



**HALIFAX REGIONAL COUNCIL
MINUTES
March 24, 2015**

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

REGRETS: Councillor Bill Karsten
Councillor Matt Whitman

STAFF: Mr. Richard Butts, Chief Administrative Officer
Mr. John Traves, Municipal Solicitor
Ms. Sherryl Murphy, Deputy Municipal Clerk
Ms. Phoebe Smith, 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_2015-03-24_live.mp4.html

The agenda, supporting documents, and information items circulated to Council are available online: <http://www.halifax.ca/council/agendasc/150324rc-agenda.php>

The meeting was called to order at 1:00 p.m. and recessed at 2:36 p.m. Council reconvened in at 2:55 p.m. Council moved into an in-camera session at 3:57 and reconvened to the public session at 4:11 p.m. Council adjourned at 4:15 p.m.

1. INVOCATION

The Mayor called the meeting to order at 1:00 p.m. with the Invocation being led by Councillor Walker.

2. SPECIAL COMMUNITY ANNOUNCEMENTS & ACKNOWLEDGEMENTS

Councillors noted a number of special community announcements and acknowledgements.

Council observed a moment of silence in memory of Allan Rowe and Stephen Mont.

Mayor Savage and Mr. Richard Butts, CAO provided an update on the municipal response to the recent storm.

3. APPROVAL OF MINUTES – January 28 & February 3, 2015

Councillor Hendsbee referred to page 5 of the February 3, 2015 minutes and noted that he addressed municipal election reform and the issuance of receipts. He asked that the minutes be revised to reflect his comments.

MOVED by Deputy Mayor Nicoll, seconded by Councillor Johns that the minutes of the Regional Council meetings of January 28 and February 3, 2015 be approved, as amended. MOTION PUT AND PASSED.

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

At the request of Councillor Mason, Council agreed to bring forward Information Item 2 – Memorandum from the Director of Operations Support dated March 3, 2015 re: Supplemental Building Information – 1588 Barrington Street and Information Item 3 – Memorandum from the Director of Parks and Recreation dated March 3, 2015 re: Status of Arts Incubator Pilot at 1588 Barrington Street to the agenda of the April 14, 2015 meeting for discussion.

Councillor Hendsbee requested to refer item 12.1 to in-camera.

MOVED by Deputy Mayor Nicoll, seconded by Councillor Walker that the agenda be approved as revised. 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. PUBLIC HEARINGS - NONE

10. CORRESPONDENCE, PETITIONS & DELEGATIONS

10.1 Correspondence

The Clerk noted that correspondence was received for item 11.1.4 and information items 2 and 3. This correspondence was circulated to Council.

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

10.1.1 Fly-past Request – Deadman’s Island Remembrance Event

The following was before Council:

- Correspondence dated March 10, 2015 from Lieutenant David S. Deese, Senior Base Chaplain of the United States Navy.

MOVED by Councillor Mosher, seconded by Councillor McCluskey that Halifax Regional Council grant permission for a CH-124 Sea King to perform a fly-past at levels as low as 500 feet over Deadman’s Island Park, Halifax on Monday, May 25, 2015 at 11:15 a.m. in conjunction with the Deadman’s Island Remembrance Event.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Karsten and Whitman

10.1.2 Fly-past Request – HMCS IROQUOIS Paying Off Ceremony

The following was before Council:

- Correspondence dated March 12, 2015 from Commander Robert J. Watt, Commanding Officer of the Royal Canadian Navy.

MOVED by Councillor Mason, seconded by Councillor Watts that Halifax Regional Council grant permission for a Sea King helicopter to perform a fly-past at levels as low as 500 feet which may also include a hover, approaching HMCS IROQUOIS at her berth on November Bravo Jetty in the vicinity of the Halifax Casino on Friday, May 1, 2015 between 2:00 p.m. and 3:00 p.m. in conjunction with the HMCS IROQUOIS Paying Off Ceremony.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Karsten and Whitman

10.2 Petitions - NONE

10.3 Presentation - NONE

11. REPORTS

11.1 CHIEF ADMINISTRATIVE OFFICER

11.1.1 Award – Unit Price Tender No. 15-211 – Street Planer Patching – Various Locations

The following was before Council:

- A staff recommendation report dated February 26, 2015.

