



**HALIFAX REGIONAL COUNCIL
MINUTES
April 29, 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. Cathy Mellett, Municipal Clerk
Ms. Jennifer Weagle, Acting Municipal Clerk
Ms. Krista Vining, Legislative Assistant
Ms. Sheilagh Edmonds, 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://archive.isiglobal.ca/vod/halifax/archive_2014-04-29_live.mp4.html

The agenda, supporting documents, and information items circulated to Council are available online: <http://www.halifax.ca/council/agendasc/140429rcAgenda.php>

The meeting was called to order at 10:00 a.m., and recessed at 12:00 p.m. Council reconvened at 1:00 p.m., recessed at 1:41 p.m. and reconvened at 1:51 p.m. Council recessed at 3:21 p.m. and reconvened at 3:35 p.m. Council moved into an In Camera session at 5:11 p.m. and recessed at 5:34 p.m. Council reconvened at 6:00 p.m. and adjourned at 10:00 p.m.

1. INVOCATION

The Mayor called the meeting to order with the Invocation being led by Councillor Karsten.

Deputy Mayor Fisher introduced El Jones, HRM's poet laureate and provided background on Ms. Jones' work.

Ms. Jones read a poem to Council in acknowledgement of National Poetry Month.

2. SPECIAL COMMUNITY ANNOUNCEMENTS & ACKNOWLEDGEMENTS

Councillors noted a number of special community announcements and acknowledgements.

A moment of silence was held in remembrance of those who served in Afghanistan.

3. APPROVAL OF MINUTES – NONE

4. APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS

Additions:

- 14.1 Executive Standing Committee – Appointment – Board of the Federation of Canadian Municipalities (FCM)

Information Item:

- 7. Proclamation – North American Health and Safety Week – May 4-10, 2014

Deletion:

- 11.1.5 Award – Sole Source Bell Mobility Inc. for Trunked Mobile Radio Equipment, Access and Maintenance

MOVED by Councillor Hendsbee, seconded by Councillor Nicoll that the additions and deletion be accepted. MOTION PUT AND PASSED.

MOVED by Councillor Mosher, seconded by Councillor Karsten that as per Administrative Order 1, Section 28(4), Item 11.1.9 Proposed Amendments to Administrative Order 19, Respecting the Corporate Coat of Arms, Logo and Flag be considered. MOTION PUT AND PASSED.

MOVED by Councillor McCluskey, seconded by Councillor Whitman that the Order of Business be approved as amended. MOTION PUT AND PASSED.

- 5. BUSINESS ARISING OUT OF THE MINUTES – NONE**
- 6. MOTIONS OF RECONSIDERATION – NONE**
- 7. MOTIONS OF RESCISSION – NONE**
- 8. CONSIDERATION OF DEFERRED BUSINESS – NONE**

- 9. APPEAL HEARING – 1:00 P.M.**

- 9.1 Case 9.1 Case 19046 – Appeal of the Design Review Committee Substantive Site Plan Approval for 22nd Commerce Square Development, Halifax**

This matter was addressed later in the meeting, see page 11.

PUBLIC HEARINGS – 6:00 P.M.

- 9.2 Case 18708 – Amendments to the Downtown Halifax Secondary Municipal Planning Strategy (MPS) and Downtown Halifax Land Use By-law (LUB) and Proposed Administrative Order AO-SC-077, Respecting Closure of Part of Grafton Street, Halifax for the Nova Centre Redesign**

This matter was addressed later in the meeting, see page 36.

- 9.3 Halifax & West Community Council - Case 18565 – Municipal Planning Strategy (MPS) and Land Use By-law (LUB) Amendments for 1034, 1042, 1050, & 1056 Wellington Street, Halifax**

This matter was addressed later in the meeting, see page 35.

10. CORRESPONDENCE, PETITIONS & DELEGATIONS

10.1 Correspondence

The Clerk noted that correspondence was received for items: 9.2, 9.3 and 11.3.1. This correspondence was circulated to Council.

For a detailed list of correspondence received refer to the specific agenda item.

10.2 Petitions – None

11. REPORTS

11.1 CHIEF ADMINISTRATIVE OFFICER

11.1.1 Award – Unit Price Tender No. 14-200, Pavement and Sidewalk Renewal and New Gas Main – Duncan Street and Walnut Street – West Region

The following was before Council:

- A staff recommendation report dated March 24, 2014

MOVED by Councillor Mason, seconded by Councillor Watts that Halifax Regional Council:

- 1. Approve a budget increase of \$12,324.10 (net HST included) to Project Account No. CR000005 – Street Recapitalization, funded through cost sharing with the Halifax Water;**
- 2. Approve a budget increase of \$293,002.47 (net HST included) to Project Account No. CR000005 – Street Recapitalization, funded through cost sharing with Heritage Gas; and**
- 3. Award Tender No. 14-200, Pavement and Sidewalk Renewal & New Gas Main – West Region, to the lowest bidder meeting specifications, to Dexter Construction Company for a Total Tender Price of \$923,139.67 (net HST included) with funding from Project Account No(s). CR000005 – Street Recapitalization and CKU01084 – Sidewalk Renewal, as outlined in the Financial Implications section of the March 24, 2014 staff report.**

Councillor Watts spoke in support of the motion and HRM's partnership with Heritage Gas on the project.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillor Rankin

11.1.2 Award – Unit Price Tender No. 14-214, Micro Surfacing – Phase 2 –Various Locations

The following was before Council:

- A staff recommendation report dated March 28, 2014

MOVED by Councillor McCluskey, seconded by Councillor Walker that Halifax Regional Council:

- 1. Approve a budget increase of \$50,687.17 (net HST included) to Project Account No. CR000005 – Street Recapitalization, funded through cost sharing with the Halifax Water; and**

2. **Award Tender No. 14-214, Micro Surfacing – Phase 2 – Various Locations, to the lowest bidder meeting specifications, Industrial Cold Milling for a Total Tender Price of \$1,470,449.29 (net HST included) with funding from Project Account No(s). CR000005 – Street Capitalization and CYU01076 - Curb Renewals, as outlined in the Financial Implications section of the March 28, 2014 staff report.**

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillor Rankin

11.1.3 Award – Unit Price Tender No. 14-216, Asphalt Overlays Phase 1 – Various Locations

The following was before Council:

- A staff recommendation report dated April 1, 2014

MOVED by Councillor Karsten, seconded by Councillor McCluskey that Halifax Regional Council:

1. **Approve a budget increase of \$69,678.69 (net HST included) to Project Account No. CR000005 – Street Recapitalization, funded through cost sharing with Halifax Water; and**
2. **Award Tender No. 14-216, Asphalt Overlays – Various Locations, to the lowest bidder meeting specifications, Basin Contracting Limited for a Total Tender Price of \$948,362.28 (net HST included) with funding from Project Account No(s). CR000005 – Street Recapitalization and CR000002 – New Paving of HRM Owned Subdivision Streets, as outlined in the Financial Implications section of the April 1, 2014 staff report.**

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillor Rankin

11.1.4 Award – Unit Price Tender No. 14-227, Road Widening – Hammonds Plains Road – Central Region

The following was before Council:

- A staff recommendation/information report dated April 2, 2014

MOVED by Councillor Whitman, seconded by Councillor Karsten that Halifax Regional Council award Tender No. 14-227, Road Widening - Hammonds Plains Road - Central Region, to the lowest bidder meeting specifications, Dexter Construction Company Limited for a Total Tender Price of \$1,404,315.28 (net HST included) with funding from Project Account No(s). CR000005 – Street Recapitalization, CTU00420 - Active Transportation

Plan Implementation and CRU01079 - Other Road Related Works, as outlined in the Financial Implications section of the April 2, 2014 staff report.

Councillor Whitman sought Council's support on the motion.

Staff responded to questions of clarification around the project and improvements to the active transportation component such as widening the shoulder of the road to allow for walking/biking.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillor Rankin

11.1.5 Award – Sole Source Bell Mobility Inc. for Trunked Mobile Radio Equipment, Access and Maintenance

The following was before Council:

- A staff recommendation report dated April 7, 2014

This matter was deleted from the agenda during the approval of the Order of Business.

11.1.6 Cost Sharing Agreement – Nova Scotia Department of Transportation and Infrastructure Renewal – Rehabilitation to Various Bridges

The following was before Council:

- A staff recommendation report dated March 27, 2014
- A map of the locations for the three structures (BR80, BR83 and BR127) of the proposed rehabilitation work

MOVED by Councillor Johns, seconded by Councillor Nicoll that Halifax Regional Council authorize the Mayor and Clerk to sign an agreement with the Nova Scotia Department of Transportation and Infrastructure Renewal for \$36,500.10 (net HST included) with funding from Project Account No. CRU01077 Bridge Repair Program, as outlined in the Budget Implications section of the March 27, 2014 staff report.

In response to a question raised by Councillor Watts, Mr. Dave Hubley, Acting Director, Transportation and Public Works provided an overview of the map circulated to Council; explaining that the three structures are located on the Halifax side, between the Windsor Street Exchange and the MacKay Bridge, and that the project was being cost shared with the Province.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillor Rankin

11.1.7 Property Disposal – 46 Lakecrest Drive, Dartmouth

The following was before Council:

- A staff recommendation report dated March 26, 2014

MOVED by Deputy Mayor Fisher, seconded by Councillor McCluskey that Halifax Regional Council authorize the Mayor and Municipal Clerk to enter into a Purchase and Sale Agreement with FH Construction Limited, for HRM property at 46 Lakecrest Drive, Dartmouth, as per the terms and conditions outlined in the staff report dated March 26, 2014 and Table 1 in the Confidential Information Report dated March 26, 2014.

Deputy Mayor Fisher spoke in appreciation of staff's work and the decision to hold onto the property until the completion of the Main Street Plan, and the change in zoning from C-2 to Residential.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillor Rankin

11.1.8 HRM Municipal Alcohol Policy Proposed Public Consultation Approach

The following was before Council:

- A staff recommendation report dated April 29, 2014

On a Point of Order, Councillor Outhit indicated that representatives from Capital Health were delayed and had wanted to observe the discussion around this matter.

MOVED by Councillor Outhit, seconded by Councillor Mason to defer discussion of Item 11.1.8 to 11:30 a.m. (approximately). MOTION PUT AND PASSED.

This matter was addressed later in the meeting, see pages 9 and 29.

11.1.9 Proposed Amendments to Administrative Order 19, Respecting the Corporate Coat of Arms, Logo and Flag

The following was before Council:

- A staff recommendation report dated April 22, 2014

MOVED by Councillor Mosher, seconded by Councillor Walker that Halifax Regional Council adopt the amendments to Administrative Order 19 Respecting the Corporate Coat of Arms, Logo and Flag as set out in Attachment 2 of the staff report dated April 22, 2014.

Mr. Bruce DeBaie, Managing Director, Corporate Communications and Mr. Phil Otto of Revolve Branding Inc. delivered a presentation on the proposed Halifax Brand Identity and how it fits with the approved Halifax Brand Strategy.

Councillor Mosher spoke in support of the Halifax Brand Identity and logo. She noted that the Municipality's legal name would not change and that this was an opportunity to take all of HRM's positive attributes and put them under one strategy to make HRM a great municipality.

Councillor Mason spoke to the natural emotion around change and his support for the modern looking logo and support from HRM youth. In response to a question raised, Mr. DeBaie spoke to the phased approach and being fiscally responsible with the implementation of the brand.

Councillor Whitman supported the brand and commented on it not being possible to please everyone.

In response to a question raised by Councillor McCluskey around the total cost, Mr. DeBaie advised that staff used the scope from the 2007 staff report outlining a recommendation to alter the existing logo from Halifax Regional Municipality to “Halifax”. Staff parsed out items such as visitor centres which are now the responsibility of Destination Halifax. Based on staff’s review, the total cost is between \$475,000 and \$500,000 and would be implemented incrementally.

Councillor McCluskey was not in support of the motion, referring to comments she received from residents who did not like the look of the logo, as well, she did not support the expense to change the signs.

