

HALIFAX REGIONAL COUNCIL  
MINUTES

June 7, 2011

PRESENT:

Mayor Peter Kelly  
Deputy Mayor Jim Smith  
Councillors: Steve Streach  
Barry Dalrymple  
David Hendsbee  
Lorelei Nicoll  
Gloria McCluskey  
Darren Fisher  
Bill Karsten  
Jackie Barkhouse  
Mary Wile  
Jerry Blumenthal  
Dawn Sloane  
Sue Uteck  
Jennifer Watts  
Russell Walker  
Debbie Hum  
Linda Mosher  
Stephen Adams  
Brad Johns  
Robert Harvey  
Tim Outhit  
Reg Rankin  
Peter Lund

STAFF:

Mr. Mike Labrecque, Deputy Chief Administrative Officer  
Ms. Mary Ellen Donovan, Municipal Solicitor  
Ms. Cathy Mellett, Municipal Clerk  
Ms. Shawnee Gregory, Legislative Assistant  
Ms. Krista Tidgwell, Legislative Assistant

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## **1. INVOCATION**

Mayor Kelly called the meeting to order at 10:38 a.m. with the Invocation being led by Councillor Harvey.

It was noted that Councillor McCluskey would be sitting in Councillor Karsten's seat for the meeting.

Mayor Kelly thanked staff and Council for a job well done at the recent FCM conference in Halifax.

Councillor Walker, Chair of the FCM 2011 Conference Committee, thanked the HRM staff team including Ms. Marion Currie, Ms. Dee Milne, Ms. Cathie Barrington, Mr. Doug Mosher, Mr. Andre McNeil and Ms. Christen MacDonald as well as Deputy Mayor Smith and Councillors Wile, Karsten, Hendsbee, Rankin and Nicoll. He advised that a full report would be coming to Council with final numbers on attendees and budget; noting that, at this time, the Conference was within budget.

## **2. SPECIAL COMMUNITY ANNOUNCEMENTS & ACKNOWLEDGEMENTS**

Councillor Sloane indicated that an event called 'what do you envision for the future of the Halifax Waterfront?' was taking place that week, including three presentations on the cable wharf and an event at the Art Gallery of Nova Scotia on June 9, 2011. She also announced that a meeting regarding Case 16466 would be taking place on June 8, 2011 at City Hall.

Councillor Wile stated that Halifax Regional Police would be holding a series of public meetings at the Canada Games Centre on June 8, 15 and 22, 2011. She indicated that, during the FCM Conference, a committee had raised \$2,729.00 in two days in support of women in government.

Councillor Blumenthal announced that last week was Access Awareness Week and thanked the committee who organized a party on June 4, 2011. He advised that, over the next week, Ms. Theresa Horwill, head of Neighbourhood Watch in the North End, would be trying to get more people in the Mulgrave Park area involved in Neighbourhood Watch.

Councillor Rankin announced that a Family Day would be held on June 12, 2011 as part of the Peggy's Cove 200th anniversary celebrations.

Councillor Mosher indicated that the Chain of Lakes Trails Association would be holding their annual general meeting on June 16, 2011 and that the Trails' grand opening would be held on June 18, 2011. She announced that Greek Fest would be taking place from June 9 to 12, 2011 at St. George's Church on Purcell's Cove Road.

Councillor Watts announced that the Muslim community was holding an Ummah Family Day on June 11, 2011 at the Maritime Muslim Academy on Chebucto Road.

Councillor Hendsbee indicated that the 90<sup>th</sup> anniversary of the opening of the Nova Scotia Home for Coloured Children was on June 6, 2011 and announced events that would be taking place to mark this anniversary.

Councillor Adams indicated that, on June 11, 2011, the Spryfield Urban Farm Museum Society celebration would be held at the Captain William Spry Centre skateboard park and a breakfast would be held by the Spryfield Business Commission. He announced that Spryfield would now have its own Junior C Hockey League team and their home night would tentatively be Saturdays at 8 p.m.

Councillor Lund indicated that, on June 4, 2011, the St. Margaret's Bay Lions Club had their annual road toll fundraising event and received enough funds for their 11<sup>th</sup> Seeing Eye dog. He stated that Sir John A. MacDonald High School held a successful Relay for Life for cancer research on June 4, 2011 and thanked all involved.

Councillor Hum reminded residents of the HRM Curbside Giveaway taking place on June 11 and 12, 2011.