MOVED by Councillor McCluskey, seconded by Deputy Mayor Nicoll that Halifax Regional Council award Tender No. 15-211, Street Planer Patching, Various Locations, to the lowest bidder meeting specifications, ARCP – Atlantic Road Construction & Paving Ltd., for a Total Tender Price of \$1,186,461.82 (net HST included) with funding from Project Account No. CR000005 – Street

Recapitalization, as outlined in the Financial Implications section of the February 26, 2015 staff report.

Councillor Johns noted that within the report some areas are misidentified as belonging to District 14. He noted that items 28, 29, 30 and 38 all fall within the boundaries of District 15 and the report should be amended.

Mr. Dave Hubley, Manager, Project Planning and Design Services, responding to a question from Deputy Mayor Nicoll, noted that the patching technique is part of preparation for a micro-program being developed for 2016/17.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Karsten and Whitman

11.1.2 Award – Unit Price Tender No. 15-201, Pedestrian Overpass Remediation – Victoria Road – East Region

The following was before Council:

- A staff recommendation report dated February 26, 2015.

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

- 1. Award Tender No. 15-201, Pedestrian Overpass Remediation - Victoria Road - East Region, to the lowest bidder meeting specifications, Greendale Resources Inc. for a Total Tender Price of \$563,745.61 (net HST included) with funding from Project Account No. CRU01077 - Bridges, as outlined in the Financial Implications section of the report dated February 26, 2015.**
- 2. Award construction inspection services to Campbell Comeau Engineering Limited in the amount of \$25,360.70 (net HST included) with funding from Project Account No. CRU01077 - Bridges, as outlined in the Financial Implications section of the report dated February 26, 2015.**

A discussion ensued with Mr. Dave Hubley, Manager, Project Planning and Design Services responding to questions.

In response to questions from Councillor McCluskey, Mr. Hubley noted that Victoria Road becomes a provincial road just past Highfield Park Drive, and that the work will take roughly 10 weeks to complete due to the amount of concrete work to be done. Pedestrians will not be able to cross, and one lane on each side of the divided road will be closed.

Responding to a question from Councillor Hendsbee, Mr. Hubley confirmed that the consultant who completed the design work was the only consultant to submit a bid for the project.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Karsten, Johns and Whitman

11.1.3 2015 Spring Debenture

The following was before Council:

- A staff recommendation report dated February 27, 2015.

MOVED by Councillor Rankin, seconded by Deputy Mayor Nicoll that Halifax Regional Council authorize the Mayor and Municipal Clerk to sign the Resolution for Pre-Approval of Debenture

Issuance, subject to interest rate confirmation not to exceed 5.0%, to enable the Halifax Regional Municipality to issue a 10-year debenture of \$27,000,000.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Karsten, Johns and Whitman

11.1.4 Petition of Susan Sutherland (formerly Sheehan) for Private Right of Way

The following was before Council:

- A staff recommendation report dated February 26, 2015, with attached staff recommendation report dated February 17, 2011, Report of Commissioner Baker, Plan of Private Way, and Arbitration Decision.
- A staff presentation dated March 24, 2015
- An extract of Minutes from Regional Council dated March 1, 2011.
- Correspondence dated March 13, 2015 from John A. Keith, Q.C., Partner at Cox & Palmer.
- Correspondence dated March 23, 2015 from Susan Sutherland, Petitioner.