Mr. DeBaie went on to provide greater clarity around the proposed strategy which supports economic development, international brand recognition and creates awareness and promotes HRM’s attributes. He further responded to questions around the cost and provided a breakdown of how the business units would be assisting with transition of repairing/replacing signage.

The discussion ensued with members speaking in support of the brand and logo. Concern was expressed with the logo not reflecting HRM’s heritage.

During the discussion Mayor Savage stepped down as Chair to speak in favour of the brand and logo with Deputy Mayor Fisher assuming the Chair. Mayor Savage resumed as Chair before the close of debate.

MOTION PUT AND PASSED. (14 in favour, 2 against)

In favour: Mayor Savage, Deputy Mayor Fisher, Councillors Dalrymple, Karsten, Nicoll, Mason, Watts, Mosher, Walker, Adams, Whitman, Johns, Craig and Outhit.

Against: Councillors Hendsbee and McCluskey

Not present: Councillor Rankin

At this time Council agreed to defer discussion of Item 11.1.8 to the afternoon session following the Appeal Hearing.

11.2 AUDIT AND FINANCE STANDING COMMITTEE

11.2.1 Facility Development Project Funding

The following was before Council:

- A recommendation report from the Audit and Finance Standing Committee dated April 17, 2014

MOVED by Councillor Karsten, seconded by Councillor Walker that Halifax Regional Council approve the following project budget increases:

1. **CBX01154, Accessibility- HRM Facilities, for 2014/15 in the amount of \$125,000, with funding from Cappool, as per the Financial Implications section of the staff report dated February 21, 2014;**
2. **CB000026, Dartmouth Ferry Terminal Building Renewal, for 2014/15 in the amount of \$520,000, with funding from Cappool, as per the Financial Implications section of the staff report dated February 21, 2014; and**
3. **CBX01046, City Hall and Grand Parade Renewal, for 2014/15 in the amount of \$600,000, with funding from Crespool, as per the Financial Implications section of the staff report dated February 21, 2014.**

Ms. Jane Fraser, Director of Planning and Infrastructure, responded to questions raised around the closure and reduction of multiple accounts and allocation of funds to the 2014-2015 Capital Project Budgets.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillor Rankin

Item 11.3.2 was addressed at this time.

11.3.2 Proposed Administrative Order 2014-003-GOV, Respecting International Partnerships - International Partnership Policy

The following was before Council:

- A recommendation report from the Community Planning and Economic Development Standing Committee dated April 14, 2014

MOVED by Councillor Nicoll, seconded by Councillor McCluskey that Halifax Regional Council:

1. **Adopt the proposed Administrative Order 2014-003-GOV *Respecting International Partnerships* as set out in Attachment 1, of the Community Planning and Economic Development Standing Committee report dated April 14, 2014 which includes the repeal of the 2002 HRM Twinning Policy; and**

2. Maintain the relationships identified in the staff report dated April 3, 2014 (Hakodate, Norfolk, Campeche, and Aberdeen) and categorize Norfolk and Aberdeen as Economic Partnership Agreements, and Hakodate and Campeche as Friendship Partnership Agreements.

Councillor Nicoll advised that the motion was to repeal the 2002 HRM Twinning Policy but that the intent was for the Mayor to form an Ad Hoc Committee that will vet future applications, and therefore any matters, monetary in nature, would be a decision of Regional Council; to which Mr. Richard Butts, Chief Administrative Officer concurred.

In response to a question raised by Councillor Hendsbee, Mr. Paul Johnston, Coordinator, Government Relations and External Affairs, advised that the new policy gives the framework to go forward and work with the four communities, renew the agreements and have a discussion around the type of relationship HRM wants to have with those communities on a go forward basis. He noted that consideration could be given to HRM's relationship with the Cities with Star Citadels when speaking with Hakodate representatives.

Councillor Hendsbee suggested that staff check the records in regards to HRM having a twinning or partnership with another Municipality in Canada.

During the discussion, Mayor Savage reiterated Mr. Johnston's points around developing a framework and that the policy does not limit HRM from pursuing relationships with other areas.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillor Rankin

Mayor Savage advised that on June 23 and 24, 2014, Lord Provost of Aberdeen would be in Halifax with a delegation from his City. A formal recognition ceremony of HRM's relationship with Aberdeen will be held, to which all members of Council are invited; more information is to be provided.

Council recessed at 12:00 p.m. and reconvened at 1:00 p.m.

Item 9.1 was addressed at this time.

9.1 Case 19046 – Appeal of the Design Review Committee Substantive Site Plan Approval for 22nd Commerce Square Development, Halifax

The following was before Council:

- A staff recommendation report dated April 14, 2014
- Letters to the Applicant and the Appellants from Ms. Cathy Mellett dated April 3, 2014
- Applicant's Presentation from Lydon Lynch Architecture entitled "22nd Commerce Square"
- Staff Presentation dated April 29, 2014
- Halifax Regional Municipality Charter Part VIII Planning and Development

- Revised Tab 15 of “Book of Support Documents of the Appellants”
- Letter from Mr. Robert G. Grant, Stewart McKelvey dated April 24, 2014
- CV of Harry V. Jost, B. Arch., MRAIC
- Notes in the Matter of Appeal of the Design Review Committee’s decision in Case #19046 prepared by Harry V. Jost
- Appellants Presentation entitled “Appeal of the DRC, Case #19046 AppellantsPresentation”
- Submissions of the Appellants
- Book of Supporting Documents of the Appellants.

Mayor Savage introduced Case 19046, Appeal of the Decision of the Design Review Committee (DRC) regarding the Substantive Site Plan Approval for 22nd Commerce Square Development, Halifax. The proposal is to develop a mixed residential and commercial development for the lands bounded by Hollis, George, Granville and Duke Streets, Halifax. Regional Council is acting in the capacity as the appeal body for decisions made by the DRC in regards to substantive site plan approvals in the HRM by Design Downtown Plan Area as provided for in the HRM Charter. The Design Review Committee was established with the adoption of the new HRM by Design Downtown Plan Area in October of 2009. Their purpose is to review and decide on applications for standard site plan approvals in the HRM by Design Plan Area of downtown Halifax.

Mayor Savage noted that this is only the second appeal of a decision of the DRC that has been heard by Regional Council. The first was in May 2012 with regards to 1592 Barrington Street. He went on to remind Council that their role is to hear the appeal of the DRC decision and debate the motion before them. Members of Council should not debate the witnesses or counsel for the parties. Council may allow or deny the appeal in part or in whole. Council has the ability to make the same decision that the DRC may have made which is the approval or refusal of the site plan. The hearing process is the same as is followed in a variance appeal, with allowances to accommodate the principles of natural justice required to be followed in quasi-judicial hearings such as this matter. He further reminded Council, that all members must be present for the entire hearing process or they will be unable to vote on the matter.

Mayor Savage opened the hearing of Case 19046 – Appeal of the Design Review Committee Substantive Site Plan Approval for 22nd Commerce Square Development, Halifax.

The Appellants’ Counsel, Mr. Ron Pizzo of Pink Larkin introduced himself and his associate Ms. Kelly McMillan, noting that three of the appellants were in attendance. Mr. Pizzo did not identify the appellants’ names at this time.

The Applicant Property Owner’s Counsel, Mr. Robert Grant of Stewart McKelvey introduced himself, his associate Ms. Nancy Rubin, Mr Eugene Pieczonka of Lydon Lynch Architects who designed the project, and the developer Mr. Wolfgang Thiel, President of Robin Halifax Holdings Ltd.

Mr. John Traves, Municipal Solicitor sought confirmation at this time whether the Counsel for the Appellants and Counsel for the Applicant Property Owner had any preliminary objections; to which Mr. Pizzo and Mr. Grant confirmed they had none.

Mayor Savage called on staff to introduce and make a brief presentation framing the matter. It was noted that the April 14, 2014 staff report had been provided to both the Appellant and the Applicant Counsels in advance of the hearing.

Mr. Kurt Pyle, Major Projects Planner, HRM Development Approvals provided an overview of the April 14, 2014 staff report outlining background, the context of the proposal, the site plan approval process, DRC's February 13, 2014 decision, comments on the reasons for the appeal to Council and a staff recommendation for Council's consideration; including photographs of the 22nd Commerce Square Development. The five municipal heritage properties within the site plan were highlighted: the Canadian Bank of Commerce building, Hayes Insurance building, Merchants Bank of Canada building, Champlain building and Flinn building. The five buildings all have heritage value relative to their architecture, the architect or their association such as the banking industry, and are all incorporated into the design of the proposed development.

During the presentation, Mr. Pyle noted that a separate process and staff report is ongoing relative to this application regarding impacts to the five heritage building. Substantial alternations are reviewed by the Heritage Advisory Committee (HAC) based upon the Heritage Design Guidelines and the Heritage Conservation Standards. HAC has made a recommendation to Regional Council on the proposal and that recommendation will be considered by Regional Council subsequent to this hearing.

In response to the six points made by the appellants in the notices of appeal as to why Regional Council should overturn the decision of the DRC, Mr. Pyle responded as following:

1. The proposed changes to the heritage buildings are not demolition, and as a result this is not a matter for this Appeal as the decision on demolition is determined by staff not DRC.
2. The *Nova Scotia Heritage Protection Act* focuses on exterior appearances of buildings; DRC did consider building envelopes in their discussion and the decision of the DRC is consistent with the Design Manual.
3. DRC's role is to evaluate proposals relative to the Design Manual; Heritage Conservation Standards are addressed by HAC and Regional Council through a separate process; this is not a matter for this Appeal.
4. Conservation Standards are addressed by HAC and Regional Council, not DRC and as a result this is not a matter for this Appeal; Sections 2.4(1) of the Design Manual deals with whether the proposal is appropriate, and in staff's opinion the proposal is appropriate; Section 4.1 of the Design Manual deals with changes to the heritage buildings, the Design Manual provides the DRC with flexibility when considering changes which the DRC utilized; therefore the proposal is consistent with the Design Manual.
5. The minutes of the February 13, 2014 DRC meeting indicate that the Committee received and considered the recommendation of HAC which was to refuse substantial alternations to all five heritage buildings; Section 4(13)(b) of the Design Manual indicates that DRC

should only consider HAC's recommendation which they did, therefore this is not a matter for this Appeal.

6. The February 13, 2014 DRC meeting minutes indicate that the Committee discussed the late-filed materials and agreed to consider the materials at that time; this matter is not relevant to the Design Manual, therefore, is not a matter for this Appeal.

Mr. Pyle noted that the decisions of the Development Officer are not subject to this Appeal and Council's decision must address only the Design Manual issues. Staff recommend that Halifax Regional Council uphold the decision of the DRC and approve the project as set out in DRC's decision dated February 13, 2014.

Mayor Savage asked the Counsel for the Appellant if they had any questions of clarification for staff arising from the presentation.

In regard to the grounds for appeal wherein the DRC failed to review or consider the HAC recommendations, Mr. Pizzo sought clarification as to whether staff is saying that this is not grounds for appeal because the DRC did consider HAC's recommendations; to which Mr. Pyle responded yes. Mr. Pizzo clarified that the allegation the appellants are making is that the DRC failed to properly consider the HAC report, which is different than saying they did not consider HAC's report.

In response, Mr. Pyle stated that it is in staff's opinion that the Land Use By-law only requires that the DRC seek and consider, the degree of consideration to that is not indicated in the Land Use By-law; therefore, the question before Council is the degree of consideration. Based on the February 13, 2014 minutes, the DRC did consider them and in staff's opinion DRC met the requirement.

Mr. Pizzo requested clarification around HAC's requirement to consider character defining elements of the proposal and applying the Design Manual. Mr. Pyle noted that HAC's role is to look at character defining elements because they are dealing with substantial alternations. The character defining elements or the aspects of the heritage buildings in question are evaluated differently by DRC and HAC. HAC deals with these elements relative to the Conservation Standards and the Design Manual, where the DRC only deals with the Design Manual and how it is interpreted.

