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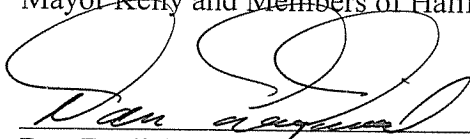


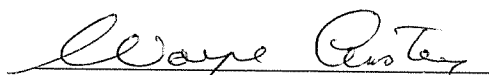
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**Halifax Regional Council**  
**January 17, 2006**

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**

  
\_\_\_\_\_  
Dan English, Chief Administrative Officer

  
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Wayne Anstey, A/Deputy Chief Administrative Officer

**DATE:** January 12, 2006

**SUBJECT:** Municipal Court Proposal

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**ORIGIN**

This report is in response to Mayor Kelly's comments and inquiry regarding the possibility of setting up a Municipal Court, and subsequent discussion and motion respecting By-Law enforcement (December 13, 2005 - COW).

**RECOMMENDATION**

It is recommended that Halifax Regional Council authorize staff to enter into discussions with the Nova Scotia Department of Justice with respect to setting up a Municipal Court to be operated by the Municipality.

## **BACKGROUND**

Both the former cities of Halifax and Dartmouth had a long history of having their own Municipal Courts. The Halifax City Court existed as far back as 1864, prior to Confederation. This Court acted as both a civil court and a criminal court for the residents of Halifax and when originally constituted three people presided - the Mayor, one alderman and the clerk (recorder).

Eventually, the Province appointed Provincial Magistrates, who assumed jurisdiction in respect of criminal matters. In 1976, the Magistrates Court became known as the Provincial Court leaving the Halifax City Court exercising strictly civil jurisdiction. Although the Municipal Court at this point was largely defunct, Halifax continued in its role as the only municipal administrator of the Provincial Court.

In 1980, the Province created the Small Claims Court which had civil jurisdiction up to \$2,000.00, the administration of which was undertaken entirely by the Province. The creation of the Small Claims Court made the civil jurisdiction of the City Court largely redundant.

In 1996, the Province officially removed the legislative jurisdiction of municipalities to have a City Court on the repeal of the Halifax and Dartmouth City Charters and enacting the *Halifax Regional Municipality Act*. The *Halifax Regional Municipality Act* did not contain statutory provisions permitting HRM to create or operate a City Court. The *Municipal Government Act (MGA)* also does not permit HRM to recreate or operate a City Court meaning that an amendment to the *MGA* will be required to empower HRM to reconstitute and manage the court.

In order to better utilize scarce judicial resources, the Province created Night Court in 1996 in which adjudicators, rather than Provincial Court Judges, preside. This court was established to hear provincial offences such as *Motor Vehicle Act*, *Liquor Control Act*, and *Protection of Property Act* charges, but it does not hear Municipal Bylaw matters.

Many Canadian municipalities operate a municipal court. For example, Edmonton and Calgary operate traffic courts. Quebec has 86 municipal courts which are under the authority of a Municipal Judge. The Quebec municipal court mainly hear cases involving breaches of municipal bylaws and offences under certain provincial Acts such as the *Highway Safety Code*. Quebec Municipal Courts are also authorized to hear cases concerning lower level criminal offences.

Similarly, some Ontario municipalities operate municipal courts. The cities of Kingston, Waterloo and Leeds & Grenville all have municipal courts which are referred to as "Provincial Offences Court." They deal with a variety of provincial offences as well as municipal bylaw matters.

**DISCUSSION**

The reasons for establishing a municipal court are:

- ◆ Administrative efficiencies;
- ◆ Service Levels; and
- ◆ Revenue

In terms of administrative efficiencies, currently matters prosecuted by Legal Services are divided between Provincial Day Court and Night Court. *Motor Vehicle Act* and *Liquor Control Act* offences make up the majority of the Night Court docket. Bylaw prosecutions are heard by the Provincial Day Court. Related appearances, including arraignments and applications, are largely addressed in Provincial Day Court.

One of the issues associated with the present structure is that bylaw matters are placed on a docket together with federal and provincial matters. Since provincial and federal matters are often given priority to municipal matters, municipal prosecutors must wait while these matters are addressed, resulting in a poor use of municipal prosecutorial resources. Under a municipally run system, competition for time with other levels of government would be eliminated. Furthermore, although there is no objective evidence to support the opinion, staff are of the opinion that the court tends to view the criminal cases, in particular, as more serious offenses. As a result, if a judge were to hear a municipal matter immediately following what might appear to be a more serious criminal matter, this could result in the judge handing down a relatively lower penalty for the municipal by-law violation than a judge who was dealing with municipal matters alone and who therefore could get a feel for the effect of municipal offenses on the well being of neighbourhood.

