

HALIFAX REGIONAL COUNCIL
MINUTES

October 25, 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
Robert Harvey
Tim Outhit
Reg Rankin
Peter Lund

REGRETS:

Councillor: Brad Johns

STAFF:

Mr. Richard Butts, Chief Administrative Officer
Ms. Mary Ellen Donovan, Municipal Solicitor
Ms. Sherryl Murphy, Acting Municipal Clerk
Ms. Krista Vining, Legislative Assistant

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1. INVOCATION

The Mayor called the meeting to order at 1:46 p.m. with the Invocation being led by Councillor Blumenthal.

2. SPECIAL COMMUNITY ANNOUNCEMENTS & ACKNOWLEDGEMENTS

Councillors noted a number of acknowledgements and community events.

3. APPROVAL OF MINUTES – NONE

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

Additions:

12.1 Proclamation – Movember – November 2011

12.2 **Audit & Finance Standing Committee Report** - Write-off of Uncollectible Accounts

12.3 **Motion - Councillor Watts** – Canada-European Comprehensive Economic and Trade Agreement (CETA) Negotiations

“To request a staff report on the current status of negotiations of the Canada-European Comprehensive Economic and Trade Agreement (CETA) and the possible impacts on HRM of the proposed trade agreement. Specifically, I would request an update from the Province of Nova Scotia on the status of negotiations with the federal government on behalf of Nova Scotia municipalities. The staff report to include possible actions for Regional Council to consider in response to possible negative impacts of the proposed agreements”

12.4 **Councillor Rankin**

(i) Request for staff report re: Street Signage Management Non-100 Series Provincial Highways

(ii) Request for staff report re: Western Common Advisory Committee

Councillor Dalrymple requested that Information Item 3 - Memorandum from Chair, Environment and Sustainability Standing Committee Dated October 11, 2011 re: Alderney 5 Energy Project be added to the next Council agenda for a staff presentation.

12.5 **Deputy Mayor Smith** – Request for Report re: Standardization of Land Use By-Law - Cell Towers

With reference to item 10.1.2, Municipal Usage of N-Viro Halifax Soil Amendment, it was **MOVED by Councillor Hum, seconded by Councillor Sloane to defer Item**

10.1.2 until after the UNSM Conference to allow for Councillors to attend the biosolids panel discussion.

Following a brief discussion, the **MOTION OF DEFERRAL WAS PUT AND DEFEATED.**

The Order of Business was approved, as amended.

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

8. **CONSIDERATION OF DEFERRED BUSINESS – September 13, 2011**

- 8.1 **Implementation – Code of Conduct for Municipal Elected Officials**
 - (i) **Supplementary Executive Standing Committee Report**
 - (ii) **Executive Standing Committee Report dated August 23, 2011**

The following reports were submitted by the Executive Standing Committee for Council's consideration:

- A supplementary report dated October 14, 2011
- A report dated August 23, 2011

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

1. **Encourage all members of Regional Council to sign the HRM Municipal Elected Officials Code of Conduct;**
2. **Formally adopt the revised Implementation Process as outlined in Attachment 1 of the October 14, 2011 supplementary report from the Executive Standing Committee; and**
3. **That the document be forwarded to the Province to request the ability to implement sanctions as well as any required changes to the HRM Charter.**

Discussion was held on the Municipal Elected Officials Code of Conduct previously approved by Council, with the Municipal Solicitor and Auditor General providing clarification regarding concerns on the complaint and resolution process. It was noted that the implementation process focuses on using internal resources and information resolution, before taking further action. If necessary, an independent third party with appropriate skill sets would be utilized to assist in the resolution.

In response to questions raised by Council, Ms. Donovan clarified that damage to a Councillor's reputation as a result of actions taken through the Code of Conduct, and actions and repercussions against the complainant would be judged based on the

circumstances. No blanket answer could be given at this time; however, there is some risk in making allegations that are unfounded.

Ms. Donovan further clarified that with respect to the release of the decision, it is the decision that is being released, not the documentation. It is understood that personnel records would not be subject to FOIPOP. However, if litigation is involved, the rules are not identical and the records would be subject to disclosure.