Mr. Pizzo further asked whether staff would agree that regardless of how the character defining elements are considered, there is still one set of character defining elements. Mr. Pyle agreed that in terms of a building there are only one set of character defining elements.

Mr. Pizzo asked whether the definitions of a character defining element and heritage value are contained in the *Nova Scotia Heritage Property Act* but not defined in the Design Manual, to which Mr. Pyle agreed.

Mr. Pizzo commented that regardless of whether HAC has a different jurisdiction as compared to DRC, there should be one set of character defining elements which would have been determined by HAC. Mr. Pyle agreed that HAC would deal with the character defining elements but that

this Appeal was dealing with only the DRC decision. Mr. Pyle further clarified that DRC has to consider an application based on all aspects of the Design Manual and evaluate the application differently from HAC.

In response to a request made by Mr. Pizzo to have Mr. Pyle identify where the differences are within the Design Manual, Mr. Traves reminded Council and those in attendance that this period is for questions of clarification and not cross examination.

Mayor Savage asked the Counsel for the Applicant Property Owner if they had any questions of clarification for staff arising from the presentation.

Mr. Grant asked whether there is a document that has the force of law, which describes the character defining elements of each of the five subject matter heritage buildings. Mr. Pyle responded that in terms of the character defining elements, they would be filed at the Nova Scotia Registry as the properties are registered, but there is no legislation in terms of the *Nova Scotia Heritage Property Act* or in the Heritage By-law.

Mr. Grant sought confirmation that it would be a matter of judgement for the decision maker what elements can be considered character defining elements for the purposes of the *Nova Scotia Heritage Property Act*, to which Mr. Pyle responded yes.

Mayor Savage asked Council members if they had any questions of clarification for staff arising from the presentation.

In response to questions raised by Councillor Hendsbee, Mr. Pyle confirmed that in terms of this Appeal, Regional Council would make the final decision on the DRC February 13, 2014 decision. There may be an opportunity for Court action but under the HRM Charter this was the final stage. In terms of the removal of the pedway access proposed between the new building and the existing TD building, the DRC recommended that it be removed because not all the detail was available at the time of their decision to approve it and therefore recommended that it be removed from the drawings. Council can approve the pedway access but could not approve the entire pedway as this will require an encroachment agreement and constitute a substantial alternation to the TD building. There are a number of factors to be considered before the pedway would be permitted to occur.

Councillor Mason requested clarification on who determines a character defining element. Mr. Pyle advised that these elements would be an evaluation of the property through an assessment which would be filed at the Nova Scotia Registry.

In regard to a question raised by Councillor Adams around the appeal process and who is eligible to appeal, Mr. Pyle indicated that anyone within the Downtown Plan Area who is a property owner and property owners within 30 metres of the boundary.

Councillor Watts asked whether there would be further opportunity during the appeal process to ask questions of clarification of staff. Mayor Savage advised that there would be an opportunity to ask questions of clarification of witnesses.

Mayor Savage called on the Appellant's witnesses and asked if there were any additional comments they wished to make with respect to the presentation.

Mr. Pizzo advised that as discussed with the Counsel of the Applicant Property Owner, Mr. Grant did not have any questions of the two witnesses from the expert reports submitted for this Appeal. Therefore, the reports are going in the record as is and the witnesses do not have anything further to clarify beyond their statements addressed in their reports.

Mayor Savage asked Counsel for the Applicant Property Owner if they had any questions. Mr. Grant confirmed he had no further questions.

Mayor Savage asked Council members if they had questions of clarification for the Appellant's witnesses, to which there were none.

Mayor Savage called on the Applicant Property Owners witness and asked if there are any additional comments they want to make with respect to their report.

Mr. Grant advised that one of the key elements of the Appellant's appeal relates to the treatment of the project of the heritage resources that are part of the block. He asked permission to have Mr. Eugene Pieczonka of Lydon Lynch Architects describe the project's design, what attention was taken in the course of the design to heritage resources, and how the heritages resources will be treated in the final project. It was noted that Mr. Pieczonka had a few slides of photographs he could use to assist in that description.

Mr. Pizzo expressed objection to Mr. Pieczonka's presentation on the grounds that he had not been provided with the presentation, the slides/photos in the order which they were being presented, in advance of the Appeal. It was his understanding that in accordance with the process that all materials relevant to this matter had to be submitted by April 24th at 4:30 p.m. Mr. Pizzo reiterated that he has seen the photographs before, but not in the order being presented by Mr. Pieczonka.

In response, Mr. Grant certified that the photographs are all part of the record and as a manner of convenience that they were put together in the order for Mr. Pieczonka's presentation.

In response to questions of clarification on process, Mr. Traves advised that the principles of natural justice require the parties to know the case they are facing. There is a view that the material would be provided in advance to review and provide comment, if any. If the Counsel for the Appellant is not satisfied that the photographs are not a reproduction of the record, an alternative is to have the witness proceed without the presentation or refer to the photos which are in the materials that were in front of the DRC.

It was agreed that Council would take a brief recess to allow Mr. Pizzo and Mr. Grant to come to an agreement on the photographs requesting to be presented by Mr. Pieczonka.

Council recessed at 1:41 p.m. and reconvened at 1:51 p.m.

Prior to commencing Mayor Savage identified the four Appellants: Elizabeth Churchill Snell, Robin Stewart, Dr. Petra Jane Mudie and Carol Smith.

Mr. Grant confirmed that Mr. Pizzo has agreed to allow Mr. Pieczonka to present the photographs in this presentation.

Mr. Eugene Pieczonka of Lydon Lynch Architects provided an overview of the proposed development application. It was noted that during the first meeting with the DRC there were some expressed concerns about the design of the hotel, predominantly in regard to the accordion shape and use of a dark glass so close to the Bank of Commerce building. From these comments, they went back to the DRC with a proposed revision to the design of the hotel; making it more consistent with the rest of the design of the development. Mr. Pieczonka noted that the Design Manual's intent is to conserve the character of a historic building while allowing for reasonable change to improve their functional and economic viability while enabling their rehabilitation and revitalization. They used this statement to create a heritage retention strategy to retain the five heritage properties and incorporating their facades into the new development.

Mayor Savage asked Counsel for the Appellant if they had any questions.

Mr. Pizzo requested clarification of the applicants position that the truncated pitch roofs of the Hayes and Flinn buildings are not character defining elements because they are not visible, to which Mr. Pieczonka commented that visibility would be part of the determination.

In response to a question raised by Mr. Pizzo on how one of the photographs was taken of the Hayes building, Mr. Pieczonka indicated that the photograph was from Google Street View.

Mr. Pizzo requested clarification on Mr. Pieczonka's statement that the dormer of the Flinn building is not a character defining element. Mr. Pieczonka stated that it is not a dominant feature of the facade.

Mr. Pizzo asked if Mr. Pieczonka was aware that when staff prepared their report in January 2014 to the HAC indicated that the truncated pitched roves, the dormers and the windows on the Hayes and Flinn buildings were character defining elements, to which Mr. Pieczonka advised he was aware.

In regard to the Champlain building, Mr. Pizzo sought confirmation that during construction whether Mr. Pieczonka is proposing that the four storeys being protected will be retained and not taken apart and restored, to which Mr. Pieczonka advised was correct. Mr. Pizzo referenced the January 24, 2014 staff report (page 9) regarding the buildings six storey height, corner lot location and three dimensional quality being character defining elements. Mr. Pieczonka indicated that the building's height was a point of discussion at the DRC. Mr. Pizzo further noted that in the staff report before the HAC, the six floors were identified as character defining elements, to which Mr. Pieczonka agreed and noted as well that he was aware that it was HAC's position that the truncated roofs and dormers on the Hayes and Flinn buildings were character defining elements. Mr. Pieczonka went on to confirm that staff did provide their opinion and

rationale to the HAC and DRC regarding this matter. He noted both Committees had discussed these elements and at HAC, several of the committee members agreed with the reduction in height of the Champlain building.

Mayor Savage reminded Mr. Pizzo and Mr. Pieczonka that this was still a time for questions of clarification and that there would be an opportunity to make a submission.

Mr. Pizzo sought clarification around the *Heritage Property Act* process which states what has to be considered/ looked at to determine what a character defining element is. Mr. Pieczonka agreed that there was direction on what had to be considered, however, it was subjective in nature. In response to a follow up question, Mr. Pieczonka agreed that as any other opinion, his opinion was subjective in nature.

Mayor Savage called on members of Council to ask questions of the witness for the Applicant Property Owner. There were no questions at this time.

In regards to a question of clarification for staff raised by Councillor Karsten, Mr. Pyle provided confirmation that the conservation standards being spoken about were addressed by HAC.

Mayor Savage asked Counsel for the Appellant and Counsel for the Applicant Property Owner if either had any questions arising from the witness's presentation, to which there were none.

Mayor Savage asked Counsel for the Appellant to make his submission.

Mr. Pizzo advised a few of the slides in his presentation had been revised to what was previously submitted for the record. It was confirmed that Mr. Grant had no objection to Mr. Pizzo's presentation.

Mr. Pizzo delivered his presentation to Council around the provisions that need to be considered when dealing with the protection of heritage; making reference to the Downtown Halifax Secondary Municipal Planning Strategy:

- Section 2.2(3) The Ten Big Moves; A protected and vibrant historic heart

Mr. Pizzo stated that the protection of heritage is recognized as being very important and the protection of heritage does provide economic benefits to Halifax, making it a destination people want to visit.

- Section 3.3(d) Heritage Character

Mr. Pizzo indicated that the statement under this section is further confirmation that the heritage character of a building should be protected and that it is a priority regardless whether of it is before HAC or DRC.

Reference was also made to the Downtown Halifax Land Use By-law (LUB):

- Section 8(3) Registered Heritage Properties

Mr. Pizzo's interpretation of this section was that the Design Manual is in addition to the heritage by-laws and the *Nova Scotia Heritage Property Act* (i.e. By-law H-200 respecting Registered Heritage Act).

- Section 5(18) Limits on Discretion

The DRC consideration of the Design Manual is not an independent review; it is an additional heritage requirement. The Design Manual is to be applied as strictly as an LUB and Heritage By-law in a manner that is consistent with those two by-laws.

During the presentation, Mr. Pizzo stated that heritage value is a term that is used in the Design Manual and the definition of heritage value comes from the *Nova Scotia Heritage Property Act* and the heritage by-laws. Heritage value is a function of the character defining elements. It is the character defining elements of a building that establishes its heritage value. Where character defining elements are not protected, it follows that the heritage value of a building is not protected.

Mr. Pizzo made reference to the Design Manual:

- Section 4.4 Guidelines – Integrated Developments

Mr. Pizzo suggested that the DRC did not consider the building summaries. Mr. Pizzo referenced the Attachments section of the January 24, 2014 staff report to the DRC, which confirms what was submitted to DRC.

Mr. Pizzo noted by destroying the truncated pitched roofs on the Hayes and Flinn buildings and removing two storeys from the Champlain building, character defining elements/heritage value are being lost; reducing the buildings to facades which is not consistent with the Design Manual or the Heritage By-law. Mr. Pizzo further pointed out Section 4.4.2 (b) of the Design Manual which speaks to stepbacks.

- Section 4.5

The intent of these guidelines is to conserve the character of historic buildings while allowing for reasonable change to improve their functional and economic viability and enable their rehabilitation and revitalization.

Mr. Pizzo referenced the definition of the term demolition, meaning *the doing of anything in the removal of a building or any material part thereof* (Building Code Act Regulations 1.3.1.3).

In conclusion, Mr. Pizzo argued that the proposed development for the Hayes, Flinn and Champlain buildings ignore significant character defining elements of these historic buildings. There was no attempt to accommodate nor is there any economic reason why the character defining elements cannot be accommodated. These character defining elements were not referenced in the Heritage Impact Statement or to the DRC. The DRC did not know that building summaries have been completed around the heritage character of these properties so they could not effectively consider this information, as it was not before them. Grounds #1, 2 and 3 for the appeal speak to these arguments. In conclusion, Mr. Pizzo noted that because of the way the by-laws and Design Manual are structured, in addition to the heritage by-laws, there

was no obligation to understand what those other policies and standards were so they could be applied/considered. Based on this reasoning, the February 13, 2014 decision of the DRC should be overturned.