Currently, there are two courts located in two different locations. This results in an inefficient use of resources as staff are required to attend at both locations for a variety of court proceedings. Under a Municipal Court system, HRM would have the ability to determine whether it is desirable to have the courts located in more than one location.

In relation to service levels, one of the concerns that has been regularly stressed by Council is the need for a more timely resolution to bylaw matters. Although at the present time, there is only a 4-5 month delay between arraignment and trial, it is the belief of staff that with a municipally run system, there are steps the municipality could take to ensure that the time frame between the date of the offence and the date that the matter is heard is reduced. Under a municipal court system, if matters were not being dealt with in a satisfactory time frame, Council would have the ability to make the necessary budget changes to effect a more timely resolution to bylaw matters.

By creating the Municipal Court, matters which are currently being heard in the Provincial Day Court could be transferred to the new Municipal Court thereby freeing up Provincial Court time and enabling them to deal with Provincial Court matters in a more efficient and timely matter.

At present, Night Court runs 4 nights a week, in both Halifax and Dartmouth locations. Typically, there are a total of 12-15 trials set per night per court. As previously noted, current projections of the number of summary offence tickets being issued in 2006 will put considerable strain on the capacity of the Night Court which will translate into longer delays for trials under the current structure.

Since the establishment of Night Court in 1996, the volume of summary offence trials has continued to increase. For example, using the numbers available between the years 2002 through 2005, the number of summary offence tickets issued by both the Halifax Regional Police and the Royal Canadian Mounted Police have increased from approximately 14,000 to over 30,000.

Staff anticipates the volume of summary offence cases will continue to rise due to a number of contributing factors. The creation of the RCMP Metro Highway Force in 2000 has already been a factor in the increase in summary offence tickets issued by the RCMP. In addition, it is anticipated that the current numbers will continue to increase primarily due to the recently established Halifax Regional Police Traffic Unit in October of 2005. Currently, this Unit consists of 10 officers and a Sergeant. Halifax Regional Police advises that it intends to add 10 more officers to this Unit in the summer of 2006. Finally, the overall growth in the population base in Halifax Regional Municipality will continue to have an effect on the number of summary offences tickets.

Similarly, Halifax Regional Municipality is currently increasing its bylaw enforcement staff as well as placing a greater emphasis on training. The administrative process with respect to laying charges has also been streamlined creating a less cumbersome process in getting matters before the court. These changes have resulted in an increase in the number of bylaw charges. It is expected that the volume of bylaw charges will continue to increase and therefore result in additional stress on Provincial Day Court.

The revenue component focuses on the penalties and costs imposed by the courts. The penalty imposed by the court in the event of a conviction has three components: the fine, court costs, and a victim fine surcharge. The fine is assigned to the enforcement agency to respond to enforcement costs. The court costs are assigned to the Province to respond to court administration costs. In the case of parking tickets, court costs are \$35/ticket and in the case of summary offence tickets court costs are \$100/ticket. The victim fine surcharge although applicable to provincial offences and bylaw matters, is intended to support the victim program run by the Department of Justice for victims of criminal offences and is calculated as 15% of the amount of the fine and is assigned to the province. In the event of a municipally run court, all the court costs and the fine amounts would be assigned to the municipality. The victim surcharge amounts would continue to be assigned to the Province.

To put the revenue component in context, staff would propose that the following number of matters will be transferred to a new Municipal Court:

Parking Ticket	25,000
Summary Offence Tickets	30,000
Bylaws	400
Applications	1,000

Based on the current volume of matters before the Provincial Court it is estimated that the following revenues will be generated:

**Revenues (Approximate)**

SOTs	\$3M
Parking tickets	<u>\$1M</u>
Total	\$4M (less bad debts)

The anticipated expenses to set up a Municipal Court are:

**Annual Expenses (Approximate)**

Adjudicators (5 part-time)	\$ 300,000.00
Court Administrator	\$ 65,000.00
Court Clerks (4)	\$ 210,000.00
Security	\$ 30,000.00
Space (heat, lights, rent, telephone)	<u>\$1,200,000.00</u>
	\$1,805,000.00

**Start-up Costs**

Furniture/equipment	\$ 200,000.00
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As can be seen, there appears to be adequate provision in the current revenue structure for the anticipated costs even applying a 25% figure as a contingency given the current uncertainty in respect of both staffing and building costs.

**BUDGET IMPLICATIONS**

Depending on the outcome of any negotiations with the Department of Justice in respect of transferral of existing revenues in support of the court administration, it is anticipated that there should be a positive revenue from the establishment of a Municipal Court.

**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**

Council could decide not to instruct staff to undertake negotiations to form a Municipal Court resulting in the current court structure being retained.

**ATTACHMENTS**

None

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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Report Approved by:



M.E. Donovan, A/Director, Legal Services, 490-4226