Councillor Uteck indicated that the Point Pleasant Park Annual Walk for ALS would be held on June 11, 2011. She reminded residents that no dogs were permitted on the Park waterfront after 10 a.m.

Councillor Nicoll stated that the ongoing conversation about a potential stadium in HRM would continue at Cole Harbour Place on June 8, 2011 via an open house.

Councillor Karsten congratulated District 7 resident, Mr. Nathan MacKinnon, who was chosen as first overall pick in the Quebec Major Junior Hockey League and requested Mayor Kelly send a letter of congratulations to Mr. MacKinnon.

Councillor Dalrymple indicated that the Fall River and District Visioning Committee would hold their third and final session on June 13, 2011.

Deputy Mayor Smith stated a community sponsored meeting regarding community issues would be held that evening at the Dartmouth North Community Centre.

### **3. APPROVAL OF MINUTES – May 10, 2011**

Amendments:

May 10, 2011

Item 2, Page 4 - Councillor Hendsbee advised that he had submitted corrections of names to the Clerk's Office

Item 9.1, Page 22:

- Councillor Watts requested that her concern with the integrity of the existing Barrington Street Heritage Conservation District also be included in her comments
- Councillor Lund requested that his concern regarding massing also be included in his comments

Item 9.2, Page 28 - Councillor Watts requested that her concern with the integrity of the existing Barrington Street Heritage Conservation District also be included in her comments

**MOVED by Councillor Sloane, seconded by Councillor Blumenthal, that the minutes of May 10, 2011 be approved as amended. MOTION PUT AND PASSED.**

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

Addition:

12.1 Property Matter – Sale of Land – Burnside, Atlantic Gateway, Halifax Logistics Park

**MOVED by Councillor Sloane, seconded by Councillor Blumenthal that the Order of Business be accepted as amended. MOTION PUT AND PASSED.**

**5. BUSINESS ARISING OUT OF THE MINUTES**

**6. MOTIONS OF RECONSIDERATION – May 24, 2011**

**6.1 Councillor Adams**

“To reconsider the May 24, 2011 motion of Council regarding Item 8.1 –Administrative Order 23 – Inclusion of FeHEDTA as an allowable substance on the Permitted Pesticides List.”

Correspondence dated June 6, 2011 from Mr. Richard M. Grant was submitted.

Correspondence dated March 14, 2011 from Mr. Nathan Boyd was submitted.

Correspondence dated June 7, 2011 from Mr. Terry Ryan was submitted.

Correspondence dated June 7, 2011 from Mr. John Neatby was submitted.

Councillor Adams advised that he was requesting Council's consideration to reconsider their motion to ban the use of FeHEDTA in HRM for the following reasons:

- Debate was cut short and all members did not have the opportunity to have their say
- The use would be spot application only and is not to be used on a broad basis as it would be cost prohibitive

- The Nova Scotia government announced its approved list, which FeHEDTA is included on, and this new legislation comes after extensive public consultation and support from partners such as the Canadian Cancer Society, Doctors NS and the IWK

At Councillor Adams' request, Ms. Mary Ellen Donovan, Municipal Solicitor, provided her perspective on the validity of the May 24, 2011 Council motion to ban the use of FeHEDTA. She advised that the Solicitor present that day had indicated that the motion as passed by Council was inconsistent with Provincial legislation on the subject and there was a prohibition in the HRM Charter against the municipality adopting By-laws that are inconsistent with Provincial legislation. Ms. Donovan stated that; therefore, item 1 of the motion passed on May 24, 2011 was out of order.

**MOVED by Councillor Adams, seconded by Councillor Karsten that Halifax Regional Council reconsider the May 24, 2011 motion of Council regarding Item 8.1 –Administrative Order 23 – Inclusion of FeHEDTA as an allowable substance on the Permitted Pesticides List.**

A recorded vote was taken on the motion.

**MOTION PUT AND PASSED. (17 in favour, 7 against)**

Those voting in favour were Mayor Kelly and Councillors Adams, Blumenthal, Dalrymple, Fisher, Harvey, Johns, McCluskey, Karsten, Mosher, Nicoll, Outhit, Rankin, Streach, Uteck, Walker and Wile.

Those voting against were Deputy Mayor Smith and Councillors Barkhouse, Hendsbee, Hum, Lund, Sloane and Watts.

