

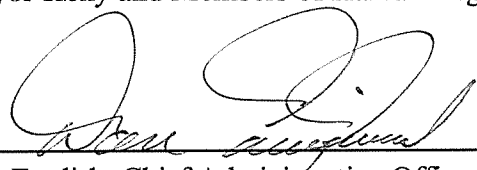
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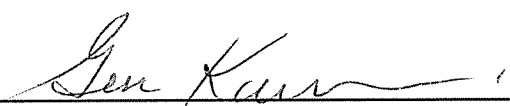
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Halifax Regional Council
May 9, 2006

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 

Dan English, Chief Administrative Officer



Geri Kaiser, Deputy Chief Administrative Officer

DATE: April 4, 2006

SUBJECT: Amendments to Administrative Order 1

ORIGIN

Procedural issues identified subsequent to public hearings.

RECOMMENDATION

It is recommended that :

1. Regional Council approve the proposed amendments to Appendix "A", Public Hearing Procedure, of Administrative Order 1, included with this report.

BACKGROUND

Council approved the Public Hearing Procedure in July 2005. Since the implementation of these procedures a number of procedural issues have arisen which are not addressed in the Public Hearing Procedure.

DISCUSSION

The need to further clarify the public hearing process identified four areas for change:

1. Deadline for submissions
2. Clarification of when the applicant will be provided an opportunity to speak
3. When is the speakers list available to the public
4. Clarification that Section 8 is not applicable when a public hearing is continued

Deadline for submissions

When Council is considering complex public hearings hundreds of submissions may be received in response to the subject proposal. The present public hearing procedure does not provide for a firm cut off time for submissions, but indicates that all submissions received prior to the decision will be distributed to Council. Consequently, submissions are received up until the Council start time on each day the matter is being considered. This creates some difficulty in terms of the distribution of the submissions to Council. A change to Section 4 of the Public Hearing Procedure would provide that submissions are to be received no later than 3:00 p.m. on the advertised Public Hearing date or any continuation date for a public hearing.

Clarification of when the developer will be provided an opportunity to speak

The public hearing process provides an opportunity for the applicant to respond to points raised by speakers following the close of the public hearing. The practice has been that the applicant and/or representatives of the applicant sign up to speak in the same manner as the public. This does not allow for Council to hear or ask questions on the detail of the project which the staff report does not address. A change to Section 6 of the Public Hearing Procedure will give the applicant 10 minutes to present his/her proposal following the staff presentation and clarifies that Council will have an opportunity to ask questions of clarification of the applicant.

When is the Speakers List available to the public

Requests are occasionally made by the public for a copy of the speakers list following the first evening of the public hearing and after the list has been closed. This has given rise to questions around the appropriateness of releasing this information. The Clerk has permitted individuals to view the speakers list to determine where they were on the list, however, no copies of the list have been provided to either the developer or members of the public. A new section addresses this issue and recommends that the Clerk may advise members of the public where they appear on the speakers

list. Following the close of the public hearing, the minutes record those who spoke at the hearing and, upon approval, are available to the public.

Clarification that Section 8 is not applicable when a public hearing is continued

The public hearing procedure does not clearly state that Section 8 does not apply when a public hearing is continued. Section 10 clarifies that only those who sign up on the first night of the are entitled to speak.

BUDGET IMPLICATIONS

There are no budget implications.

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.

ALTERNATIVES

1. Council may choose not to make changes to the public hearing procedure at this time.

ATTACHMENTS

Appendix "A", Public Hearing Procedures, Administrative Order 1

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

Report Prepared by: Jan Gibson/Sherryl Murphy

Financial Review:

Report Approved by:

Appendix "A"

- (1) Except where otherwise stated, these Rules shall apply equally to Public Hearings conducted by Community Council as to those conducted by Regional Council.
- (2) All Regional Council Public Hearings will be advertised to commence at 6:00 p.m. Community Council Public Hearings will be advertised to commence at 7:00 p.m. Advertisements will only be placed for the first date of a Public Hearing. The advertisements shall indicate that if the Public Hearing cannot be concluded at the advertised date, it will continue on a date determined by Council at the Public Hearing.
- (3) Where Regional Council public hearings are expected to draw a number of speakers larger than can be accommodated by the facilities at City Hall, Council may consider holding the Public Hearing at an alternate suitable location.
- (4) Those interested in providing a written submission (including fax or email) pertaining to Public Hearings may do so by directing the submission to the Clerk's Office. ~~Submissions are encouraged to be received no later than noon on the advertised Public Hearing date, but all submissions received by the Clerk's Office prior to a decision being made shall be provided to Council.~~

To be replaced by:

To ensure distribution of submissions prior to the public hearing, submissions are to be received no later than 3:00 p.m. on the advertised Public Hearing date or any continuation date for a public hearing. All submissions will be distributed to Council. The Clerk will require 35 copies for distribution of any submission which exceeds three (3) pages.