Mayor Savage opened the floor to members of Council to ask questions of clarification of Counsel for the Appellants' submission.

In response to a question raised by Councillor McCluskey around HAC's decision making process and recommendation to DRC, Mr. Pizzo clarified that he was not present at HAC's meeting, noting that the references cited in his report were taken from HAC's minutes.

Mayor Savage asked Counsel for the Applicant Property Owner to make his submission.

Mr. Grant delivered his presentation to Council. On behalf of the developer Robin Halifax Holdings Ltd., Mr. Grant requested Council dismiss the appeal and uphold the February 13, 2014 Design Review Committee so the project could proceed forward to the next stage. During the presentation the following points were made:

- The Appellants focused solely upon the heritage property components of the Design Manual guidelines to the exclusion of all other elements contained in the manual and reading them inappropriately
- Reference was made to Policy 1.3 - Why we need a downtown plan of the Downtown Halifax Municipal Planning Strategy; the five objectives identified are taken into consideration and balanced among each other throughout the planning process
- The DRC had as its mandate the decision making with respect to whether or not this project complied with the qualitative (subjective elements) set out in the Design Manual. The DRC is composed of members having expertise in the fields of architecture and land use planning, and are highly skilled/qualified to make decisions and provide advice to Council; a decision to grant the appeal should be on the grounds that the decision of the DRC was wrong to allow a substantial alternation to a character defining element of the building
- Counsel for the Appellants are putting a higher priority on conservation and heritage matters in the decision before the DRC than the HAC or Council would under the *Nova Scotia Heritage Property Act* or Heritage By-law
- The statements in the Design Manual are not prescriptive but are guidelines, which was recognized by HRM staff as outlined in their report, and was a discretionary qualitative decision for the DRC and now Council
- The Design Manual does not provide a lot of directives, as well there are a number conflicts but the overall objective of the manual is to determine a design that responds to the goals of the plan
- Reference was made to Policy 1.1(b) of the Design Manual which is the discretionary process for which the Design Manual is intended; the manual contains criteria which allows modest modifications to the quantitative elements of the LUB made through the design review process
- Reference was made to Guideline 4.5 of the Design Manual; the intent is to conserve the character of historic buildings while allowing reasonable change to improve their

functional and economic viability and enable their rehabilitation and revitalization; this objective has been met and the DRC was correct in recognizing this

- Reference was made to Guideline 4.1 of the Design Manual; the architect has come up with a creative design that meets the spirit and intent of the Design Manual
- Reference was made to Section 12.6 of the Downtown Halifax Lands Use By-law; the right to obtain bonus height for public benefit is not available where there is a demolition of a heritage building; there is nothing in the plan which proposes demolition of a registered heritage building
- Reference was made to Section 17 of the *Nova Scotia Heritage Property Act* respecting the basis on which heritage buildings cannot be altered without Council approval; the developer, in a \$175 million project, is devoting \$15 million in funding to preserve, restore and enhance the five heritage buildings

Mayor Savage opened the floor to members of Council to ask questions of clarification of Counsel for the Applicant Property Owner's submission, to which there were none.

In response to a question to the Municipal Solicitor raised by Councillor McCluskey around process, Mr. Traves advised that a motion would be put on the floor for debate following the completion of presentations; the decision of Council would be made or deferred for no more than 30 days.

Mayor Savage asked Counsel of the Appellant if he had any comments in response to the presentation.

Mr. Pizzo clarified that the point they were trying to make is there are character defining elements which HRM staff identified and were not considered, and have to be considered, by the DRC. If heritage is going to be protected, then it needs to be considered. The truncated pitched roof, dormer windows and six storeys are all character defining elements. If they were not brought to the attention of the DRC as character defining elements, how could the Committee properly discharge its obligations to apply the Design Manual and come up with a design that meets those requirements and balances those objectives. The appellants are not saying no to the development but are saying a critical part was ignored and should be considered.

Mayor Savage asked Counsel for the Applicant Property Owner if they had any questions for Counsel of the Appellant, to which there were none.

Mr. Traves advised that if Council desires, they may ask questions of clarification from staff at this time as long as there is a fair opportunity for questions in follow up by both Counsels.

On a Point of Order respecting process, Mr. Traves further clarified that the process to be followed under the HRM Charter is the same as on a variance appeal. Allowances that have been made respecting movement from this are in respect to giving the appellants and applicant's Counsel fair and equal opportunity to be heard on the issue. If there are questions for a witness than has been brought forward by either the appellant, the applicant or staff, depending on the circumstance, he would recommend that Counsel ask a follow up question.

Further, Mr. Traves advised Council to deal with the questions at this time, following which the proceedings be closed and a motion be put on the floor for debate.

Councillor Johns sought clarification in regard to the architect's presentation and a photograph shown of the Champlain building in 1910 with the addition of storeys five and six and asked if there were any other buildings in downtown Halifax currently that are more than four storeys that show the same architectural pattern in the windows. Mr. Pyle was unaware of any buildings of this kind.

Councillor Watts asked staff to define the role of Council at this point in the deliberation. Mr. Pyle advised that the role of Council is to act as the DRC would and review the evidence before them from staff, the applicant and the appellant and decide how to move forward; approve the application, approve with conditions or reject.

In response to a question raised by Councillor Watts, Mr. Pyle outlined the differences between the January 24, 2014 staff recommendation to DRC and DRC's approved recommendation.

Councillor Watts further raised questions around the heritage aspect of the Champlain building with the addition of the two storeys in 1910, Ms. Maggie Holm, Heritage Planner, HRM Development Approvals indicated that it is typical for a building to evolve and change over time; specifically heritage buildings change as they have continued use. When staff reviews the heritage values of the buildings, they will include those additions as they remain on the building for a period of time they start to contribute to the overall story of the building.

Councillor Karsten referenced Schedule S5 of the Design Manual and in response to a question raised; Mr. Pyle indicated DRC would work with this schedule. Further, Mr. Pyle clarified that the schedule is part of the Downtown Halifax Land Use By-law. Councillor Karsten pointed out that page after page the schedule is listed as a heritage guideline, suggesting that Council may want to seek clarification around the definition of a guideline.

At the advice of the Municipal Solicitor, both the Counsel or the Appellants and Counsel for the Applicant Property Owner were given an opportunity to ask questions of clarification arising from the questions of Council.

It was noted that Mr. Pizzo had no questions of clarification at this time.

Mr. Grant requested confirmation that notwithstanding that DRC disagreed with staff's recommendation on two points, staff is recommending the dismissal of the appeal on the basis that it considers DRC's decision to comply with the Design Manual, to which Mr. Pyle agreed.

With respect to the Champlain building's façade and the issue as to whether to preserve the original four storeys or six storeys, Mr. Grant requested confirmation that in the Substantive Site Plan Approval Application, the developer's architect identified a structural difficulty in preserving a six storey façade without closing down significant portions of the streets and creating an undesirable risk. Mr. Pyle confirmed that the applicant had advised DRC of this in their presentation of February 13, 2014.

Mr. Grant advised that he had no further questions of clarification related to the questions raised by Council at this time.

Mayor Savage indicated that there were a few members of Council who have questions of clarification at this time, prior to a motion being put on the floor.

Councillor Craig referenced Tab 15 of the Book of Supporting Documents of the Appellants submitted by Pink Larkin, Recommendation Report from Brad Anguish, Director of Community and Recreation Services to the HAC dated January 14, 2014 for HAC's January 22, 2014 meeting. Councillor Craig questioned how much detail was before the DRC and whether the entire January 14th staff report to HAC was before DRC or just the summary included in the January 24, 2014 staff report to DRC. Mr. Pyle advised that in terms of the process, HAC received the January 14, 2014 staff report and made their decision. DRC was provided with HAC's recommendation by the Office of the Municipal Clerk, as HAC only reports to Regional Council under its legislation.

In response to a question raised by Councillor Johns respecting role and authority of Council, Mr. Traves advised that the appeal before Council was a result of the provisions of the HRM Charter and in effect; hearing this appeal, Regional Council may make any decision that the DRC could have made: allow the appeal, deny the appeal, or allow the appeal with conditions.

Councillor Outhit questioned what the most recent version of the proposed application is and when did the change to the proposal happen in the process. Mr. Pyle indicated that up until the day before the DRC's February 13, 2014 meeting, the design was with the accordion. The Applicant submitted a revised drawing that shows the accordion removed and a new glass structure for the hotel on February 12, 2014. This information was provided to DRC by way of email and at the February 13th meeting. He further noted that the April 14, 2014 staff report references the correct drawings.

Councillor Outhit questioned what the process would be in a case where staff made a recommendation opposing a development and DRC did not agree with staff. Mr. Traves advised that Regional Council and the HRM Charter give the decision making authority to the DRC; unless it is contrary to the law, in which case DRC's decision would be challenged

Councillor Hendsbee requested confirmation around heritage conditions or characteristics and that it only applies to exterior visible areas and adjustments can be made to the interior, or to areas not exposed to the public such as the basement or foundation. Mr. Pyle indicated this was correct.

Council recessed at 3:21 p.m. and reconvened at 3:35 p.m.

In follow up to the Municipal Solicitor to his earlier question, Councillor Johns recognized that Council has the same ability and acting role as DRC but expressed concern that Council does not have the same knowledge in the subject matter as the DRC members, and questioned why Council would not have the decision to either accept or deny the appeal. Mr. Traves advised that

the reasoning is that the HRM Charter provides that Council may make any decision that the DRC could make. Council can debate the merits of the DRC decision and determine whether they agree or not.

In response to a question raised from Councillor Johns whether Council could make further amendments to the DRC decision, Mr. Traves suggested a motion be placed on the floor and if an amendment is proposed it could be dealt with at that point. He advised that fundamentally, Council as an appellant body has all the powers of the DRC in terms of its decision. This appeal *de novo* follows a similar process to that of a variance appeal.

Based on any new information that may have come from the questioning of staff, Mayor Savage asked the Counsel for the Appellant and the Counsel for the Applicant Property Owner if they have an issue of summation at this point.

Mr. Pizzo made reference to Ms. Holm's comment on the Champlain building and the six storeys being an important element, and Mr. Pyles' comment around what is currently an amalgamation of buildings and storeys added. Mr. Pizzo commented that the heritage importance is that it shows the evolution and history of the building. The problem with taking the six storey building and restoring it to four storeys is that a) the intent is to restore this building to what it originally was; the reduction does not do this and b) it gives a false sense of the history. The DRC did not have the January 14, 2014 staff report to HAC (Tab 15), as well, the DRC did not have the materials provided in the Book of Supporting Documents of the Appellants submitted by Pink Larkin (Tab 9, 10, 11, 12 and 13) which have the character defining elements and the heritage building summaries prepared by Maggie Holm, Heritage Planner, HRM Development Approvals. The only heritage statements DRC had was the Lydon Lynch report and whatever staff indicated in the subsequent January 29, 2014 report.

Mr. Grant stated that regardless of what the DRC had before them, this is an appeal *de novo* to Regional Council. Council has a decision with respect to the project and to consider how the Design Manual applies to this project, and whether this project has satisfactorily met the intent of the Design Manual. Council will also have the decision to make on the application to substantially alter elements of the heritage buildings. Counsel for the Appellants' objections about the process as followed by the DRC really does not have a bearing upon Council's decision.

Mr. Grant noted that secondly, it is not a simple matter to add additional conditions on an approval, for instance to consider approving the project subject to six storeys being on the Champlain building, or approving the project subject to keeping the sloped truncated roves on the Hayes and Flinn buildings. That sends the design team back to the drawing boards to redesign which, involves a further iteration of the viability of the project and the way it is put forward, and he submitted that this is not an appropriate decision. In this case, the project substantially complies and balances all the requirements of the Design Manual and he urged Council to reject the appeal without any conditions and allow the decision to stand with the project as proposed. He illustrated that if a requirement that the six storeys are to remain on the Champlain building is made, it is apparent from the design and the application of the developer that this would require significant additional bracing which would involve closing down a

portion of Duke Street and Hollis Street for two years of construction. He suggested Council add this into their considerations as to what can be built there and to the consideration of what is the value of that component of the Champlain Building and take into consideration the DRC review. Mr. Grant reiterated the request for Council to dismiss the appeal without any additional conditions.