Council was advised that the original motion could now be put back on the floor for consideration.

**MOVED by Councillor Adams, seconded by Councillor Karsten that Halifax Regional Council**

- 1. Endorse FeHEDTA being included in Administrative Order 23 (Permitted Pesticides List).**
- 2. Request staff to provide a follow up report on the practicality, costs and benefits of aligning Administrative Order 23 with the Provincial Allowable List; and**
- 3. Endorse Policy that Halifax Regional Municipality (HRM) Operations will not use FeHEDTA in municipal turf care operations.**

Discussion on the motion ensued with staff responding to questions.

Ms. Donovan stated that she would be pleased to provide a report to Council to look at the history of these regulations and provide a robust explanation that also looks at inconsistency with the new provincial regulations. She advised that it was correct that HRM was able to adopt more stringent regulations within the provincial regulations; however, section 186 of the Charter clearly states that in adopting any of its By-laws, HRM cannot do anything inconsistent with provincial regulations.

**MOVED by Councillor Hendsbee, seconded by Council Sloane that Regional Council table this matter pending a report from Legal Services. MOTION DEFEATED.**

Discussion on the main motion continued.

Councillor Lund stated that while he was not against spot treatment, he was concerned about the potential widespread use of this product which photo degrades into an iron by-product as well as aluminum, nitrates and phosphorus; noting that soil, lakes and streams would be effected.

Ms. Donovan clarified that if Councillor Adams' motion did not succeed, it was her assumption that the provincial provisions would apply which allow for the sale of the product.

Several Councillors suggested alternate ways in which to remove dandelions and stated that HRM should provide such resource materials to residents.

Several Councillors also agreed with Councillor Lund's concern regarding widespread, commercial use of the product.

Councillor Fisher requested a friendly amendment that FeHEDTA only be permitted to be used on a spot treatment basis.

Mayor Kelly advised that the Solicitor would need to review the amendment.

Deputy Mayor Smith stated it needed to be clear that by passing the motion, HRM would still not be using FeHEDTA so residents would still see dandelions. He indicated that if the Province was in control of HRM's pesticide list, item 1 of the motion was out of order as well, as it should be an automatic process and not be brought forward as a motion.

Council asked that the following points be included in the report from Legal Services:

- Clarity on banning the use versus the sale of FeHEDTA
- Clarification on the fact that the Supreme Court has upheld a decision to ban the use of cosmetic pesticides
- How HRM can control spot application
- An explanation as to why this product is not permitted under the OMRI (Organic Materials Review Institute)

- Who has the responsibility for determining the rules around the application of FeHEDTA - HRM or the Province
- Can HRM or the Province restrict who uses the product

It was requested that the motion be split and a recorded vote be taken.

**MOVED by Councillor Adams, seconded by Councillor Karsten that Halifax Regional Council endorse FeHEDTA being included in Administrative Order 23 (Permitted Pesticides List). MOTION PUT AND PASSED. (17 in favour, 7 against)**

Those voting in favour were Mayor Kelly, Deputy Mayor Smith and Councillors Adams, Blumenthal, Dalrymple, Fisher, Johns, Karsten, McCluskey, Mosher, Nicoll, Outhit, Rankin, Streach, Uteck, Walker and Wile.

Those voting against were Councillors Barkhouse, Harvey, Hendsbee, Hum, Lund, Sloane and Watts.

**MOVED by Councillor Adams, seconded by Councillor Karsten that Halifax Regional Council request staff to provide a follow up report on the practicality, costs and benefits of aligning Administrative Order 23 with the Provincial Allowable List. MOTION PUT AND PASSED. (21 in favour, 3 against)**

Those voting in favour were Mayor Kelly, Deputy Mayor Smith and Councillors Adams, Barkhouse, Blumenthal, Dalrymple, Fisher, Harvey, Hendsbee, Hum, Karsten, Lund, McCluskey, Mosher, Nicoll, Outhit, Streach, Uteck, Walker, Watts and Wile.

Those voting against were Councillors Johns, Rankin and Sloane.

**MOVED by Councillor Adams, seconded by Councillor Karsten that Halifax Regional Council endorse Policy that Halifax Regional Municipality (HRM) Operations will not use FeHEDTA in municipal turf care operations. MOTION PUT AND PASSED. (18 in favour, 6 against)**

Those voting in favour were Mayor Kelly, Deputy Mayor Smith and Councillors Adams, Barkhouse, Fisher, Harvey, Hendsbee, Hum, Johns, Karsten, Lund, McCluskey, Mosher, Nicoll, Sloane, Uteck, Walker and Watts.