- (5) A Speakers List will be available outside of the meeting room one-half hour prior to the commencement of the Public Hearing where those wishing to speak at a public hearing may provide their name and community of residence. If an individual is representing a group, they should indicate this on the Speaker's List and when they address Council during the Public Hearing.
- (6) Before the Public Hearing is opened, staff will provide an explanation of the matter being considered and the staff recommendation to Council. Following the staff presentation, members of Council may ask staff questions of clarification only. **Addition:** *The applicant (or designate) will then be given 10 minutes to present his proposal after which he will respond to questions of clarification from members of Council.*
- (7) The Presiding Officer will then proceed by calling speakers in order from the Speaker's List.

If a person is not present when their name is called, they will be given a second opportunity after everyone on the list has been called.

- (8) At the initial meeting advertised for the Hearing, once all those on the Speaker's List have been given the opportunity to speak in accordance with Clause 7, an opportunity will be given to others present wishing to speak. The Presiding Officer will call three times for any others wishing to address Council. Every person wishing to speak to Council will be given the opportunity to do so.
- (9) If it is necessary to adjourn the Hearing to another date, those in attendance at the initial advertised date who did not have the opportunity to be heard and still wished to address Council shall be directed by the Presiding Officer to the Clerk, who, immediately following the adjournment of the meeting, shall collect the names of those who were in attendance at the initial meeting and indicate that they still wished to speak.
- (10) At the continuation of the Hearing on a second or subsequent date, only those whose names were on the Speakers List and were not heard at the initial advertised date or whose names were added to the Speakers List at the conclusion of the initial advertised date shall be permitted to speak. There shall be no substitution of names permitted.

Addition: *Clause 8 does not apply at a continuation of Hearing.*

New Section:

The Clerk may, upon receiving a request, advise members of the public where they appear on the Speakers List.. Following the close of the public hearing, the minutes record those who spoke at the hearing.

- (11) For Public Hearings being held by Regional Council at City Hall, speakers can wait for their turn to speak in the Council Chamber (space permitting) or alternatively, in Halifax Hall (the overflow room.) Audio feed of Regional Council Public Hearings is available in Halifax Hall. Video feed is available when Eastlink Cable is broadcasting the hearing.
- (12) At the discretion of the Presiding Officer, Council may take a recess every hour.
- (13) Speakers addressing Council should do so with proper decorum. Speakers' comments must be specifically related to the subject of the Public Hearing, directed to the Presiding Officer and limited to five minutes. There is no opportunity at the hearing to debate points of view expressed by other speakers.
- (14) The role of Council at a Public Hearing is to listen to the public. Members of Council shall not debate nor challenge the comments being offered by the Speaker. Following a speaker's presentation, Members of Council may ask questions of the speaker, seeking clarification of the points they have raised. Members of Council shall not enter into dialogue with the public during the Public Hearing.

- (15) In order to ensure that no member of the public feels discouraged, intimidated or otherwise prevented from making his or her views known, no applause or other expressions of emotion, inappropriate language, outbursts or criticisms aimed at individuals or groups will be condoned. No signs shall be displayed.
- (16) When the public hearing has been closed , the Presiding Officer shall provide the applicant (or designate), if one, with five (5) minutes to respond to points raised by speakers.
- (17) Staff will then be provided an opportunity to briefly respond to points raised by the speakers.
- (18) Council will then proceed to immediately consider the approval or disapproval of the matter under consideration and reach a decision. The Council decision will start with a motion from a member of Council (to refuse or approve the matter under consideration, or approve it in an amended form). The consideration of the motion is subject to the regular rules of procedure and debate. No further public presentations will be heard. In some instances, particularly when Council members need more time to consider what they have heard, or require further information from staff, the Council may defer the debate and decision until a later date, usually at the next regular meeting.
- (19) Only members of Council present for the entire Public Hearing are permitted to vote.
- (20) The vote shall be taken in accordance with the Rules of Procedure. The decision will be determined in accordance with the appropriate section(s) of the Municipal Government Act.