In accordance with Section 25, Subsection 8(A) of Administrative Order One, it was **MOVED by Deputy Mayor Fisher, seconded by Councillor McCluskey that Halifax Regional Council allow the appeal of the Design Review Committee's decision in Case 19046 – Substantive Site Plan Approval of a mixed-use development for the lands bounded by Hollis, George, Granville and Duke Streets, Halifax, dated February 13, 2014.**

Deputy Mayor Fisher asked the Municipal Solicitor to explain the implications of Section 25, Subsection 25(8A) of Administrative Order One.

Mr. Traves advised that motion is a provide for in Section 25 (8A) that “notwithstanding subsection 8 of this section, where Regional Council, a Community Council or a committee hears an appeal, the motion “to allow the appeal” shall be placed on the floor even if such motion is in opposition to the recommendation contained in the report before them”. He explained that if the motion fails, then the decision of the DRC stands as is; if the motion is allowed, then the appeal is allowed and the project does not proceed.

Council entered into discussion on the motion.

Councillor Mason concurred with Mr. Grant's conclusion around the definition of a demolition, and agreed that a substantial alteration is not a demolition; referencing Section 4.4 of the Heritage Design Guidelines. He understood the Appellants' appeal respecting the truncated roofs but thought this had to be a three dimensional concern with the heritage value. He went on to note that the question for him was whether or not the top two floors on the Champlain building, the roof on the Hayes building and the roof and dormer on the Flinn building were character defining elements. He indicated he believed them to be character defining elements. Councillor Mason went on to agree with staff's opinion that the six storeys of the Champlain building, two storeys added in 1910, should count as a character defining element as was part of staff's assessment and recommendation to DRC. He commented that he walked around the site and the truncated roofs can be seen from the sidewalks but not from the middle of the street or standing underneath. The guidelines allow for the preservation of facades and it is a question of what elements need to be included in the façade. He indicated that he has a possible amendment to the motion but wanted to hear the thoughts of Council.

As a member of the HAC, Councillor Hendsbee spoke to the Committee's debate as outlined in the January 29, 2013 minutes, noting that he was in favour of this development. He pointed out that the Committee discussed the proposed building's magnitude and was supportive of the developer's revision to the hotel, as the accordion style was not conducive to the area and should have a more reflective surface. Councillor Hendsbee went on to provide examples of other buildings that have heritage characteristics in the surrounding area, the developers efforts to

preserve the facades, and that it he would be voting against the motion to uphold the decision of the DRC.

Councillor Karsten spoke to the information before Council and the grounds for appeal provided by the Appellants. He made reference to Schedule S1 that was before DRC and the fact that Council was dealing with heritage design 'guidelines'. Councillor Karsten referenced the Wikipedia definition of the term guideline; concluding that he would not be supporting the motion, allowing the DRC decision to stand.

Councillor Watts commented on the excitement of the development and the integration of the block that would have impact on the downtown experience both commercially and residentially. She did not believe anyone was saying no to the development, noting for the record that she did not mind the accordion style, and that the development has a sense of presence in Halifax that will be important. Councillor Watts indicated that from review of the February 13, 2014 DRC minutes there was a healthy debate and diverse opinion. She went on to highlight staff's original recommendation to DRC (January 24, 2014 staff report) and the staff report dated April 14, 2014 which brings forward and addresses DRC's February 13, 2014 recommendation. Councillor Watts indicated that she would be supporting the motion and would also support a proposed amendment if put forward by Councillor Mason. She commented that now is the time to be very clear about Council's interpretation around those heritage buildings and agreed that the truncated roofs are character defining and that there is value in the six storeys.

Further discussion ensued with Councillors McCluskey and Craig speaking against the motion and any potential amendments and supporting the decision of the DRC of February 13, 2014.

Councillor Outhit suggested if an amendment is put forward that the motions be split. He further requested clarification around Mr. Grant's closing comments around if any changes were to be made by Council, such as the example of the keeping the top two storeys of the Champlain building and the impact to street closures and associated costs. Mr. Traves advised that there is no real way to prove one way or the other at this time. Council has the submission from the Applicant Property Owner and in the absence of it actually occurring there could be a number of estimates. The question could be put to staff if they felt qualified to respond.

In response Mr. Pyle advised that staff is not in a position to calculate in terms of an engineering perspective what the cost and time line would be. In response to a follow up question from Councillor Outhit, Mr. Pyle noted that there are so many variables at this stage, staff couldn't determine unless Council gave the applicant direction.

Councillors Johns, Mosher, Nicoll and Deputy Mayor Fisher spoke in support of the DRC February 13, 2014 decision.

Councillor Mason indicated that he would not be putting forward an amendment at this time, suggesting that a more appropriate avenue to explore these characteristics is when the HAC brings forward their recommendation to Regional Council noting that amendments could be made at that time.

In response to a question raised by Mayor Savage on Council fulfilling its procedural obligations, Mr. Traves suggested that Council hear from the Counsel of the Appellant and Counsel of the Applicant Property Owner if they have any concerns or objections with the process and/or the materials filed.

Mr. Pizzo indicated that it was premature to make comment on the process, stating that it is a fairly truncated process. Counsels did not have full ability to ask all the questions they would have wanted to ask, they did not have full cross examination and there was a lot of hearsay evidence and evidence that was not tested; for example the idea of shutting down streets for two years to keep the six floors, which is not addressed in the reports. Therefore, Mr. Pizzo was concerned that there were significant problems with this process, but that he had tried to work with the process.

In response, Mr. Traves asked if Mr. Pizzo was suggesting that Regional Council had not followed the Variance Appeal Process as per the HRM Charter. Mr. Pizzo stated that there is no process that he found, or been provided in writing, that explained how things are to be done. He expressed that what Regional Council does for variance appeals is their practice and was a practice they have adopted for this Appeal process. If it is an appeal and trial *de novo* that is certainly something different from what he understood to be in law, though he may not be before Council in terms of these kinds of Municipal matters, he does appeal before administrative tribunals regularly and he is quite expert in that and could tell Council that this was not a trial *de novo*; this was a Regional Council process.

Mr. Grant advised that he had no objections to the process and recognized that standard administrative procedures have to be adapted to the nature of the body that is hearing the appeal. He noted that it was not an appeal before the Utility and Review Board and has its own constraints. Within those constraints, he thought Council had done a fair job in letting each side have its say.

Mr. Traves advised that if the vote is carried in favour to allow the appeal, the site plan application is refused. If the vote is in opposition (defeated), the appeal is denied and the decision of the DRC is affirmed.

MOTION PUT AND DEFEATED. (15 in favour, 1 against)

In favour: Mayor Savage, Deputy Mayor Fisher, Councillors Dalrymple, Hendsbee, Karsten, Nicoll, McCluskey, Mason, Mosher, Walker, Adams, Whitman, Johns, Craig and Outhit.

Against: Councillor Watts

Not present: Councillor Rankin

Councillors Nicoll and Mason requested Item 11.3.1 Special Arts and Cultural Advisory Committee Recommendations be addressed at this time, to which Council agreed.

Councillor Karsten asked that Item 14.1 Executive Standing Committee – Appointment – Board of the Federation of Canadian Municipalities (FCM) be addressed following Item 11.3.1, to which Council agreed.

Item 11.3.1 was addressed at this time.

Councillor Johns exited the meeting at this time.

11.3.1 Special Arts and Cultural Advisory Committee Recommendations

The following was before Council:

- A recommendation report from the Community Planning and Economic Development Standing Committee dated March 24, 2014
- Submissions from Glen Reid, Simon-Philippe Allard, John Weagle, Ken Shannik, Dr. J. Stuart Grossert and June and Steve Rigden

MOVED by Councillor Nicoll, seconded by Councillor Mason that:

Whereas \$300,000 has been included in the 2014/15 Operating Budget approved on April 1, 2014 by Regional Council to implement the Interim Professional Arts Organization Grant Program as outlined in Attachment 4 of the staff report dated March 6, 2014, it is recommended that Halifax Regional Council:

- 1. Direct staff to draft an Administrative Order for Regional Council's consideration to implement the Interim Professional Arts Organization Grant Program outlined in Attachment 4 of the staff report dated March 6, 2014;**
- 2. Direct staff to initiative the creation of a professional arts and culture sector advisory committee with a peer jury process for 2015/16 consistent with the Governance Review of Committees, and coordinated with upcoming Grant Policy and Culture and Heritage Priorities Plan; and**
- 3. Direct staff to undertake an analysis of the remaining Special Arts and Cultural Advisory Committee (SACAC) recommendations outlined in Table 1 of the staff report dated March 6, 2014, for determination of financial implications and harmonization with other corporate initiatives.**

A discussion was held with members acknowledging support for local artists and starting the process of creating a professional arts and culture sector advisory committee and implementing the Interim Professional Arts Organization Grant Program.

Councillor Hendsbee was not prepared to give full endorsement at this time, expressing concern with a professional arts and culture sector advisory committee having the ability to grant funding; suggesting this was a similar process to the HRM Grants Committee.

Several members shared in Councillor Hendsbee's concern but were prepared to support the motion.

MOTION PUT AND PASSED. (14 in favour, 1 against)

In favour: Mayor Savage, Deputy Mayor Fisher, Councillors Dalrymple, Karsten, Nicoll, McCluskey, Mason, Watts, Mosher, Walker, Adams, Whitman, Craig and Outhit.

Against: Councillor Hendsbee

Not present: Councillors Rankin and Johns

Item 14.1 was addressed at this time.

14.1 Executive Standing Committee – Appointment – Board of the Federation of Canadian Municipalities (FCM)

The following was before Council:

- A recommendation report from the Executive Standing Committee dated April 28, 2014

MOVED by Councillor Hendsbee, seconded by Councillor Mason that Halifax Regional Council appoint Councillor Bill Karsten as Halifax Regional Council's representative to the Federation of Canadian Municipalities (FCM) Board of Directors for a term from June 2014 to June 2016.

And, adopt the resolution required by FCM in regard to the appointment as provided in Attachment 1 of the Executive Standing Committee report dated April 28, 2014.

Councillor Karsten thanked Council for their support on the matter.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Rankin and Johns

At this time Councillor McCluskey raised the matter of representatives from Capital Health wanting to attend the session to hear the discussion of the HRM Municipal Alcohol Policy Proposed Public Consultation Approach (Item 11.1.8).

MOVED by Councillor McCluskey, seconded by Councillor Karsten to defer Item 11.1.8 HRM Municipal Alcohol Policy Proposed Public Consultation Approach to the May 13, 2014 Regional Council session. MOTION PUT AND PASSED. (13 in favour, 2 against)

In favour: Mayor Savage, Deputy Mayor Fisher, Councillors Dalrymple, Karsten, Nicoll, McCluskey, Mason, Watts, Mosher, Walker, Adams, Whitman and Outhit.

Against: Councillors Hendsbee and Craig.

Not present: Councillors Rankin and Johns.

**11.3.2 Proposed Administrative Order 2014-003-GOV, Respecting International Partnerships - International Partnership Policy
Motion – Adopt Proposed Administrative Order 2014-003-GOV**

This matter was addressed earlier in the meeting, see page 9.

