarified that sandwich board signs on narrow sidewalks will be required to be perpendicular to the road, and attached to the building, with a maximum projection of three inches. He further clarified that the signs are intended to be put out in the morning, and attached to the building while outside.

In response to a question from Councillor Whitman regarding consistency of temporary sign rules across HRM, Mr. Creaser indicated that the temporary sign by-law is HRM wide, although there are certain plan specific restrictions within certain areas, such as through the Bedford Municipal Planning Strategy.

At the request of Councillor Whitman, Mr. Taso Koutroulakis, Manager, Traffic & Right-of-Way Services, provided an update on the signage pilot project for St. Margaret's Bay Road and Prospect Road, noting that staff are working on a draft by-law and operational plan, and intend to have these before Council before the end of 2014.

MOVED by Councillor Johns, seconded by Councillor Whitman, that the Temporary Sign By-law be amended as follows:

- 1. That section 12(5) be amended to read "A Sign License for a sign advertising a Community Event may be issued", removing the words "provided the sign is not placed for a period exceeding sixty (60) calendar days".**
- 2. That section 14(2)(b) be deleted.**

Councillor Johns explained that the intent of these amendments would be so community groups would not have to put up and take down signage for community events.

Mr. Traves inquired whether the signs would then fall under the definition of permanent signage.

Mr. Creaser commented that the 60 day time limit was proposed in response to feedback received concerning the duration of temporary signs being posted. He noted that staff originally proposed a 90 day time limit, and a community stakeholder recommended 45, so they met in the middle at 60 days.

In response to a question from Deputy Mayor Fisher, Mr. Creaser clarified that under the proposed by-law, if a box sign were resting on top of the ground, it would be considered a temporary sign, but if it were installed with a permanent foundation, it would fall under other regulations as a permanent sign.

Councillor Watts noted concern with removing time restrictions for community event signs. At the request of Councillor Watts, Mr. Creaser clarified that commercial businesses can license a planter box sign for one year. Under the current requirements, community event signs can be placed for 30 days, and under the proposed by-law, for 60 days.

Councillor Nicoll noted that there are no provisions in the by-law for community boards. Mr. Creaser indicated that community boards are considered permanent signs and fall under land use by-laws.

Councillor Johns commented on the effort and costs required of community groups to construct a planter box sign, although they may not have the ability to dig holes or pour cement on a property that they do not own in order to make it a permanent sign.

With the agreement of the seconder, Councillor Johns amended part 1 of the amendment to read:

MOVED by Councillor Johns, seconded by Councillor Whitman, that the Temporary Sign By-law be amended as follows:

- 1. That section 12(5) be amended to read “A Sign License for a sign advertising a Community Event may be issued provided the sign is not placed for a period exceeding sixty (60) calendar days, *with the exception of box signs.*”**

Mr. Traves clarified that, although the discussion has been largely around private property, the motion on the floor relates to community event signage on all municipal properties.

Mr. Creaser suggested the following wording: amend section 12(5) to add the words after Community Event “other than a license for box signs under subsection (4)”. He clarified that section 12(4) are the standard requirements for box signs. Councillor Johns indicated agreement with this wording and the amendment now reads:

MOVED by Councillor Johns, seconded by Councillor Whitman, that the Temporary Sign By-law be amended as follows:

- 1. That section 12(5) be amended to read “A Sign License for a sign advertising a Community Event, *other than a license for box signs under subsection (4),* may be**

issued provided the sign is not placed for a period exceeding sixty (60) calendar days.

It was clarified that part 2 of the amendment “That section 14(2)(b) be deleted” will be voted on separately. Part 1 of the amendment was voted on at this time.

AMENDED MOTION PUT AND PASSED.

Council discussed Part 2 of the amendment “That section 14(2)(b) be deleted”. Mr. Creaser clarified that Section 14 of the proposed By-law relates to signs on municipal property.

