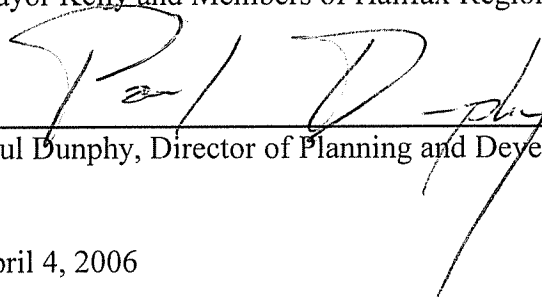


Halifax Regional Council
May 9, 2006

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


Paul Dunphy, Director of Planning and Development Services

DATE: April 4, 2006

SUBJECT: Telecommunication Applications: Public Participation Process

INFORMATION REPORT

ORIGIN:

1. March 28, 2006 - Report was submitted but withdrawn so that staff could clarify an issue ('Background and Discussion - Public Consultation' now has the correct wording).
2. January 31, 2006 (item #12.1) - Regional Council asked staff to provide an information report regarding the process for considering telecommunication applications.

BACKGROUND AND DISCUSSION:

Jurisdiction

With increased cellular phone and radio transmission usage, staff continues to receive applications for telecommunication structures and related equipment. Although the federal government has jurisdiction over all forms of telecommunication, as a matter of policy, Industry Canada, the federal licensing authority, has recognized that municipal authorities may have an interest in the location of antenna structures. Industry Canada therefore provides Municipalities with an opportunity to comment on telecommunication applications which may be taken into consideration in determining whether to issue a license, or under what conditions a license may be granted.

In accordance with constitutional law, the federal government has jurisdiction over all forms of telecommunication and, accordingly, municipal regulations or by-laws have little force or effect over such installations.

The only circumstance where the Municipality has control over the placement of telecommunication equipment is on municipally owned property. If the Municipality chooses not to permit a telecommunication structure on its property, Industry Canada would not accept an application for

that site and a license would not be granted. Regional Council has the opportunity to contemplate an application on municipally owned lands.

Health concerns

Industry Canada requires that telecommunication facilities are operated in accordance with safety guidelines established by Health Canada, under Safety Code 6. Prior to receiving a license the operator must show that the installation meets these safety requirements. Health Canada has clearly defined that they have the sole authority over the potential health impacts of any telecommunication installation and the Municipality may not provide comments on any perceived health impacts.

Process

All telecommunication applications that are received by Municipal Staff must undergo the process outlined herein (Attachment A). When applying for a license to install a telecommunication structure, the onus is on the applicant to provide comments on the proposal from the local land use authority (Municipality) to Industry Canada. It is at the discretion of the applicant to consult with the Municipality, however, if the applicant chooses not to consult with the local authority and an issue arises, Industry Canada may require the applicant to solicit the Municipality for comment, and resolve any outstanding issues. If issues between the applicant and the Municipality can or cannot be resolved, Industry Canada still has the authority to issue or not issue a license.

The process by which the Municipality provides comments to Industry Canada is not outlined by the federal authority and is at the discretion of the Municipality. Currently, staff undertakes a consistent process to review these applications, including:

- receiving the complete application;
- reviewing the application;
- consulting with the Councillor to hold a Public Information Meeting (PIM) or sending out a Letter of Notification to local residents;
- holding the PIM or sending out Letters of Notification;
- preparing the staff report and recommendation (which includes rationale for the recommendation);
- presenting the report to the Planning Advisory Committee (where applicable); and,
- presenting the report and community submissions to Community Council.

Once the process is complete, the Clerk's office forwards Council's recommendation to Industry Canada for their review (please see Attachment A). The Municipality's comments are limited to:

- the visual impact of the proposal;
- the aesthetic of the proposal; and,
- the compatibility of the proposal with the local community.

Public Consultation

Throughout the process, there are opportunities for Councillors to make decisions to undertake more or less public consultation. The Councillor, in consultation with Staff, can decide the extent of consultation (i.e. PIM or Letter of Notification). All processes end at a Community Council meeting, with a recommendation being formulated by Council and sent forward to Industry Canada.

Although Community Council has the ability to allow the public to speak on any issue at a Council meeting, to date, the telecommunication process has not included this opportunity. For clarification,

the present process includes Community Council formulating a recommendation at their meeting, but does not provide an opportunity for members of the public to speak at that meeting.

In the future, Council may decide whether or not they wish to have the public speak in regards to telecommunication applications at a Community Council meeting. Allowing the public to present their concerns in this manner would require changes to Council's administrative procedures. Furthermore, Council has the following options:

1. to permit the public to speak for or against the proposal at the Community Council meeting, prior to Council making a recommendation on the proposal¹ (this would require Council to make changes to their administrative procedures); or,
2. to send the proposal to a PIM (generally only if there is new information available) and defer the recommendation of Council to a later meeting.

If considering option 1, Council should balance the needs of holding an efficient meeting and the needs of the local community to comment on a proposal. If considering option 2, Council would be recognizing a significant delay in the process.

ALTERNATIVES:

None at this time

BUDGET IMPLICATIONS:

None at this time

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN:

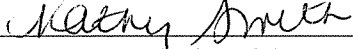

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ATTACHMENTS:

Attachment A Telecommunication applications process flow chart

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: Jaime Smith, Planner 1, Planning and Development Services, 490-4793

Financial Review: 
 Joan Broussard, Financial Consultant, 490-6267

¹This would not constitute a public hearing (as defined under the Municipal Government Act (MGA)), but simply provide an opportunity for the public to provide comment on a specific proposal prior to Council making a recommendation.

Attachment A

**Telecommunication Applications
Process**

Planning and Development Services

Application received by Planning Services (\$300 processing fee and \$800 advertising deposit (includes facility rental and postage))

Application reviewed by Planner

Planner consults with Councillor to determine whether to hold a PIM or send a Notification Letter to local residents

PIM held and/or Notification Letter mailed to local residents by Planning Staff

Staff Report with recommendation prepared by Planner (includes analysis of community concerns)

Report reviewed by Planning Advisory Committee (where applicable)

Report and written submission from the public (where applicable) reviewed by Council (no public hearing)

Recommendation from Council forwarded to Industry Canada

1 There are no specific guidelines or policies against which the application is considered; however, staff generally review an application with respect to compatibility with the community, visual impact and aesthetics.

2 Council has the authority to allow the public to speak at the meeting, and /or, if new information arises, may choose to hold a (second) PIM prior to making their recommendation.