11.3.3 Regional Centre Plan Project Next Steps

The following was before Council:

- A recommendation report from the Community Planning and Economic Development Standing Committee dated April 14, 2014

MOVED by Councillor Nicoll, seconded by Councillor Whitman that Halifax Regional Council:

- 1. Advance the development of a Regional Centre community plan by setting aside previous directives of Regional Council, as outlined in the origin section of this report, and initiate amendments to the Dartmouth Municipal Planning Strategy, Dartmouth Land Use By-Law, Downtown Dartmouth Secondary Municipal Planning Strategy, Downtown Dartmouth Land Use By-Law, Halifax Municipal Planning Strategy and Halifax Land Use By-Law to establish:
 - (a) new planning policies and regulations for the established low density areas of the Regional Centre; and**
 - (b) improved development agreement policy criteria to address residential multiple dwelling unit development and large scale mixed-use development in the Regional Centre.****
- 2. Direct staff to develop a new terms of reference for review and recommendation by CPED, to be adopted by Regional Council, for the Community Design Advisory Committee (CDAC), thereby replacing the terms of reference for this Committee that was adopted by Regional Council on October 4, 2011, and these new terms of reference are to identify the role that CDAC will play in providing strategic advice in the development of the Centre Plan.**
- 3. Direct staff to advance the Regional Centre based projects that are outlined in the February 25, 2014 staff report.**
- 4. Request a supplementary report to Community Planning and Economic Development Standing Committee on including as a Regional Centre based project a neighbourhood planning project for the central north end Halifax with proposed boundary of North Street, Cogswell Street, Agricola/North Park, and Barrington Street.**

Both Councillors Hendsbee and Dalrymple were not in support of the motion, expressing their concerns with not moving forward with the development of a Regional Centre community plan until the Regional Plan Five Year Review (RP+5) has been adopted by Council.

Councillor Mason understood Councillors Hendsbee and Dalrymple's concerns but noted that Regional Council had previously committed in 2011 by way of motion to direct staff to develop a plan for the Regional Centre. He further added that the Regional Plan commits Regional Council to develop a Centre Plan and therefore having a tighter, clearer scope for what Council wants to accomplish around the plan gives staff better direction.

Ms. Jane Fraser, Director of Planning and Infrastructure, agreed with Councillor Mason's comments, advising that the intent of the motion is to sequence a number of planning initiatives currently underway and allow staff to set in place policies that will speed up the process. The work plan has been developed taking into account the in-house resources to allow a number of initiatives to go forward; staff is confident with the resources for the work that is currently underway.

The discussion ensued with several members of Council speaking in support of the motion.

MOTION PUT AND PASSED. (13 in favour, 2 against)

In favour: Mayor Savage, Deputy Mayor Fisher, Councillors Karsten, Nicoll, McCluskey, Mason, Watts, Mosher, Walker, Adams, Whitman, Craig and Outhit

Against: Councillors Dalrymple and Hendsbee

Not present: Councillors Rankin and Johns

11.4 GRANTS COMMITTEE

11.4.1 Former Allen Heights Fire Station #57 – Lease Request Lot A3-PID#40057465, 5680 St. Margaret's Bay Road, Head of St. Margaret's Bay

The following was before Council:

- A recommendation report from the Grants Committee dated April 14, 2014
- Corrected attachment 2 to the staff report dated April 3, 2014

MOVED by Councillor Whitman, seconded by Councillor Watts that Halifax Regional Council approve:

- 1. Demolition of the former fire station building located at 5680 St. Margaret's Bay Road, Head of St. Margaret's Bay, and retention of vacant land for future municipal recreational use; and**

- 2. Decline the request from the Safety Minded ATV Association to lease the former Fire Station #57 building based on site condition, operating viability, and HRM's future operational requirements.**

Councillor Whitman provided supporting comments for the land to remain for community recreational use and asked for Council's support.

In response to a concern raised, Councillor Whitman spoke to the building not being suitable to accommodate the Safety Minded ATV Association and that they have leased another building from HRM on the Rails to Trails at the Head of St. Margaret's Bay, and that he will be looking for ways to help the Association in the near future.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Rankin and Johns

11.5 MEMBERS OF COUNCIL

11.5.1 Mayor Savage – Mayor and Council Review of Task Force on Violence and Public Safety

The following was before Council:

- A recommendation report from Mayor Savage dated April 16, 2014

MOVED by Mayor Savage, seconded by Councillor Watts that Halifax Regional Council:

- 1. Receive the Mayor and Council Review of the Task Force on Violence and Public Safety;**
- 2. Refer the Mayor and Council Review of the Task Force on Violence and Public Safety to Committee of the Whole for discussion on May 13, 2014.**

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Rankin and Johns.

11.5.2 Councillor Johns – Community Sign in Middle Sackville – Lucasville

The following was before Council:

- A Request for Council Consideration Form from Councillor Johns dated April 29, 2014

MOVED by Councillor Whitman, seconded by Councillor Walker that Halifax Regional Council request staff to remove the "Welcome to Middle Sackville" sign pending confirmation on the correct location of the community boundary, and; that staff confirm the boundary for Middle Sackville/Lucasville in the form of a staff report back to Regional Council.

Councillor Whitman provided background around the request as outlined in the request form before Council.

Councillor Craig responded to a question raised around the length of time the sign has been in place, which is since September 2012. He asked to defer the matter to allow the opportunity to speak with Councillor Johns as there could be some confusion with the change of the signs to the Middle Sackville area.

MOVED by Councillor Craig, seconded by Councillor Whitman to defer Item 11.5.2 Councillor Johns – Community Sign in Middle Sackville – Lucasville to the May 23, 2014 Regional Council session. MOTION TO DEFER PUT AND PASSED. (14 in favour, 1 against)

In favour: Mayor Savage, Deputy Mayor Fisher, Councillors Dalrymple, Hendsbee, Karsten, Nicoll, McCluskey, Mason, Watts, Mosher, Walker, Whitman, Craig and Outhit

Against: Councillor Adams

Not present: Councillors Rankin and Johns

11.5.3 Councillor Dalrymple – District Capital Fund Policy - Fall River Minor Football Association

The following was before Council:

- A request for Council Consideration Form from Councillor Dalrymple dated April 29, 2014

MOVED by Councillor Dalrymple, seconded by Councillor Hendsbee that Halifax Regional Council approve a one-time amendment to the District Capital Fund Policy of June 2007 to permit the disbursement of \$10,000, prior to June 30, 2014, to the Fall River Minor Football Association for the purpose of completing topsoil and hydro-seeding of a new community multi-purpose sports field at High Road and Carmel Crescent in Fall River, to be funded from District 1 Capital funds.

In response to a question raised, Mr. Louis de Montbrun, Manager of Financial Reporting, referenced Section 4.2 of the District Capital Fund Policy respecting the reasoning for not approving the disbursement under the Policy. It was noted that the Fall River Minor Football Association is not the owner of the property. He noted that that the Association has a lease for use of the property and that situation does not meet the requirement of the Policy.

Councillor Dalrymple advised that the property is owned by the developer of the Lockview Subdivision, who has offered HRM the ability to purchase the property for \$1 but that HRM has shown no interest. Three years ago the Fall River Minor Football Association signed a five year lease for \$1 and brought in heavy machinery through donations from community groups and organizations to level the field. The field is now at a point where it is playable for the start of

football season in September, as long as the Association receives funding in the amount of \$10,000 so topsoil and hydro-seeding can be done in June. He went on to note that that Association had made an application to HRM's Park and Recreation and the HRM Grants Committee but were denied funding support as they are not the property owners. The Association was advised that if they had long term control over the property it would be sufficient; which the developer agreed to and the Association now has a ten year lease, which can be extended if needed. Councillor Dalrymple added that there is one very poor conditioned soccer field in Fall River at the Lockview High School that the Association rarely gets access to, and this field would be the only other multi-use sports field in District 1 for soccer, rugby and football.

In response to a question , Mr. de Montbrun clarified that the Policy has not been rewritten but staff are in the draft stage of bringing forward a proposal to Regional Council to re-examine the Policy.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Rankin and Johns

11.5.4 Councillors, Mosher, Watts & Mason – Renaming Districts 7, 8 & 9

The following was before Council:

- A request for Council Consideration Form from Councillors Mosher, Watts and Mason dated April 29, 2014

MOVED by Councillor Mosher, seconded by Councillor Mason that Halifax Regional Council approve the renaming of Districts 7, 8 and 9 as follows:

- **District 7 to become Halifax South Downtown**
- **District 8 to become Halifax Peninsula North**
- **District 9 to become Halifax West Armdale**

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Rankin and Johns

Mayor Savage called for any Notices of Motions at this time, of which there were none.

12. MOTIONS – NONE

13. IN CAMERA

- 13.1 Legal Advice With Respect to a Litigation Matter/ Commercial Contract**
A matter pertaining to litigation or potential litigation in regard to an identifiable matter whose disclosure could reasonably be expected to prejudice the interests of the Municipality

MOVED by Councillor McCluskey, seconded by Councillor Whitman that Halifax Regional Council convene to In Camera to discuss a litigation matter. MOTION PUT AND PASSED.

Council convened into In Camera at 5:11 p.m. and recessed at 5:34 p.m.

Council reconvened at 6:05 p.m. for the public hearings. Councillor Johns was not in attendance.

PUBLIC HEARINGS

Councillor Hendsbee questioned if item 9.3 could be deferred because it was expected that item 9.2 would be very time consuming this evening.

The Mayor asked the Solicitor to comment on the process.

Mr. John Traves, Municipal Solicitor advised that if Council wished to move up 9.3 on the agenda, dealing with it first, Council could put a motion on the floor to suspend the rules and bring the matter forward or defer as Council saw fit.

Councillor Mason indicated that if there was concern that Council wouldn't be able to deal with 9.3 this evening, a decision should be made now, so that the members of the public who came out for the hearing wouldn't be sitting for hours, and then find that the hearing is deferred to another time. Councillor Mason advised that he would support a motion to defer.

MOVED by Councillor Mason, seconded by Councillor Hendsbee that the Rules of Procedure be suspended and that Council deal with item 9.3 at this time. (This motion required two-thirds majority)

Councillor Outhit asked the Municipal Clerk how many people signed up to speak on item 9.3. In response, the Clerk advised that 22 people had signed up on the speakers' list.

The Mayor advised that the motion on the floor was to suspend the rules of procedure to deal with item 9.3 at this time

MOTION PUT AND PASSED.

9.3 Halifax & West Community Council - Case 18565 – Municipal Planning Strategy (MPS) and Land Use By-law (LUB) Amendments for 1034, 1042, 1050, & 1056 Wellington Street, Halifax

The following was before Council:

- A staff report dated March 26, 2014
- A staff presentation dated April 29, 2014
- Extract of draft minutes from Regional Council April 1, 2014
- Correspondence was submitted from: Owen Carrigan, Jennifer van Rooyen, Patricia Livingston, Gary Bristow, W. David Jamieson, Anna Fraser and Alan Grant, Muriel A.

Jamieson, Rebecca A. Jamieson, Oriel MacLennan, Denis del Giudice, Anne Marie Taylor, Cecilia Cox, Eugene and Roxane Mio, Roland and Fran McDonah, Philip T. Cox, Ken Mac Innis, David Lemon, Lynn McAslan, Mary L. MacDonald, Dr. Martha Arab, Patsy LeBlanc, Karen Beazley, Ron and Joyce Munroe, Patricia Whitman, Chris and Kirk Annand, Martine Durier-Copp, Jeff Scrutton, Marilyn and Reid Harrison, Gordana Lazin, Nancy Smithers, Barbara M Yeadon, Linda Aiken, J.L. Schaffner, David Bedford, KG Jensen, Sue Tatemien, David A. Kirkpatrick, Kate Kirkpatrick, Kathleen Rotwell, Dana Thurlow, Brad Willett and Jim McKeen, Janet Harrison, Christopher Beaumont, Wendy Katz, Alan R. Young and Rebecca A. Jamieson and Christopher Beaumont.

The Municipal Solicitor advised that the matter was advertised to be held at 6:00 p.m., so the motion to defer will require a specific date.

The Municipal Clerk advised that the public hearing could be held May 20, 2014 at 6:00 p.m.

Councillor Adams pointed out that it was his understanding that the applicant for item 9.3 was not in favour of the application as advertised, and that the residents of the area are not in favour of the proposal. Councillor Adams added that, given this circumstance he would support a motion to rescind Regional Council's original motion scheduling the public hearing.