The Auditor General provided clarification on the process around confidentiality and when information becomes public. He indicated that the intent is to protect everyone through the process, which requires a level of confidentiality. The process contemplates a great deal of discussion, knowledge gathering and understanding before any formal written complaint is received and a more formal process takes place. The Chair of the Investigative Committee, having experience and expertise, would filter complaints and issues being brought forward and use sound judgment to move appropriately through this process. Should there be a finding; the investigating panel would bring this matter forward to Council through an In Camera session. The decision would become publicly known when it is brought forward in an open session of Council for ratification.

Councillors Lund and Rankin entered the meeting around 2:40 p.m.

Further discussion was held with the following points being clarified:

- Council could change the process on how these matters are to be debated (ie. discussed in an open session of Council rather than In Camera)
- The process has to be respectful of the individuals as it unfolds; information could be damaging to the individual aside from the matter being contemplated
- The October 14th supplementary report proposes to move forward with the adoption of the Code rather than await the enforcement provisions to be adopted by the Province; Council could choose to wait until enforcement provisions are available
- Respecting the cost to appeal: the objective would be to have the Municipality carry as small a burden of the cost as possible; if an individual is found by their peers to be in violation of the code and they chose to appeal this sanction, it is often done at their own cost

MOTION PUT AND PASSED.

9. CORRESPONDENCE, PETITIONS & DELEGATIONS

9.1 Correspondence – None

9.2 Petitions

9.2.1 Councillor Blumenthal

Councillor Blumenthal submitted a petition with approximately 200 signatures calling on the Regional Municipality of Halifax, Nova Scotia to immediately install a light at the crosswalk at the intersection of Windsor Street and Hood Street.

9.2.2 Councillor Hendsbee

Councillor Hendsbee submitted a petition with approximately 197 signatures requesting:

- Full transportation services to be provided by Metro Transit Services to East Preston along Highway #7, Brooks Drive up to the East Preston Church parking lot and to include Lower Partridge River Drive;
- That service begin at 6:00 a.m. until 11:30 p.m. time frame on the weekend and holidays; and
- Enact legislation that would service the community of East Preston located on the Eastern Shore, which is a historical part of the Halifax Regional Municipality.

10. REPORTS

10.1 CHIEF ADMINISTRATIVE OFFICER

10.1.1 Heritage Gas Hearing Update (oral presentation)

Ms. Mary Ellen Donovan, Municipal Solicitor, provided an update to Council on the Heritage Gas General Rate Hearing. It was noted that at the opening of the hearing the Nova Scotia Utility and Review Board (NSUARB) was presented with a proposed settlement signed by Dalhousie, the consumer advocate and Heritage Gas. Two primary key terms of the proposed settlement are a reduction in return on equity from 13% to a proposed 11%, as well as a reduction in the cost of debt from 8.75% to 7.25%. HRM raised concern with Heritage Gas that the proposed settlement fails to address the problem of residential access to gas, particularly in existing neighbourhoods. Heritage Gas has agreed to engage in a pilot project for the introduction of natural gas to a neighbourhood consisting of at least 50 to 100 homes in the 2012 construction season. The Municipality has agreed to cooperate in this pilot project. This matter is currently before the NSUARB for decision.

Ms. Donovan responded to questions raised by Council respecting the implementation of the pilot project; clarifying that Heritage Gas has indicated in writing that they are going to make a best effort to move forward in the 2012 construction season and no later than 2013.

Council recessed at 2:59 p.m.

Council reconvened at 3:15 p.m. with Deputy Mayor Smith Chairing the meeting.

10.1.2 Municipal Usage of N-Viro Halifax Soil Amendment

The following was before Council:

- A staff report dated October 3, 2011

- A submission dated October 19, 2011 from the Biosolids Free Nova Scotia advocacy group
- A copy of the presentation entitled: Review of Halifax Water's N-Viro Biosolids Treatment Process

Mr. Hugh Monteith, Senior Consultant with Hydromantis Environmental Software Solutions Inc. delivered a presentation to Council on Halifax Water's N-Viro biosolids treatment process.

MOVED by Councillor Adams, seconded by Councillor Blumenthal that Halifax Regional Council continue the use of Halifax Soil Amendment in accordance with the findings of the peer review.