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

- 1. Confirm the report of the Commissioner Deborah Baker, dated November 15, 2014, laying out a private way across the property at 5 Milton Drive for the benefit of 9 Milton Drive; and**
- 2. Confirm the award of the Arbitrators as set out in the decision of the Arbitration Panel dated November 17, 2014.**

Mayor Savage invited Ms. Karen E. MacDonald, Senior Solicitor, Legal Services to provide a presentation on the Petition of Susan Sutherland.

Ms. MacDonald provided background, laid out the financial implications and gave an overview of the options before Council.

Councillor Mosher noted that this has been a long-standing and difficult issue for both parties. She voiced concern with the recommendation to move the right of way further than the petitioner had requested onto the neighbouring property and questioned whether this was in line with the mandate to find the route that is the "most advantageous to the petitioner and least detrimental to the landowner." Councillor Mosher also requested legal commentary on the issue of liability and questioned how the funds disbursed would be recovered by Council.

Ms. MacDonald responded that the Commissioner has discretion on where the private way will be laid out and noted that liability ultimately lies with whichever party is negligent. Ms. MacDonald advised that there is a signed contract with Ms. Sutherland whereby the latter agrees to repay the funds. She noted further that Council could adopt a by-law whereby the amount paid can become the first lien on the property to be collected as with taxes.

Councillor Mosher noted that the correspondence received from the petitioner indicates she does not have the financial means to repay the funds and questioned further how the funds would be recovered by Council. She also reiterated her understanding that the Commissioner does not have the authority to choose the road location citing page 11 of the report. Ms. MacDonald clarified that the report being cited by Councillor Mosher was written by the Commissioner, not by staff. She confirmed that under the Act, the Commissioner does have discretion.

Mr. John Traves, Municipal Solicitor, confirmed that the Commissioner acted within their authority to lay out where the private way is to go. Mr. Traves commented further that Council is entitled to hold Ms. Sutherland to her agreement to repay the funds.

Ms. MacDonald responded to a question from Councillor Hendsbee that there is no authority under the Private Ways Act for Council to question the costs incurred. Councillor Hendsbee also questioned that if the costs exceed the assessed value of the property, how the funds would be collected if the petitioner and if the petitioner could apply for tax relief or a deferral of the lien.

Mr. Traves noted that the property is currently assessed based on its value as a lot without road access and it is anticipated this value will change. He noted further that the bills were carefully reviewed in consultation with arbitrators and appraisers and deemed to reflect the level of work that was involved. Regarding collection of funds, Mr. Traves remarked that it is not within Council's authority to inquire into a private individual's source of funding, and if the petitioner is unable or unwilling to meet the terms of the agreement, Council may seek a by-law to enforce the payment by lien or tax sale.

Councillor McCluskey questioned why the matter was before Council, why the valuation was accepted even though the square footage was incorrect, and why the property was landlocked.

Ms. MacDonald responded that under the Private Ways Act, a petitioner who is landlocked can apply to Council for resolution. She commented that the square footage was not included on the plan so the appraisers came to a consensus, and noted staff's concern that it would cost more to go back to the arbitrators than the difference in value. Finally, Ms. MacDonald noted that the property was unique in that at the time it was purchased it was believed that the property owner had a carriageway but in 1969, according to a Court of Appeals decision, he lost the right to that carriageway and the property was not considered landlocked as it can be accessed by foot and by water.

Councillor Rankin noted that the process had been completed fairly and that Council cannot substitute their opinion for the opinion of the arbitrators or the Commissioner; it can only accept or deny the award.

Councillor Watts noted that Council could agree to cover the arbitration cost without seeking reimbursement by the petitioner. Mr. Traves agreed, adding that Council could direct staff to reduce the amount to be recouped from the petitioner. Councillor Watts put forward the following amendment:

MOVED by Councillor Watts, seconded by Councillor Rankin that Halifax Regional Council amend the motion to reduce the cost to the petitioner by the arbitration cost in the amount of \$61,583.52.