MOVED by Councillor Adams, seconded by Councillor Whitman that Council waive the Rules of Procedure in order to deal with a motion of rescission.

Councillor Adams pointed out that if his motion was not successful Council will end up holding a public hearing that neither the applicant nor the residents are supportive of.

MOTION PUT AND PASSED. (11 in favour, 4 against)

In favour: Deputy Mayor Darren Fisher; and Councillors: Dalrymple, Hendsbee, Karsten, Nicoll, McCluskey, Mosher, Walker, Adams, Whitman, and Outhit

Against: Mayor Savage; and Councillors: Mason, Watts, and Craig

Not Present: Councillors Rankin and Johns

MOVED by Councillor Hendsbee, seconded by Councillor Adams that Regional Council rescind its motion of April 1, 2014 to give First Reading to consider the proposed amendments to the Halifax Municipal Planning Strategy (MPS) and the Halifax Peninsula Land Use By-law (LUB) to enable development of a multiple unit residential building at 1034, 1042, 1050 and 1056 Wellington Street, Halifax (Case 18565) by development agreement, as contained in Attachments A and B of the March 4, 2014 staff report. (*This motion required two-thirds majority*)

In response to a question by Councillor Outhit about the status of the application, should this motion pass, the Municipal Solicitor advised that the proponent would have to make a new application.

Councillor Adams advised that the proponent is in favour of rescinding the motion.

THE MOTION TO RESCIND WAS PUT AND PASSED. (11 in favour, 4 against)

In favour: Mayor Savage; Deputy Mayor Darren Fisher; and Councillors: Dalrymple, Hendsbee, Karsten, McCluskey, Mosher, Walker, Adams, Whitman, and Outhit

Against: Councillors: Nicoll, Mason, Watts, and Craig

Not Present: Councillors Rankin and Johns

9.2 Case 18708 – Amendments to the Downtown Halifax Secondary Municipal Planning Strategy (MPS) and Downtown Halifax Land Use By-law (LUB) and Proposed Administrative Order AO-SC-077, Respecting Closure of Part of Grafton Street, Halifax for the Nova Centre Redesign

The following was before Council:

- A report dated March 21, 2014 from the Chair of the Design Review Committee, with an attached staff report dated February 28, 2014.
- Correspondence was submitted from: Myra Donnelly-Gay, Martha Leary, Omri Haiven, Edward F. Bowes, Linda J.B. Frank, Timothy P. Leary, Graham Smith, Judy Haiven, Peter McCurdy, Katherine Guitton, Marlene Coffey and John Taiani, Joe Ballard, Peter Wallace, Molly DeShong, Michael Bradfield, Arthur A. Irwin, Marike Finlay, Katherine Kitching, Jane Nicholson, Howard Epstein, Helen A. Ryding, Judy Cookey, John-Wesley Chisholm, Hudson Shotwell, Paul MacKinnon, Valerie A. Payn, Judith Fingard, Angus McDonald, Frank Lively, D. B. Van Buskirk, Andrew Killawee, Sarah Archibald, Janet Kitz, Hugh Davison, Howard Epstein, Robert MacGillivray, Ashley Pringle, Elizabeth Burke, John van Gurp, A. E. Edwards, Susann Myers, Christopher Beaumont and Rebecca Jamieson, Craig Ferguson, Elizabeth Wozniak, and Linda Forbes and Phil Pacey.
- An extract of the draft Regional Council Minutes of April 1, 2014
- Presentation from staff dated April 29, 2014
- Presentation from the applicant entitled “Nova Centre Where Nova Scotia Connects”
- Backgrounder from the applicant dated September 2007 – April 2014

The Mayor reviewed the Rules of Procedure for public hearings.

Mr. Richard Harvey, Major Projects Planner, provided the staff presentation on the proposed amendments to the Downtown Halifax Secondary Municipal Planning Strategy and Downtown Halifax Land Use By-law to allow for a redesign of the Nova Centre on the lands bounded by Argyle, Market, Prince, and Sackville Streets, Halifax.

In his remarks, Mr. Harvey explained that when the original proposal received public feedback there were concerns with the design, particularly that the convention centre was underground. This change and other changes were initiated by the developer and resulted in changes to the

building and, as a result, it is no longer consistent with the land use bylaw. Mr. Harvey went on to point out that the new proposal has the convention centre above ground, the two towers have been enlarged, and it proposes to close Grafton Street to make it a vehicle and pedestrian passageway. He advised that Regional Council is to consider amendments to the planning documents to allow the new built-form; amendments to the planning documents to all the blocks to be consolidated, and consideration of the closure of Grafton Street. Mr. Harvey noted that the actual closure of Grafton Street would be a decision of Council at a later time and only after approval of any amendments to the planning documents.

Mr. Harvey addressed the proposed changes to the built form. He advised that raising the ballroom over Grafton Street has impacted on the public nature of the Street. He also advised that the enlarged width of the towers particularly along Argyle Street may be viewed as an undesirable feature but there are increased variations to the building face that helps break down the building's mass. Mr. Harvey noted that shadow impact studies were done and they indicate there may be some shadowing on public spaces such as Grand Parade but it would not be substantial. Wind impact testing was also carried out and although it resulted in some concern to areas such as Argyle Street; the developer has indicated that these are being addressed and will be overcome at the time of the substantial site plan approval application. Mr. Harvey concluded his presentation by advising that contingent on approvals of the MPS and LUB amendments, at a later time Regional Council will consider the terms and conditions for the street closure; and the final approval of the building will be subject to a substantive site plan approval application.

The Mayor opened the floor to members of Council for any questions of clarification.

Councillor Watts questioned if staff were involved in the public consultation process on the changes. In response, Mr. Harvey advised that it was a separate process from the municipal process.

Deputy Mayor Fisher questioned if there will be public access to Grafton Street after construction of the building. In response, Mr. Harvey advised that it will be a way that vehicles access the parking garage and it will be open to pedestrians to travel through, but the proposal is that it become a private space. In response to a further question, Mr. Harvey advised that there will be a requirement in the proposal that the street remain open for both vehicles and pedestrians and the size of the opening is specified in the amendments.

Councillor Hendsbee questioned whether there is any loss of space for the convention centre by bringing it above grade. Mr. Harvey advised that that the convention space can fit within the new envelope that is proposed.

There being no further questions of clarification from Council, the Mayor opened the floor to members of the public, inviting the applicant to come forward first to speak.

Representatives of the applicant, Argyle Developments Inc. addressed Council and provided a brief overview of the public engagement process carried out with respect to their application.

Mr. Joseph Ramia, Argyle Developments Inc. addressed Council and advised that this evening's proposal was a result of feedback from public engagement. He explained that, based on public feedback, the proposal has been revised, but it no longer adheres to the Land Use Bylaw. He noted that the issue that generated the most debate was the Convention Centre, adding that the public wanted it to be iconic and more visible. Mr. Ramia advised that the current proposal of the development is a superior design over the original, and it reflects a one-of-a-kind unique project.

Mr. Ramia responded to questions of clarification from Council.

Councillor Watts questioned whether it was clear to the public during the consultation process that moving the Convention Centre above ground would result in the closure of the Grafton Street.

Mr. Ramia advised that at their last consultation session it was clearly illustrated that it would involve the street closing.

Councillor Mason advised that the original map shows the height in stories versus metres or feet and he questioned the difference in height between the original and current proposals.

Mr. Ramia advised that the height of the towers is exactly the same.

Prior to members of the public coming forward, the Municipal Solicitor reviewed the matter under consideration for this public hearing and asked that speakers keep their comments on the matter for which the hearing was being held.

Mr. Denis Blouin, Halifax advised that he was very opposed to the proposal, adding that he sees no public benefit in the project, and that he feels there are risks with wind, loss of sunlight, and business losses.

Councillor Adams raised a Point of Order advising that the speaker was not addressing comments specific to the advertised public hearing.

Mayor Savage reiterated the Municipal Solicitor's comment that speakers stay on topic of what was in the advertised public hearing.

Mr. Gary Craig, Halifax, questioned if the economic benefit is part of process for considering the amendments.

The Municipal Solicitor responded that the public hearing is to consider the proposed changes to the Land Use Bylaw.

Mr. Fred Morley, Halifax, advised that he was supportive of the recommendations by staff and he was supportive of the proposal going forward. He added that he had participated in the public consultation, and in his view those involved wanted a better proposal—an iconic structure in downtown Halifax.

Mr. Gary Hurst, Queensland, advised that he was an enthusiastic supporter of the project and will be relieved when it is approved and built. He explained that he has worked in downtown Halifax for the past 37 years and that, in his view, for Halifax to be viable it needs the Nova Centre, the Cogswell Interchange project, and more residents living downtown. Mr. Hurst advised that his immediate concern with the project is access to Grafton Street for north bound traffic. He noted that this has been closed off for excavation and has had a negative impact on his business. Mr. Hurst advised that he hopes Regional Council will follow through on the guiding principle of project and will provide that Grafton Street remains an open, public street.

Ms. Judy Haiven, Halifax, encouraged Council not to approve the amendments to the Land Use Bylaw and the Municipal Planning Strategy, and not to approve the closure of Grafton Street. Ms. Haiven addressed the economics of the project advising that she questioned the soundness of business case around this project, adding that she was concerned because there was little financial analysis carried out.

Mr. Alan Robertson, Halifax, spoke in opposition to the development, and referred to the financial aspects of the proposal and suggested that the proceedings should be halted because there has been misleading information and that Regional Council and the Provincial Cabinet have been misled in this process.

Ms. Beverly Miller, Halifax spoke against the proposal. She pointed out that there are at least six references in the Plan in regard to maintaining the street grid in the downtown, and the references are there because it is good urban policy. She advised that there was no evidence to suggest that this project will live up to the projections Trade Centre Limited set out, and noted that all the reports prepared for the Trade Centre Limited have cautions. Ms. Miller added that if Council is making changes to the Planning Strategy for economic benefits, then this is not the project for that aspect, and she also pointed out that this was not the project that Council approved.

Mr. Alan Ruffman, Ferguson's Cove, spoke in opposition to the project and asked Council to refuse the staff recommendation. He noted that the idea behind building a new convention centre was that it was needed for the City so that the City could host more and bigger conventions; however, with the new proposal he pointed out that the exhibition hall has been reduced 45.8 percent and the ballroom has had a reduction of 19.5 percent. Mr. Ruffman suggested that the Municipality was in a terrible financial bind with this project and asked that Council consider the question, 'do the requested changes confer significant social, economic or cultural benefits over and above the previous approved proposal from 2009/2010'.

Ms. Linda Forbes advised that she was speaking on behalf of Heritage Trust. She asked that Council refuse the staff recommendation because of the negative impact it would have on the views from Citadel Hill, and because it does not recognize the distinctiveness and public benefit aspects of the Downtown Plan. She advised that Council needs to consider whether the changes requested confer a significant enough benefit to allow for a change to the Land Use Bylaw.

Mr. Joe McGuinness, Halifax advised that he and the staff he employs in downtown Halifax collectively support the changes requested by the developer. He advised that the public consultation was good and pointed out that the changes to the proposal have resulted in increased costs to the developer. He also advised that the proposed changes will reduce the noise levels, reduce vehicle traffic, and will create an events plaza for the public in the Argyle Street area. Mr. McGuinness added that having the Nova Centre situated in the centre of the entertainment district of the City will only add to and enhance the area. He advised that in his view, the amendments to the project were slight adjustments and that it would allow the developer to deliver a world class project.

Ms. Caroline Grant addressed Council and advised that she was against the closure of Grafton Street.

Ms. Ivy Ho, Halifax, advised that she worked for the Downtown Halifax Business Commission and she was very supportive of both amendments. She added that there was good public consultation around this project and the current proposal reflects the public's desire for the building. Ms. Ho addressed the issue of private ownership of Grafton Street and noted that she was supportive but wanted Council to put conditions in place to prevent any further privatization. In addition, she would like to see that portion of Grafton Street privately owned remain accessible to the public, and that it should seem like a public street to the common passerby.