Councillor Watts suggested that there needs to be regulation of municipal property, and she does not see any reason to change Section 14(2)(b).

Councillor Johns indicated that after hearing from staff, he is comfortable with Section 14(2)(b) as it is proposed, **and, with the agreement of Council withdrew, his motion to delete section 14(2)(b).**

Councillor Watts inquired whether the proposed By-law refers to posters. Ms. Donna Boutilier, Solicitor and By-law Coordinator, HRM Legal Services, advised that although the current by-law references posters it is unenforceable and reference to posters was removed from the proposed by-law. She clarified that based on case law from across Canada, and in particular from the Supreme Court of Canada, municipalities are unable to enforce the restriction of posters as under the Canadian Charter of Rights and Freedoms posters are considered a form of expression. Ms. Boutilier further advised that if Council chose to restrict posters to kiosks and pole collars, it would not be upheld in a court of law.

Councillor Watts commented on the amount of litter that is generated from posters. She suggested that it should have been clarified with Council that poster regulations were being removed from the By-law. In response to an inquiry from Councillor Watts regarding regulations in Toronto which allow community posters to be put up on utility poles, Ms. Boutilier clarified that Toronto has a by-law regarding posters, and has created the infrastructure through 900 information kiosks, which are open to both commercial and community group posters, and that they are allowing only community groups to poster on utility poles.

Councillor Nicoll suggested that where there is less space for signage in urban areas, suburban areas may be more lenient on signage since there is more space. At the request of Councillor Nicoll, Mr. Lane reviewed maps of the Cole Harbour Municipal Planning Strategy C-2 zones showing box sign and mobile sign restrictions.

Councillor Nicoll commented on the change of terminology from planter box signs to box signs, and suggested that mobile signs should be better defined as any sign with wheels. Mr. Creaser commented on the changed terminology from planter box sign to box sign, noting that there was an impression that plants were to be planted in a planter box sign, although the terminology was only used as a description of the sign construction.

Councillor Walker indicated that in the six years of waiting for this by-law, the original box signs are old and deteriorating, and that he believes that enforcement of standards of maintenance should be included in the by-law. He inquired whether staff could remove illegal signs and bill the property owner.

Councillor Walker indicated that he would like to see no election signs in the street right of way, between the sidewalk and street curb, and also that the center median should not permit election signs. Mr. Davis clarified at the request of Councillor Walker that under the proposed by-law election signs would be permitted between the sidewalk and curb. Ms. Mellett indicated that the Canadian Charter of Rights and Freedoms also protects the argument that there be some space available during an election campaign for political expression. She clarified that the proposed by-law would allow election signage on private property, but restrict the size, location, and length of time on municipal property. Ms. Mellett further clarified that election signage on municipal property would only be permitted in the street right of way, not in municipally owned parks or other municipal properties, and only in the street right of way where it is safe to do so.

Councillor Walker suggested that there would be space for election signage in the street right of way between the sidewalk and the property line. Mr. Traves commented that the Supreme Court of Canada is very supportive of freedom of expression, and political expression, and in a court challenge would be looking for whether the municipality provided enough space for political expression through election signage.

Councillor Outhit noted concern with candidates having the ability to place election signs within the street right-of-way on any residential property without receiving permission from property owner. He noted that many communities in Ontario have eliminated election signs from towns and he would like to see HRM eventually go in this direction. Mr. Traves indicated that given the Supreme Court of Canada guidance on the area of freedom of expression, they would not be receptive to an attempt to restrict election signage.

At the request of Councillor Craig, Ms. Mellett clarified that section 19(4)(a) applies to municipal election signage, which may not be erected in the street right of way before September 1 in the year of the election, although election signage could be erected earlier on private property.

In response to questions from Councillor Craig, Mr. Davis clarified that anyone putting out a sandwich board sign, including community groups advertising community events, would have to meet the requirements in the by-law and apply for a license.