Councillor Mosher indicated that she would not support the amendment, expressing concern that this amendment would set an unwise precedent, and respectfully asked Council not to support it.

Councillor Fisher expressed his agreement with Councillor Mosher and inquired as to what the increase would be to the value of the property. Ms. MacDonald responded that the difference to the value of the property is not yet known.

Councillor Watts clarified for the record that without notice to Ms. Sutherland, there was a securement of the grant on the infilled lands on behalf of the federal government. She noted there were a series of events that directly impacted the Sutherlands' access to their property.

Councillor Outhit questioned what kind of precedent passing the amendment would set. Mr. Traves responded that this is an anomaly and in future Council would have the discretion to grant the petition or not, and to make its own decision regarding the costs, so there is limited precedent.

In response to questions from Councillor Adams, Ms. MacDonald noted that no legal advice or cost estimates were provided to either party.

MOTION TO AMEND PUT AND DEFEATED. (4 in favour, 11 against)

In favour: Councillors Hendsbee, Watts, Walker, Rankin.

Against: Mayor Savage, Deputy Mayor Nicoll, Councillors Dalrymple, McCluskey, Fisher, Mason, Mosher, Adams, Johns, Craig, Outhit.

Not present: Councillors Karsten and Whitman

MAIN MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Karsten and Whitman

11.2 GRANTS COMMITTEE

11.2.1 Grants to Volunteer Search and Rescue Organizations Recommended Awards 2014

The following was before Council:

- A staff recommendation report dated March 4, 2015, with attached staff recommendation report dated February 4, 2015.

MOVED by Councillor Dalrymple, seconded by Councillor Hendsbee that Halifax Regional Council approve the award of operating and capital grant funding to the four (4) volunteer ground search and rescue organizations described in the Discussion section of the staff report dated February 4, 2015, for a combined total of \$138,500 from Operating Account C801-8004.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Karsten and Whitman

11.2.2 Proposed Amendments to Administrative Order 2014-001-ADM, Respecting Tax Relief to Non-Profit Organizations – Referral by Council

The following was before Council:

- An extract of Minutes from Regional Council dated January 13, 2015.
- A staff recommendation report dated March 4, 2015, attached was a supplementary staff report dated January 15, 2015.

MOVED by Councillor Dalrymple, seconded by Councillor Walker that Halifax Regional Council repeal and replace Schedules 27, 28, and 29 of Administrative Order 2014-001-ADM Respecting Tax Relief to Non-Profit Organizations as set out in Attachments 1, 2, 3, and 4 of the supplementary staff report dated January 15, 2015.

Councillor McCluskey questioned why a full exemption was not given to the Atlantic Division of CanoeKayak Canada.

Mr. Peter Greechan, Community Developer, Grants and Contributions, responded that the exemption may be reassessed in the grant program redesign.

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

In favour: Mayor Savage, Deputy Mayor Nicoll, Councillors Dalrymple, Hendsbee, Fisher, Mason, Watts, Mosher, Walker, Adams, Rankin, Johns, Craig, Outhit

Against: Councillor McCluskey

Not present: Councillors Karsten and Whitman

11.2.3 Proposed Amendments to Administrative Order 2014-012-ADM Respecting Grants for Rural Transit

The following was before Council:

- A staff recommendation report dated March 4, 2015, with attached staff recommendation report dated February 2, 2015.

MOVED by Councillor Dalrymple, seconded by Councillor Walker that Halifax Regional Council amend Administrative Order 2014-012-ADM “Respecting Grants for Rural Transit” as set out in Attachment B of the February 2, 2015 staff report.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Karsten and Whitman

Council recessed at 2:36 p.m.

Council reconvened at 2:55 p.m.

11.3 HERITAGE ADVISORY COMMITTEE

11.3.1 Case H00410 – Background Study toward the Establishment of a Heritage Conservation District in Barrington South (Old South Suburb)

The following was before Council:

- A staff recommendation report dated March 5, 2015, with attached staff recommendation report dated February 13, 2015 and the Barrington South (Old South Suburb) Background Study Discussion Paper dated February 13, 2015.