Councillor Adams spoke in support of the motion and it was **MOVED by Councillor Adams, seconded by Councillor Blumenthal that the question be put.**

Council requested a recorded vote be taken on the two-thirds majority required to put the question.

A recorded vote was taken.

MOTION TO PUT THE QUESTION WAS PUT AND DEFEATED.

Those voting in favour were: Deputy Mayor Smith, Councillors Adams, Blumenthal, Dalrymple, Fisher, Hendsbee, Karsten, Mosher, Rankin, Sloane, Streach, Walker and Wile. (13)

Those voting against were: Councillors Barkhouse, Harvey, Hum, Lund, McCluskey, Nicoll, Outhit, Uteck and Watts. (9)

Mayor Kelly and Councillor Johns were absent for the vote.

Council entered into discussion on the Municipal usage of N-Viro biosolids treatment process, with staff and the consultant responding to questions of clarification. The following points were discussed:

- Reference was made to the 13 pages of signatures from farmers and food distributors advising they would not use this material on their food crops
- Concern was expressed with making a decision without consultation on what the rest of the Province is doing with respect to biosolids
- In response to a concern raised respecting the health and safety of HRM residents, Deputy Mayor Smith clarified that Halifax Water has confirmed that biosolids will not be used on food crops
- A suggestion was made to defer this matter until after the panel discussion on biosolids has taken place during the UNSM Conference

On a Point of Order, Councillor Karsten questioned whether Class A biosolids are used on food products. Staff clarified that to date Class A biosolids are not being used on food crops but are being used on field crops.

Staff responded to further questions raised on the use of N-Viro biosolids, exposure to selenium and other chemicals in biosolids and stockpiling. It was noted that most of these concerns could be addressed through public education.

MOVED by Councillor Uteck, seconded by Councillor Sloane to suspend the Rules of Order and defer the matter. MOTION TO SUSPEND THE RULES PUT AND DEFEATED.

Discussion ensued on the original motion. Clarification was provided that there is no legal obligation for HRM to use the product; but HRM would honour the contractual obligation to support the use of the product by utilizing it on HRM property.

Concern was expressed with the potential use of Class A biosolids on community gardens.

In response to questions and concerns raised, staff indicated that they would provide an information report to the Environment and Sustainability Standing Committee outlining the engagement plan and list of capital projects for 2012/13, which would identify test plot sights.

With respect to community gardens, it was noted that HRM has a policy for community gardens and resident groups should not do community gardening on HRM lands as the soils on these lands and in right-of-ways are found to have much higher stresses.

Deputy Mayor Smith asked whether Council wished to proceed with the agenda or break and continue the discussion at 6:00 p.m.

MOVED by Councillor Karsten, seconded by Councillor Fisher to proceed with the completion of the agenda. MOTION PUT AND PASSED.

The discussion resumed with staff responding to questions on the financial implications and application process.

Councillor Sloane requested a recorded vote.

A recorded vote was taken on the original motion to continue the use of Halifax Soil Amendment in accordance with the findings of the peer review.

MOTION PUT AND PASSED.

Those voting in favour were: Deputy Mayor Smith, Councillors Adams, Blumenthal, Dalrymple, Fisher, Harvey, Hendsbee, Karsten, Mosher, Nicoll, Outhit, Rankin, Streach, Uteck, Russell, Watts and Wile. (17)

Those voting against were: Councillors Barkhouse, Hum, Lund, McCluskey and Sloane. (5)

Mayor Kelly and Councillor Johns were absent for the vote.

Council recessed at 4:38 p.m.

Council reconvened at 4:48 p.m. without Councillors Adams and Streach in attendance. Councillor Mosher exited the meeting shortly thereafter.

10.1.3 Request for Proposal 11-122 Supply of up to 15 Forty-Foot Transit Buses

A staff report dated October 6, 2011 was before Council.