Those voting against were Councillors Blumenthal, Dalrymple, Outhit, Rankin, Streach and Wile.

**7. MOTIONS OF RESCISSION – NONE**

**8. CONSIDERATION OF DEFERRED BUSINESS - NONE**

**9. CORRESPONDENCE, PETITIONS & DELEGATIONS**

**9.1 Correspondence – None**

**9.2 Petitions – see page 11**

**9.3 Presentations**

**9.3.1 Auditor General – A Review of Concerts Held on the North Common January 2006 – March 2011**

The Office of the Auditor General's report, A Review of Concerts Held on the north Common January 2006 – March 2011, was circulated to Council.

Mayor Kelly advised that he would remain as Chair for the duration of the meeting.

Mr. Larry Munroe, Auditor General, presented the Review of Concerts held on the North Common January 2006 – March 2011 and reviewed the Executive Summary. He advised that he was bringing the report to Council prior to the Audit and Finance Standing Committee, as is the usual process, due to the interest in the report; noting he would return to the normal process for future reports.

The meeting recessed at 12:20 p.m.

Council reconvened at 1:35 p.m.

**MOVED by Councillor McCluskey, seconded by Councillor Sloane, that Halifax Regional Council refer, without debate, the Auditor General's report to the CAO for review and implementation.**

Councillor Hendsbee requested a recorded vote be taken.

Councillor McCluskey clarified that the intent of the motion is for the matter to be brought back to Council upon completion of the CAO's review.

Ms. Mary Ellen Donovan, Municipal Solicitor, clarified that Section 47 of Administrative Order One specifies that motions to refer are debatable. However, debate shall be limited only to the desirability of referring, deferring or tabling or to the date when the matter should be brought back before the Council. She indicated that Council requires two-thirds majority to suspend the rules and proceed without debate.

Council entered into discussion respecting whether or not to suspend the Rules of Order to allow the referral without debate.

Councillor Uteck questioned whether there is an obligation for HRM to pursue recovery of funds from those who were in violation. Ms. Donovan advised that Legal is reviewing recovery opportunities, as per a previous request of Council. Legal was awaiting the

Auditor General's report to assist them with forming the factual foundation of its report and the information will be provided to Council in the near future.

During the discussion several members of Council expressed concern with not having enough time to review the Auditor General's report in order to enter into debate today. It was suggested that the report be referred to the Audit & Finance Standing Committee for review, as the meetings are open to the media and public and would allow Councillors and the public the opportunity to submit questions to the Standing Committee. The Auditor General noted his support towards sending the report to the Audit & Finance Standing Committee.

Further suggestion was made to defer the Auditor General's report to a special Committee of the Whole session on June 14<sup>th</sup>.

Upon further consideration, Council agreed to amend the motion to refer the Auditor General's report to the CAO and the Audit & Finance Standing Committee without debate.

**MOVED by Councillor McCluskey, seconded by Councillor Sloane, that Halifax Regional Council refer, without debate, the Auditor General's report to the CAO and Audit & Finance Standing Committee for review and implementation.**

Mayor Kelly confirmed that questions can be sent to the CAO and the Audit & Finance Standing Committee.

Discussion ensued with the Auditor General responding to questions of clarification respecting the reports recommendations. It was noted that updates would be provided to Council as the matter progresses.

Councillor Watts requested an amendment to the motion to allow Council, through the Committee of the Whole session on June 14, 2011, an opportunity to address questions and raise comments on the report, of which there was no seconder.

A recorded vote was taken on the amended motion.

**MOTION PUT AND PASSED.**

Those voting in favour were: Mayor Kelly, Deputy Mayor Smith, Councillors Blumenthal, Dalrymple, Fisher, Hendsbee, Hum, Johns, Karsten, McCluskey, Mosher, Nicoll, Rankin, Sloane, Streach, Walker and Wile.

Those voting against were: Councillors Adams, Barkhouse, Harvey, Lund, Outhit, Uteck and Watts.

## **10. REPORTS**

### **10.1 CHIEF ADMINISTRATIVE OFFICER**

#### **10.1.1 Tender 11-254 – Resurfacing and Sidewalk Renewal, Slayter Street, Dartmouth – East Region**

A staff report dated May 16, 2011 was before Council.