Responding to a question from Councillor McCluskey, Mr. Lane clarified that poster kiosks in Halifax were typically installed through streetscape improvement projects and future funding for additional kiosks would come forward as a part of the capital budget. Councillor McCluskey commented on the litter created when yard sale signs are not removed.

Councillor Mosher commented on the need for view plane restrictions for sign placement on main arterials from a sight distance safety perspective. She noted that residents understand the

need for freedom of speech, but don't want clutter in their neighborhoods, and suggested that it is effective to have residents redirected to call candidates themselves with complaints about election signage. Councillor Mosher noted concern that during the last two elections parties were within the circle of the Armdale Roundabout waving signs at cars and many residents had concerns about the safety of this practice. Mr. Davis commented that in the past candidates have responded well to concerns from staff and residents with regard to the placement of election signage and that legislation exists that would allow to HRM to take action with regard to any sign posing a safety hazard, such as the *Motor Vehicle Act*.

Responding to questions from Mayor Savage with regard to election signage from a safety perspective, Mr. Davis indicated that staff take the position that signage within the centre median is not appropriate, as well as within and around roundabouts, as the signs may be distracting to merging traffic. He advised that if staff determine that a sign is obstructing sight lines, the candidate would be contacted to remove the sign immediately. Mr. Davis further clarified that the election practice commonly referred to as a "wave" where parties wave signs at traffic would fall outside of this by-law.

Councillor Karsten requested clarification with regard to whether the proposed by-law would allow box signs within the area of the Cow Bay-Eastern Passage Municipal Planning Strategy C-2 zone. Mr. Lane commented that there is no exemption of that area in the proposed by-law. Mr. Creaser confirmed that in the proposed temporary signage by-law box signs would be permitted within the C-2 zone in Eastern Passage-Cow Bay.

Councillor Karsten, referring to section 12(2) of the proposed by-law relating to banners, noted that one per property would be permitted. He suggested that businesses should be allowed to install wrap around type advertising banners on light posts in commercial parking lots.

MOVED by Councillor Karsten, seconded by Councillor Hendsbee, that Regional Council request a supplementary report with regard to Section 12(2), to address the possibility of including wrap around type advertising banners on light standards in commercial parking lots. MOTION PUT AND PASSED.

Mr. Traves clarified at the request of Mayor Savage that Council could direct that the staff report on the information being requested of staff come back to Regional Council for debate just prior to giving first reading.

Councillor Adams indicated that the Spryfeld Lions Rink is situated far off Herring Cove Road, and inquired whether they would be able to put in a box sign on their own property or in the HRM right-of-way. Mr. Davis suggested that a box sign on the street would become a permanent encroachment and would go through a different process.

Councillor Johns inquired whether posters and small plastic signs that are being put up on utility poles are classified the same. Ms. Boutilier indicated that a poster has not been defined in the proposed by-law and there has been difficulty in making a distinction between small signs and posters.

Councillor Nicoll indicated that she would like the supplementary staff report to identify what has changed from the current by-law to the proposed by-law and what are the standards for aesthetics for box signs and mobile signs. She commented that there should be no third party signage permitted on fences or bridges.

Committee of the Whole recessed at 12:30 p.m., and reconvened at 1:05 pm.

MOVED by Councillor Nicoll, seconded by Councillor Whitman, that Regional Council request a supplementary report identifying what has changed from By-law S-800 to the proposed By-law S-801, and to include a discussion of possible amendments to control standards for aesthetics for box and mobile signs. MOTION PUT AND PASSED.

MOVED by Councillor Johns, seconded by Councillor Karsten, that Regional Council request a supplementary report with definition of what is a poster and what is a business advertisement and what enforcement capability HRM has in this regard. MOTION PUT AND PASSED.

Councillor Walker indicated that he would like to make an amendment that municipal election signage not be permitted on any property prior to September 1 on the year of an election. Mr. Traves indicated that would be considered as an unreasonable limit on freedom of expression. Ms. Boutilier indicated that would not be enforceable, and would not stand up to a Charter challenge.