MOVED by Councillor Hendsbee, seconded by Councillor Johns that Halifax Regional Council:

- 1. Accept the background studies contained in Attachment A to initiate the process to establish a Heritage Conservation District in Barrington South (Old South Suburb);**
- 2. Assign the Design Review Committee to review the final Heritage Conservation District plan and bylaw and submit its recommendation to Regional Council;**
- 3. Consider asking the Minister of Communities, Culture, and Heritage for the legislative authority to suspend any potential development in the Barrington South (Old South Suburb) district while undergoing the process of establishing Barrington South (Old South Suburb) as a Heritage Conservation District.**

Councillor Hendsbee asked for clarification on whether the third recommendation would have to be referred to the Minister of Municipal Affairs, who has the authority under the Municipal Government Act with respect to moratoriums or planning matters.

Mr. John Traves, Municipal Solicitor, responded that this matter would be best directed to staff for a report considering the options.

Councillor Mason indicated that he strongly supported the motion and commended the good work done by staff. He put forward the following motion to refer the third recommendation:

MOVED by Councillor Mason, seconded by Councillor Watts that Halifax Regional Council refer to staff for a report to consider asking the Minister of Communities, Culture, and Heritage for the legislative authority to suspend any potential development in the Barrington South (Old South Suburb) district while undergoing the process of establishing Barrington South (Old South Suburb) as a Heritage Conservation District.

MOTION TO REFER PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Karsten and Whitman

Council then voted on recommendations one and two from the main motion, as follows:

MOVED by Councillor Hendsbee, seconded by Councillor Johns that Halifax Regional Council:

- 1. Accept the background studies contained in Attachment A to initiate the process to establish a Heritage Conservation District in Barrington South (Old South Suburb);**
- 2. Assign the Design Review Committee to review the final Heritage Conservation District plan and bylaw and submit its recommendation to Regional Council.**

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Karsten and Whitman

11.4 MEMBERS OF COUNCIL

11.4.1 Deputy Mayor Nicoll – Right-of-Way Stormwater Charge Options

The following was before Council:

- An extract of Minutes from Regional Council dated April 15, 2014.
- An extract of Minutes from Regional Council dated January 14, 2014.
- A staff recommendation report dated January 6, 2014 (please note the date on the report is incorrect), with attached staff recommendation report dated December 11, 2013 and an excerpt of UARB decision dated June 24, 2013.
- A staff information report dated February 9, 2015.

Deputy Mayor Nicoll introduced the matter referencing the recommendation report and citing inquiries received from the public. Councillor Walker suggested that Council consider whether the Stormwater Charge for Right-of-Way should be incorporated into the general tax rate rather than collected by Halifax Water. A discussion ensued with several Councillors noting that they had received many questions on the matter and agreeing that the charge should be easily understood by residents.

Mr. John Traves, Municipal Solicitor, reminded Council that it passed a motion on this matter in the meeting held January 14th 2014 and would have to rescind that decision if they wished to make changes.

Councillors Hendsbee and Dalrymple noted that rural residents of the Municipality do not receive the same services and should not have the charge on their tax bill. Councillor Rankin countered that it is a general service and so a flat tax is appealing.

Mr. Greg Keefe, Chief Financial Officer, responding to a question from Councillor Outhit, noted that the tax could be either added to the general rate, in which case it would be tied to property assessments, or as an area rate, which could be a flat rate or tied to assessments.

Councillor Johns noted that he does not support the way the tax is currently being applied, but certainly does not support levying a cost on rural areas that are currently under the jurisdiction of the province.

Councillor Walker indicated that he will consider tabling a motion of rescission at a future Council meeting.