**MOVED by Deputy Mayor Smith, seconded by Councillor Walker, that Halifax Regional Council award Tender No. 11-254, Resurfacing and Sidewalk Renewal, Slayter Street, Dartmouth - East Region, to the lowest bidder meeting specifications, Dexter Construction Company Limited, for a Total Tender Price of \$538,845.76 (net HST included) with funding from Projects No. CKU01084 – Sidewalk Renewal, and No. CYX01345 – Street Recapitalization, as outlined in the Budget Implications section of the May 16, 2011 staff report. MOTION PUT AND PASSED.**

Item 9.2 – Petitions was addressed at this time.

### **9.2 Petitions**

#### **9.2.1 Councillor Nicoll**

Councillor Nicoll submitted a petition with ninety-seven (97) signatures from the residents of MacLaughlin Road and Lake Loon Road who have been negatively impacted by the heavy traffic from dump trucks. The residents are requesting that something be done about the safety of their community.

#### **10.1.2 Tender 11-241 – Washmill Lake Drive Extension Phase 3 – West Region**

A staff report dated May 13, 2011 was before Council.

**MOVED by Councillor Wile, seconded by Councillor Walker, that Halifax Regional Council award Tender No. 11-241, Washmill Lake Drive (former Washmill Lake Court) Extension, Phase 3 Bayers Lake Business Park, to the lowest bidder meeting specifications, Dexter Construction Company Limited, for a Total Tender Price of \$1,479,800.00 (no HST included, 100% recoverable), with funding from Project No. CQ300748, Washmill Lake Court/102 Underpass/Regency Park, as outlined in the Budget Implications section of the May 13, 2011 report. MOTION PUT AND PASSED.**

#### **10.1.3 Appointment of Commissioner under *Private Ways Act***

A staff report dated May 20, 2011 was before Council.

In response to a request for clarification by Councillor Mosher, Ms. Mary Ellen Donovan, Municipal Solicitor, advised that although a majority of the expenses were already recoverable under the existing *Private Ways Act (PWA)*, compensation payable to the Commissioners was not included for recovery. Through discussions with the Province, HRM staff indicated that the Municipality would be interested in an amendment to the *PWA* that ensured complete recovery of all the Municipality's expenses; however, this was not one of the amendments made to the *PWA* this past spring.

Councillor Mosher expressed concern with using public funds on a private property matter and requested clarification respecting the definition of a reasonable disbursement. Ms. Karen MacDonald, Solicitor, Legal Services, advised that photocopying, fax charges, travel and postage would be considered as a reasonable disbursement. Ms. MacDonald indicated that she did not anticipate that there would be a lot of disbursements incurred in this matter, noting that a survey had been completed in 1998 and would not have to be done again.

In response to a concern raised by Councillor Mosher regarding HRM having an agreement with one property owner and not the other, Ms. MacDonald clarified that the letter from Dr. and Mrs. Cron's solicitor is not accurate. At the time the *PWA* stated that HRM could recover the funds from Ms. Sheehan for the cost of the Commissioners but there was no mechanism in place. Therefore, HRM entered into an agreement with Ms. Sheehan to have those funds recovered. Ms. MacDonald noted that this is a private matter between HRM and Ms. Sheehan and does not affect Dr. and Mrs. Cons. She further clarified that the February 17, 2011 staff report clearly indicates that the cost of the commissionaire could not be recovered from the private property owner and would have to be born by HRM.

**MOVED by Councillor Hendsbee, seconded by Councillor Walker, that Halifax Regional Council:**

- 1. Appoint Ms. Deborah Baker as commissioner pursuant to section 17 of the *Private Ways Act*, to consider the petition of Susan Sheehan for a private right of way across lands at 5 Milton Drive; and**
- 2. The remuneration payable to Ms. Baker shall be limited to a maximum amount of \$10,000.00 in fees plus HST, and reasonable disbursements.**

In response to a question of clarification raised by Councillor Mosher respecting HRM's recovery method, Ms. MacDonald clarified that Council's initial motion will be followed up on, for Council to enter into an agreement with Ms. Sheehan to pay back the costs of the Commissioners. The amendments to the *PWA* recently passed by the Province allows HRM to set up a By-law to recover these costs either from local residents or directly from the applicant, which is set up similar to a Local Improvement Change (LIC).