Ms. Roberta Dexter advised that she was a member of the Meeting Professionals of Atlantic Canada and was very supportive of the project and asked Council to support the recommended projects to allow the project to proceed. She noted that the closure of Grafton Street will enable the public to enjoy the space as a public venue, and this will provide Halifax with another unique venue.

Mr. Peter Delefes advised that he was a lifelong resident of Halifax and was asking Council to turn down the amendments, adding that they will not confer significant benefits to HRM. Mr. Delefes made reference to the HRMbyDesign project and noted that it provided clear rules for development in the downtown and that these changes should not be allowed. Mr. Delefes expressed concern over the width of the two towers, the impact of the view planes from Citadel Hill and the reduction in space allotted for the ballroom and convention centre as a result of the proposed amendments. He also noted that the first proposal had a galleria over Grafton Street but the term has been dropped from the new proposal. He added that rather than encouraging pedestrians to walk through the area, the new proposal will discourage pedestrians from spending time in the area.

Mr. Iain Taylor, Halifax, asked that Regional Council refuse the changes. He stated that he was a retired professor and studied transformational change involving expropriating the public good for private gain and using public monies to assist private corporations. Mr. Taylor advised that privatizing of public space is a bad idea and he was concerned about the public debt that will occur. He added that the downtown street grid which Halifax has is historic and is at peril.

Nassem Ghosen, advised that he owned the neighbouring property of the site in question, as well as other properties in the downtown. He pointed out that he is more confident about going

forward and developing his properties with the knowledge of the construction of convention centre, and the financial and economic benefits it will have in the downtown.

Ms. Peggy Cameron, Halifax requested that Council refuse the amendments and the closure of Grafton Street. She advised that she does not see any public benefit in the amendments. She pointed out that the proposal was already given special benefits with significant concessions under HRMbyDesign. She pointed out that the consultation process did not remind participants that there was a HRMbyDesign process. She advised that in 2007, a study commissioned by HRM pointed out that it would be highly problematic to develop these two blocks because the Midtown Tower project was revoked, and that a building of no more than 12 stories would be acceptable. Ms. Cameron expressed concern about closing Grafton Street and advised that the Municipality doesn't have to privatize a street in order to make it a pedestrian street.

Mr. Hudson Shotwell advised that he was the owner of Trident Booksellers and that his business was originally located on Argyle Street and since this time he has seen the street deteriorate. Mr. Shotwell expressed concerned with the proposal to close Grafton Street stating that, on a gut level, it does not seem completely justifiable, and he questioned if there was another way that the matter could be solved. He added that it is not a good precedent to set and urged Council not to support the closure.

Council recessed at 8:07 p.m.

Council reconvened at 8:19 p.m.

Ms. Victoria Stanhope addressed Council advising that she was born and raised in Halifax and strongly supported this project and the amendments under consideration this evening. She noted that the public consultation and feedback was incorporated in the design and the overall impact the project will have on the City and the Province is that Halifax is forward thinking and a world class city.

Mr. William Bieckenridget, Halifax, spoke against the closure of Grafton Street. He pointed out that when Scotia Square was being built Council also faced the issue of street closure, and the rules of today came from this past experience to prevent mass blocking. He encouraged Council to look at the history of Scotia Square in considering this application. Mr. Bieckenridget also questioned the safety of pedestrians on a closed-off street.

Mr. Marcel Khoury, Purcell's Cove, advised that he and his brother owned and operated the Halifax Ale House, which employs over 100 people. He advised that both he and his brother were staunch supporters of the Nova Centre and the proposed amendments and feel that it will transform the Nova Centre into a destination spot and, as well, Grafton Street will become a destination point like the Halifax Waterfront has become. Mr. Khoury indicated that the project has encouraged him and his brother to continue in investing in the downtown.

Mr. John El-Tawil advised that he was born and raised in Halifax and that he has contemplated leaving the City because of the difficulty in finding a job. He noted that a lot of his graduating class colleagues have left the area seeking employment and that he sees this project as way to

help in creating new jobs and trigger more development in the downtown. He added that he supported the closure of Grafton Street.

Ms. Janet Shotwell, Halifax advised that she had been involved with the HRMbyDesign process and that she was concerned when the Nova Centre was approved because it was a change to HRMbyDesign. She added that further amendments being requested concern her, and she does not believe the public benefit is significant enough. Ms. Shotwell advised that closing Grafton Street as proposed will create a wind tunnel and she expressed concern that there are no terms and conditions associated with the street closing.

Mr. Danny Chedrawe addressed Council and advised that he was President of Westwood Developments and a resident of Halifax. In his remarks he reminded Council that it was not the developer who brought forward the idea of a convention centre, but it was two previous Provincial Governments that wanted a convention centre in the City. He added that the developer is taking a tremendous risk with the proposal and even more risk in coming back to Council seeking amendments. Mr. Chedrawe advised that, in his view, the current proposal has greatly improved with the removal of parking area from Argyle Street, the design of the towers reflect the history of the City and the future, and the Grafton Street reconfiguration will provide more open space between the two building footprints and a large plaza. In addition, he noted that the convention centre space has been placed above-grade. Mr. Chedrawe advised that delaying this project further would only add more uncertainty and he asked Council to move forward and approve the application.

Ms. Kate Watson, Dartmouth, addressed Council with concern over the possibility of Grafton Street being closed and in private ownership.

Ms. Janet Morris advised that she owns a property within the notification area, and that she was opposed to the proposed development. She added that she loved the City the way it was and preferred to see incremental change. She suggested that the basis for the application is HRMbyDesign Policy 89, however the economic argument advanced in 2009 has been disputed by many, and there has been no new information on this matter. Ms. Morris pointed out that the proposal compromises the City's heritage, and the skyline and heritage street plan is also compromised by this proposal. She noted that the town of Lunenburg received its heritage status mainly due to its mostly original street grid. Ms. Morris advised that with the proposed convention centre, the City's 18th century asset is being compromised for 20th century development without any public benefit.

Ms. Elizabeth Pacey, Halifax advised that she felt this proposal was a damaging development for downtown Halifax. She expressed concern about the impact it would have on views from Citadel Hill suggesting that it will block out the central harbour view and the Georges Island view from the Hill. She pointed out that Citadel Hill generates a lot of revenue for the City from tourists and the City shouldn't damage this world class site. She quoted policies designed to protect the views from Citadel Hill and cited the former Midtown Tower application that was rejected based on these policies, and policy 27 designed to protect streets from being closed to create blocks. Ms. Pacey noted that the public loses with this development and she asked Council to refuse the application.

Ms. Joanne Light, Halifax, advised that her concern was with the design of the development. She suggested that the design hasn't quite made it and referenced a recent architectural trend in New York City of building thin, exclusive towers.

Mr. Don Mills, Corporate Research Associates spoke in support of the proposal. He highlighted three points he felt were pertinent to this application: investment in infrastructure to help economic development; proposed amendments reflect the developers hard work to satisfy the community and the changes people want; and, Grafton Street will become a people place. In concluding his remarks, Mr. Mills advised that he was disturbed by the personal attacks that have come out on both sides of this issue. He pointed out that the developer of this project does not deserve the kind of scorn he's received throughout this process and he commended the developer in maintaining a high level in his responses.

Mr. Phil Pacey, a resident of Halifax and a member of Heritage Trust spoke against the proposal. He stated that it would conflict with more than 20 provisions of the Municipal Planning Strategies and does not respect HRMbyDesign or the Strategies, and in his view, it appears that Council is being asked to change the law to meet the development.

Mr. Michael Murphy, Halifax advised that, in his view, the Nova Centre will become another Scotia Square and that any amendments will be to the detriment of the historic sites of Halifax. Mr. Murphy added that he doesn't see why public money is funding a project with no future, and he suggested that the convention industry should be asked if it would be willing to offer performance guarantees.

Mr. John Hoar, Dartmouth, indicated that his concern with the project was about the closure of Grafton Street and that he would prefer to see it as a public street than a private driveway.

The Mayor called three times for any further speakers; there being none, he invited the applicant to come forward at this time if he wished and respond to any of the comments.

Mr. Ramia addressed Council and responded to comments raised, clarifying the following:

- With regard to the convention centre space, there is 120,000 sq. ft. of revenue generating space, which is the size of the original plan; how it is utilized is a programming issue;
- A wind study was commissioned and it was determined that there would be no more of an impact with this proposal than when the former Chronicle Herald building was on the site, and there would be no wind issues on Grafton Street;
- A shadow study determined there would be only minimal impact;
- In response to concerns over the closure of Grafton Street, he emphasized that the project does not depend on the closure of the street. It was included in this proposal because in the public feedback they received, this is what the public wanted to see in the space.

MOVED by Councillor Mosher, seconded by Councillor McCluskey that the public hearing close. MOTION PUT AND PASSED.

Mr. Richard Harvey, Major Projects Planner, responded to questions.

In response to a question from Councillor Watts, Mr. Harvey advised that, with respect to changes in the towers, they have enlarged in an east-west direction. Mr. Harvey advised that the new design will not limit any convention centre space. Further to this, Mr. Richard Butts, CAO confirmed that there is 120,000 sq. ft. of convention centre space.

MOVED by Councillor Hendsbee, seconded by Councillor Dalrymple that Halifax Regional Council adopt the proposed amendments to the Downtown Halifax Secondary Municipal Planning Strategy and Downtown Halifax Land Use By-law, as contained in Attachments A and B of the staff report dated February 28, 2014, to allow for a redesign of the Nova Centre on the lands bounded by Argyle, Market, Prince and Sackville Streets, Halifax.

Councillor Mason advised that the concern he heard most was about pedestrian and vehicular access to Grafton Street and suggested that Council include the recommendation of the Design Review Committee that the street remain open to the public at all times.

Mr. Harvey advised that this was a matter that would be appropriate to address in a report back to Council, adding that what he has heard this evening is that Council is looking for options around the Grafton Street closure.

Councillor Watts advised that she has not supported this proposal and will continue to oppose it. She **MOVED a motion to defer decision on the request for amendments, however, there was no seconder to the motion and the motion was lost.**

Councillor Mason advised that if staff is reporting back on the proposed street closure of Grafton Street, he would like the report to address the street grid, and to ensure that the street grid could be restored if, at some point in the distant future, the development was no longer there. Also, he asked that the report consider the issue of public safety if public access is maintained.

MOTION PUT AND PASSED. (14 in favour, 1 against)

In favour: Mayor Savage; Deputy Mayor Fisher; and Councillors: Dalrymple, Hendsbee, Karsten, Nicoll, McCluskey, Mason, Mosher, Walker, Adams, Whitman, Craig, and Outhit.

Against: Councillor Watts

Not present: Councillors Rankin and Johns. **14.2 Legal Advice With Respect to a Litigation Matter/ Commercial Contract**

This matter was dealt with at an In Camera session held earlier and was now before Council for ratification.

MOVED by Councillor Walker, seconded by Councillor Karsten that Halifax Regional Council:

1. Proceed on this matter as in accordance with the staff recommendations as set out in the Private and Confidential In Camera report to the Audit and Finance Standing Committee dated April 7, 2014.
2. Not release the Confidential report but release the resulting settlement/agreement once finalized.

MOTION PUT AND PASSED. (11 in favour, 3 against)

In favour: Mayor Savage; Deputy Mayor Fisher; and Councillors Dalrymple, Hendsbee, Karsten, Nicoll, McCluskey, Mason, Watts, Mosher, and Walker.

Against: Councillors Adams, Craig, and Outhit

Not present: Councillor Rankin, Whitman, and Johns

14. ADDED ITEMS

14.1 Executive Standing Committee – Appointment – Board of the Federation of Canadian Municipalities (FCM)

This matter was addressed earlier in the meeting, see page 28.

15. NOTICES OF MOTION – NONE

16. ADJOURNMENT

The meeting was adjourned at 10:00 p.m.

Cathy J. Mellett
Municipal Clerk