11.4.2 Councillor McCluskey – Current and Potential Municipal Initiatives to Support Affordable Housing

The following was before Council:

- A staff information report dated February 13, 2015, with attached staff recommendation report dated November 27, 2014

Councillor McCluskey expressed concern regarding citizens living in sub-standard residences. She noted that 2,000 individuals accessed the shelter system this year.

Mayor Savage thanked Councillor McCluskey for bringing this item forward and referenced a letter dated March 11, 2015 from the United Way seeking a contribution to the Housing First initiative. He commended Jim Donovan, Manager of Municipal Compliance for related efforts by the department.

Councillor Johns commended United Way on their efforts to address homelessness and emphasized that the Municipality has a role to play in affordable housing.

Mayor Savage noted that this is a priority for the Federation of Canadian Municipalities (FCM) and noted that he is the Co-Chair of an effort to get housing more firmly entrenched on the national agenda.

12. MOTIONS

12.1 Councillor Hendsbee

That Halifax Regional Council request an in-camera staff report to deal with an issue of refunding and/or reversing a tax-sale proceeding or entertaining a land exchange proposal as a means to resolve a development dispute.

This matter was dealt with later in the meeting during the in-camera session. Refer to page 11 for details.

13. IN CAMERA

13.1 In Camera Minutes – January 28 and February 3, 2015

MOVED by Councillor Fisher, seconded by Deputy Mayor Nicoll that the in-camera minutes of January 28 and February 3, 2015 be approved as circulated. MOTION PUT AND PASSED UNANIMOUSLY.

13.2 Property Matter

A matter pertaining to providing instruction and direction to officers and employees of the Municipality pertaining to the acquisition / sale of land in regard to:

13.2.1 Property Acquisition – Governors Lake, NS – *Private and Confidential Report*

MOVED by Councillor Rankin, seconded by Councillor Mosher that Halifax Regional Council direct staff to negotiate an acquisition of vacant lands in the Governors Lake area, Timberlea, for public water access as outlined in the private and confidential staff report dated March 3, 2015 and to return to Regional Council, if required, for the approval of the Agreement of Purchase and Sale. MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Karsten and Whitman

13.2.2 Property Matter – Bancroft Lane Burnside Park, Dartmouth – *Private and Confidential Report*

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

1. Approve the sale of a portion of PID 41093477 and 41093485, Bancroft Lane, Burnside Park, Dartmouth, further to the terms and conditions outlined in Table 1 of the private and confidential staff report dated February 3, 2015;
2. Approve a temporary construction easement over a portion of PID No.'s 41093477 and 41093485 being the existing Bancroft Lane, Dartmouth further to the terms and conditions outlined in Table 1 of the private and confidential staff report dated February 3, 2015; and
3. Approve the sale of the remaining portions of PIDs 41093477 and 41093485, Bancroft Lane, Dartmouth, further to the terms and conditions outlined in Table 2 of the private and confidential staff report dated February 3, 2015.

It is further recommended that this report not be released to the public until the transaction has closed.

Mr. Peter Stickings, Manager of Real Estate, Corporate Real Estate, responding to questions from Councillor Watts, noted that the zoning for the area is I2 and the property is within the boundary of Burnside Industrial Park.

MOTION PUT AND PASSED UNANIMOUSLY.

Not present: Councillors Karsten and Whitman

14. ADDED ITEMS - NONE

15. NOTICES OF MOTION – NONE

Council convened to an in-camera session at 3:57 p.m. to address the following matter:

12.1 Councillor Hendsbee

That Halifax Regional Council request an in-camera staff report to deal with an issue of refunding and/or reversing a tax-sale proceeding or entertaining a land exchange proposal as a means to resolve a development dispute.

This matter was dealt with in private session.

Council reconvened to public session at 4:11 p.m.

16. ADJOURNMENT

The meeting adjourned at 4:15 p.m.

Cathy J. Mellett
Municipal Clerk