Councillor Mosher noted for the record that she was not in support of billing an improvement area, as this is a private property matter.

**MOTION PUT AND PASSED.**

**10.1.4 Porters Lake Recreation Centre – Furniture, Fixtures and Equipment**

A staff report dated May 4, 2011 was before Council.

Councillor Hendsbee advised that plans to relocate some of the playground equipment from the old school in Porters Lake to the new school could not be done as the equipment must remain at the old school site. He noted that he has spoken with staff respecting this and requested an amendment of an additional \$10,000. He further commented that his district funds are also going towards this project.

**MOVED by Councillor Hendsbee, seconded by Councillor Dalrymple, that Halifax Regional Council approve an increase to Project #CBX01282 - Porter's Lake Community Centre by \$135,000 for the purchase of Furniture, Fixtures, and Equipment (FF&E), and that the required funding be provided from the existing District 3 Capital Area Rate.**

A brief discussion ensued with staff responding to questions respecting the project's area rate.

In response to concerns raised by members of Council regarding area rates, staff advised that a report on area rates and Local Improvement Charges (LIC) would be coming forward to Council in the near future.

**MOTION PUT AND PASSED.**

**10.1.5 New Area Rate for Bedford Community Centre and Realignment of Catchment Area for St. Margaret's Centre Area Rate**

A staff report dated May 19, 2011 was before Council.

Submissions from Elaine Loney, Marlene Fairhurst-Vaugh, Barb and Brad Brophy, Heather Landry, Don Mosher, Thomas Nolte, Mike Downward and Christine Feierabend, Anita Hovey, Larry and Valerie Thomas, Paul Edwards, Tracy Gerrior, Christa Colpitts, Lois Dillon, Jennifer Mills and Les Stright.

**MOVED by Councillor Outhit, seconded by Councillor Lund, that Halifax Regional Council approve:**

- 1. An area rate of \$0.018 per \$100 of taxable assessment to be applied to all Residential, Commercial, Resource, and Business Occupancy assessment within the catchment area depicted in the map attached to this report as Appendix A for a period not to exceed 12 years to partially fund the cost to construct the Bedford Hammonds Plains Community Centre; and**

2. **Revise the catchment area for the St. Margaret's Centre area rate to that depicted in the map attached to the May 19, 2011 staff report as Appendix C to exclude those properties which will be included in the catchment area for the Bedford Hammonds Plains Community Centre.**

Council entered into a brief discussion. It was noted that staff would provide Council with a version of the coloured map which was easier to read.

**MOTION PUT AND PASSED.**

Council recessed at 3:15 p.m.

Council reconvened at 3:28 p.m.

**10.2 HARBOUR EAST COMMUNITY COUNCIL**

**10.2.1 Case 15940 – Forest Hills Planned Unit Development**

A report from the Harbour East Community Council dated May 17, 2011 was before Council.

**MOVED by Councillor Nicoll, seconded by Councillor Karsten, that Halifax Regional Council Give First Reading to the proposed amendments to the Municipal Planning Strategy and Land Use By-Law for Cole Harbour/Westphal, to replace provisions pertaining to the Forest Hills Planned Unit Development with new policies and standard zoning, as contained in Attachments "A" and "B" of the April 15, 2011 staff report and schedule a Public Hearing.**

Council entered into a brief discussion with staff responding to questions of clarification regarding the development's housing options (ie. affordable housing).

**MOTION PUT AND PASSED.**

Public Hearing scheduled for July 5, 2011.

**10.3 HERITAGE ADVISORY COMMITTEE**

**10.3.1 Case H00355 – Substantial Alteration to 52 King Street, Dartmouth, Elledge McElmon House, a Registered Municipal Heritage Property**

A report from the Heritage Advisory Committee dated May 18, 2011 was before Council.

**MOVED by Councillor Karsten, seconded by Deputy Mayor Smith, that Halifax Regional Council approve the proposed addition, cladding alterations, and replication of original decorative details at 52 King Street, Dartmouth, as described in the April 12, 2011 staff report. MOTION PUT AND PASSED.**

**10.3.2 Extension of Carry Overs of Approved 2009/2010 Heritage Incentives and Extension of Approved 2010 / 2011 Heritage Incentives for the Barrington Street Heritage Conservation District**

A report from the Heritage Advisory Committee dated May 18, 2011 was before Council.