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

- 1. Award RFP No. 11-122, to the highest scoring proponent, Nova Bus for nine (9) forty foot Model LFS buses at a total cost of \$3,697,324.56 (net HST included) with funding from Project Account CMX01104 – Rural Community Transit as outlined in the Budget Implications section of the October 6, 2011 staff report.**
- 2. Authorize staff to purchase an additional six (6) forty foot buses in year two of the agreement at a cost of \$2,494,541.98 (net HST included) with funding from Project Account CMX01104 – Rural Community Transit. This purchase will be pending approval of the Capital Budget by Regional Council and the need, if required, to expand the MetroX Service.**
- 3. Approve a \$50,000 budget increase to Project Account CMX01104 – Rural Community Transit as a result of additional HIAA grant funding.**

Staff responded to questions raised by Council respecting service standards and warranty.

MOTION PUT AND PASSED.

10.2 CHEBUCTO COMMUNITY COUNCIL

10.2.1 Case 01254 – Municipal Planning Strategy and Land Use By-Law Amendments and Development Agreement – 3620 Dutch Village Road, Halifax

The following was before Council:

- An email submission from Iain Grant dated October 6, 2011
- A report from the Chebucto Community Council dated October 4, 2011

MOVED by Councillor Walker, seconded by Councillor Wile that Halifax Regional Council Give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and Halifax Mainland Land Use By-Law as contained in Attachment “A” of the September 20, 2011 staff report and schedule a joint Public Hearing with Chebucto Community Council.

Staff responded to a question of clarification on the purchase agreement and market value.

MOTION PUT AND PASSED.

Public Hearing scheduled for November 15, 2011.

10.3 ENVIRONMENT AND SUSTAINABILITY STANDING COMMITTEE

10.3.1 Invasive Species – Japanese Knotweed and Flea Beetles

A report from the Environment and Sustainability Standing Committee dated October 11, 2011 was before Council.

MOVED by Councillor Lund, seconded by Councillor Wile that Halifax Regional Council:

- 1. Endorse the recommended Municipal Service Standard outlined in the staff report dated September 2, 2011.**
- 2. Authorize staff to seek project or other external funding/programs to:**
 - a. Map infestations of invasive species on Municipal Property; and**
 - b. Develop a corporate management plan for invasive species.**
- 3. Authorize the Mayor to send a letter to the Minister of Natural Resources requesting that the Province of Nova Scotia:**
 - a. Take the lead on Invasive Species Management;**
 - b. Assist Halifax Regional Municipality (HRM) with the development of a municipal invasive species management plan; and**
 - c. Develop legislation respecting the importation and distribution of invasive species.**

Councillor Lund provided an overview of the Environment and Sustainability Standing Committee’s recommendations, outlining the Municipal Service Standard for remediation or managing invasive species on HRM property.

Discussion was held on the various forms of invasive species in HRM with reference being made to the European fire ants in Point Pleasant Park, black legged ticks in Bedford and Japanese knotweed throughout HRM. A question was raised as to whether rats would be considered an invasive species.

Councillor Karsten asked whether there was any legal liability if the first recommendation were passed and HRM did not take action to remedy against invasive species. Ms. Donovan advised that she did not have an answer for Council at this time, noting that these types of matters are fact specific. The origin of the problem would have to be identified and what opportunities there are to effect correction. She further indicated that in most instances there would be no legal liability on the part of the Municipality, but did not preclude the possibility that a circumstance could arise.

Following a further brief discussion, Council agreed to split the motion and vote separately on the recommendations.

MOVED by Councillor Lund, seconded by Councillor Wile that Halifax Regional Council:

1. **Endorse the recommended Municipal Service Standard outlined in the staff report dated September 2, 2011.**

MOTION PUT AND PASSED.

2. **Authorize staff to seek project or other external funding/programs to:**
 - a. **Map infestations of invasive species on Municipal Property; and**
 - b. **Develop a corporate management plan for invasive species.**

MOTION PUT AND PASSED.

3. **Authorize the Mayor to send a letter to the Minister of Natural Resources requesting that the Province of Nova Scotia:**
 - a. **Take the lead on Invasive Species Management;**
 - b. **Assist Halifax Regional Municipality (HRM) with the development of a municipal invasive species management plan; and**
 - c. **Develop legislation respecting the importation and distribution of invasive species.**

MOTION PUT AND PASSED.

10.3.2 Halifax Water – Renewable Wind Energy Project Development

A report from the Environment and Sustainability Standing Committee dated October 11, 2011 was before Council.