MOVED by Councillor Walker, seconded by Councillor Karsten, that Regional Council direct staff to amend proposed By-law S801 to provide that election signs not be placed between the sidewalk and street curb during HRM municipal elections.

Councillor Walker commented that the right-of-way is more than the area between the sidewalk and the curb, often extending onto residents' front yards.

Mr. Traves cautioned that the amendment may drive election signage to other areas such as the centre median. He further cautioned that while Council is free to pass whatever by-law it sees fit, there is a reputational risk of passing by-laws that are unenforceable.

Councillor Whitman supported the motion and inquired whether ditches would be included in the street right-of-way. Mr. Davis indicated that a 66 foot street right-of-way is the general rule, although this can vary from street to street since some streets are older and narrower.

Councillor Outhit commented that HRM currently regulates many things on private property, such as requiring grass to be cut, not allowing the use of pesticides, and regulating the appearance of business signs. He inquired whether anyone had challenged municipal by-laws regulating signage. Mr. Traves advised that there have been challenges of the Charter of Rights and Freedoms as it relates to freedom of expression, and in particular freedom of political expression through election signage. He reiterated that Legal Services are of the opinion that HRM would not be successful if it were to have to defend such limitations under a Charter challenge. Councillor Outhit inquired whether the Supreme Court of Canada has ruled on the

right of a business to advertise on private property. Mr. Traves indicated he would have to research that issue.

Councillor Craig spoke against the amendment, noting the importance of protecting the fundamental right of freedom of speech and democracy.

Councillor Watts spoke against the amendment, commenting on the importance of having visible in a community the names of those that are running in an election as a way of informing the voting public.

The amendment was voted on at this time.

MOTION PUT AND PASSED.

Councillor Hendsbee commented that community groups should not be penalized for advertising monthly community events for a week prior to the event, and taking down the sign within hours of holding the event. He further noted concern with the visibility of sandwich board signs on narrow sidewalks as they are required to be parallel to a business, commenting that it would be easier to read if it were perpendicular.

Councillor Adams suggested that industry stakeholders should be consulted once more prior to the public hearing to ensure that the proposed by-law will logistically work for them.

MOVED Councillor Adams, seconded by Councillor Whitman, that Regional Council direct staff to engage in industry stakeholder consultation before bringing the supplementary report back to Council. MOTION PUT AND PASSED.

The main motion, as amended was voted on at this time, as follows:

MOVED by Councillor Karsten, seconded by Councillor Whitman, that Committee of the Whole recommend that Halifax Regional Council:

- 1. Request a staff report and a draft amendment permitting additional temporary signage on private property of a business which is separate and apart from the property that the business is located.**
- 2. Amend Section 12, subsection (5) to add the words after Community Event ‘other than a license for box signs under subsection (4)’.**
- 3. Request a supplementary report with regard to Section 12(2), to address the possibility of including wrap around type advertising banners on light standards in commercial parking lots.**
- 4. Request a supplementary report with definition of what is a poster and what is a business advertisement and what enforcement capability HRM has in this regard.**

5. **Request a supplementary report identifying what has changed from By-law S-800 to the proposed By-law S-801, and to include a discussion of possible amendments to control standards for aesthetics for box and mobile signs.**
6. **Direct staff to amend proposed By-law S801 to provide that election signs not be placed between the sidewalk and street curb during HRM municipal elections.**
7. **Direct staff to engage in industry stakeholder consultation before bringing the supplementary report back to Council**

MOTION PUT AND PASSED.

The supplementary report will be tabled with Council, along with a revised By-law S-801, by July 2014. Further action relative to First Reading is deferred until the supplementary staff report is tabled with Council.

4. ADJOURNMENT

The meeting was adjourned at 1:32 p.m.

Cathy J. Mellett
Municipal Clerk