**MOVED by Councillor Uteck, seconded by Councillor Sloane, that Halifax Regional Council:**

1. **Approve extension of 09/10 heritage incentive approvals and applicable grant funds carry-over (to reserve Q312) and tax credits into the 2011-12 fiscal year for:**
  - (a) **1533 Barrington Street - Freemasons Building: maximum grant \$96,878; tax credit \$203,033**
  - (b) **1585 Barrington Street - Green Lantern Building: Maximum grant \$96,878; maximum tax credit \$488,020.**
2. **Confirm approval for extension of 10/11 heritage incentive approvals and applicable tax credits into the 2011 /2012 fiscal year for:**
  - (a) **1558 Barrington Street - Farquhar (Venus Pizza) Building; maximum tax credit \$204,778;**
  - (b) **1662 Barrington Street - Former Granite Brewery Building; maximum tax credit \$157,273; and**
  - (c) **1568 Barrington Street - Former N.S. Furnishings (Telus) Building; maximum tax credit \$25,493.**

Councillor Uteck advised that the Freemasons Building is currently under construction and the Green Lantern Building should be under construction shortly; if not, it will come back to Council.

**MOTION PUT AND PASSED.**

**11. MOTIONS**

**11.1 Councillor Sloane**

- (i) "That Regional Council discharge the development agreement for the former Texpark site, between Halifax Regional Municipality and United Gulf Developments Limited, dated November 28, 2007 and filed in the Halifax County Land Registration Office as Document No. 89466073."

A submission from Jenifer Tsang dated June 6, 2011 was before Council.

Councillor Sloane advised that during a Planning Advisory Committee meeting for District 12 a question was raised respecting the former Texpark site. The Development Agreement (DA) indicates that United Gulf Developments Limited would be permitted use of the parking lot while awaiting the DA. The DA expired March 2010 and through her discussions with staff, it was noted that HRM has not received any new plans or requests for extension from the developer. Councillor Sloane indicated that staff have asked her to bring this matter forward for discharge.

**MOVED by Councillor Sloane, seconded by Councillor Johns, that Halifax Regional Council discharge the development agreement for the former Texpark site, between Halifax Regional Municipality and United Gulf Developments Limited, dated November 28, 2007 and filed in the Halifax County Land Registration Office as Document No. 89466073.**

It was noted that Council has received a request from the proponent to make a presentation

Ms. Jennifer Tsang, Planning Consultant on behalf of United Gulf Developments Limited, requested that Council not discharge the DA today. United Gulf feels that the DA is significant and without some benefit of a staff report or review of the implications, it would be premature to discharge it at this time.

Council entered into discussion, with Ms. Tsang and staff responding to questions of clarification respecting the DA. Highlights were as follows:

- United Gulf is currently in discussions with its architect to explore their options; changes to the current design will be brought back to Council, of which they anticipate will be in a matter of weeks
- if the DA is substantially changed (ie. buildings height and width), staff would be looking to make those changes under the policies of HRM by Design
- the proposed building is approximately 286 feet in height; under HRM by Design the maximum permitted height is 216 feet; meaning once the building is at the 216 foot level or lower, and there is no applicable development agreement in place, then HRM by Design's rules apply (ie. no appeals)

In response to a question raised by Councillor Adams respecting whether the current DA could undergo a substantial alternation, Mr. Austin French, Manager, Planning Services, Community Development, advised that he would have to review the agreement before he could respond to Council. He anticipated that there could be some design modifications that may or may not require Council's approval.

In response to a question raised by Councillor Watts, Ms. Tsang indicated that the development's delay was due to the appeal process, changes in the economy and having to review the design to determine what is appropriate. She noted that Council approved the DA in March 2006; however, the appeal process took 18 months to complete. The DA requires construction to commence within four (4) years of approval. She provided further examples of timeframes and requirements leading up to construction:

- up to a year to define a detailed architectural design
- six (6) months to obtain a building permit
- several months for pre-sales

Ms. Tsang noted that there was a misunderstanding respecting the DA's expiry date, due to the appeal process. For a period of time United Gulf thought the expiry date was March 2011. Ms. Tsang reiterated that United Gulf does not feel that they are too far out of the original four year period. As they are close to making a decision on the design, United Gulf would like for Council not to discharge the DA at this time.

The Municipal Solicitor clarified that under HRM by Design's rules, the property could be built to a height of 216 feet, which would not require a Development Agreement. However, the site based planning process still applies. She further noted that Council also has options through its Buy Back Agreement with United Gulf.

Ms. Tsang indicated that United Gulf had approached HRM staff to request an extension but were advised that staff would not put forward a positive recommendation to Council. Councillor Harvey commented that United Gulf should have put forward their request as Council makes the final decision, not staff.

Further discussion was held with staff responding to questions of clarification respecting HRM's Buy Back Agreement with United Gulf.

**MOVED by Councillor Walker, seconded by Councillor Sloane, to defer pending a staff report.**

Councillor Johns requested that the staff report identify the direct negative impact to the municipality if an extension were granted.

Councillor Uteck request that staff review and include within the staff report, implications of all development agreements within the downtown. As well as, provide a recommendation on a go forward application.

It was noted that the staff report is anticipated to return to Council in September 2011.

**MOTION OF DEFERRAL PUT AND PASSED.**

- (ii) "To request that staff develop a policy report regarding the adoption of a policy requiring satellite stores in the Capital District for any new big box stores in any business parks in HRM."

Submissions from Bruce Grainger, Cathy Crosby and Peter Moorhouse were before Council.

Councillor Sloane requested an amendment to her original Notice of Motion to request a staff report, which would allow for further discussion to take place.

**MOVED by Councillor Sloane, seconded by Councillor Harvey, to request a staff report re: the adoption of required satellite stores in the Capital District for any new big box stores in any business park in HRM.**

Council entered into discussion. The following points, concerns and suggestions were noted:

- concern with smaller businesses being pushed out of the downtown by larger box stores
- seek out opportunities to bring residents to the downtown
- possibility of referring this matter to the Community Planning & Economic Development Standing Committee for review
- concern with whether Councillor Mosher's amendment to request a staff report falls within the original intent of the Notice of Motion provided; there is a difference between a request for a staff report and policy formation
- businesses downtown service the residents who live and work downtown
- option of affordable housing for the downtown; live and shop where affordable
- concerned with residents leaving the downtown due to high taxes and rent; possibility of providing incentives to live downtown

**MOTION PUT AND DEFEATED.**

In response to a question of clarification raised by Councillor Johns, Ms. Mary Ellen Donovan, Municipal Solicitor, advised that a Notice of Motion is designed to respond to the circumstances of the time. She commented that it is going to be difficult to determine at this stage, the original intent of Councillor Sloane's Notice of Motion. Minimally, the Notice of Motion was always intended to give other members of Council an opportunity to consider the point in advance of debate. Councillor Johns requested that Council seek further clarification regarding amendments to motions following a Notice of Motion.

**12. ADDED ITEMS**

**12.1 Property Matter – Sale of Land – Burnside Atlantic Gateway – Halifax Logistics Park**

The following motion was approved during an earlier In Camera session and was now before Council for ratification.

**MOVED by Deputy Mayor Smith, seconded by Councillor Karsten, that Halifax Regional Council:**

- 1) Authorize the Mayor and Municipal Clerk to enter into an agreement of Purchase and Sale with the proposed purchaser, subject to the minimum key terms and conditions in Table 1 and the budget implications outlined in the private and confidential report dated May 13, 2011; and**

- 2) **Not release the private and confidential report dated May 13, 2011 to the public until such time as the transaction has closed.**

**MOTION PUT AND PASSED.**

**13. NOTICE OF MOTION – NONE**

**14. ADJOURNMENT**

The meeting adjourned at 4:50 p.m.

Cathy J. Mellett  
Municipal Clerk

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**Information Items  
June 7, 2011**

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1. Proclamation – Oceans Day – June 8, 2011
2. Proclamation – World Refugee Day – June 20, 2011
3. Memorandum from Director, Community Development dated May 2, 2011  
re: Petition - Sackville Cross Road Renaming Request
4. Memorandum from Acting Director, Finance dated May 2, 2011  
re: Award of Contracts – CAO Approval
5. Memorandum from Chair, Environment & Sustainability Standing Committee  
dated May 18, 2011 re: European Fire Ants
6. Memorandum from Chair, Environment & Sustainability Standing Committee  
dated May 18, 2011 re: Community Garden Heavy Metal Study
7. Memorandum from the Municipal Clerk dated May 31, 2011  
re: Requests for Presentation to Council - None