MOVED by Councillor Lund, seconded by Councillor Sloane that Halifax Regional Council:

1. **Provide a Letter of Endorsement for the proposed project development; and**
2. **Request Halifax Regional Water Commission to provide frequent updates to the Environment and Sustainability Standing Committee and the Halifax Regional Municipality (HRM) staff to ensure this is a learning opportunity for HRM for Energy Project Development.**

Councillor Lund provided a brief explanation of the Environment and Sustainability Standing Committee's recommendation.

MOTION PUT AND PASSED.

10.4 GRANTS COMMITTEE

10.4.1 HRM Community Grants Program 2011-2012 Appeals

A report from the Grants Committee dated October 12, 2011 was before Council.

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

1. **Approve nine (9) grants for a combined total of \$103,100 as outlined in Attachment 1 of the July 18, 2011 staff report with the following amendments:**
 - a) **the inclusion of Anchor Archives Society in Attachment 1 noting the removal of the cost share (percentage) requirement from the project scope.**
 - b) **include the wording "an additional" to the recommendation for the Farrell Benevolent Society (#5 of Attachment 1), as follows: "*Staff recommend an additional capital grant of \$12,500 conditional upon full reporting of all capital expenses made in relation to the Building Inspection Report (2011).*"**
2. **Decline two (2) appeals as outlined in Attachment 2 of the July 18, 2011 staff report;**
3. **Based on the appeal process and new information presented at the October 11, 2011 special Grants Committee meeting, consider an exception to the existing policy and award an additional \$15,000 for a total \$20,000 program grant for 2011-2012 to Symphony Nova Scotia.**

MOTION PUT AND PASSED.

10.4.2 Less Than Market Value Lease – Lake Echo Lions Club

A report from the Grants Committee dated October 3, 2011 was before Council.

MOVED by Councillor Walker, seconded by Councillor Hendsbee that Halifax Regional Council authorize the Mayor and Municipal Clerk to enter into a less than market value lease agreement with the Lake Echo Lions Club for a portion of the premises located at 3168 Highway #7, Lake Echo, as per the key terms and conditions set out in Table 1 of the Discussion section of the August 8, 2011 staff report.

A brief discussion was held and the **MOTION WAS PUT AND PASSED.**

Mayor Kelly resumed as Chair at 5:34 p.m. and Deputy Mayor Smith took his seat

10.5 HERITAGE ADVISORY COMMITTEE

10.5.1 Case H00357 – Application to Consider 5381 Spring Garden Road, Halifax, as a Municipally Registered Heritage Property (i) Staff Recommendation Report (ii) Heritage Advisory Committee Recommendation Report

The following was before Council:

- A staff report dated October 6, 2011
- A report from the Heritage Advisory Committee dated July 4, 2011
- An email submission from Gordon D. Pollock dated October 24, 2011

MOVED by Councillor Walker, seconded by Councillor McCluskey that Halifax Regional Council defer consideration of the Heritage Advisory Committee recommendation report dated June 22, 2011, until staff can come back with a report outlining options around the future use of the Halifax Memorial Library property as per the work plan summarized in Attachment 1 of the October 6, 2011 staff report. MOTION TO DEFER PUT AND PASSED.

11. MOTIONS – NONE

12. ADDED ITEMS

12.1 Proclamation – Movember – November 2011

This matter was added to the agenda as an information item.

A Proclamation signed by Mayor Kelly respecting Movember - November 2011 was circulated to Council for their information.

12.2 Audit & Finance Standing Committee Report - Write-off of Uncollectible Accounts

A report from the Audit and Finance Standing Committee dated October 20, 2011 was circulated to Council.

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

- 1. The general revenue accounts in the amount of \$81,583.7 comprised of \$77,332.83 principal and \$4,250.87 interest as detailed in Schedule 2 be formally written out of the books of account.**
- 2. The real property tax and lienable charges in the amount of \$4,149.12 comprised of \$3,576.41 principal and \$572.71 interest as detailed in Schedule 3 be formally written out of the books of account.**
- 3. The business occupancy tax accounts in the amount of \$254,214.76 comprised of \$188,812.39 principal and \$65,402.37 interest as detailed in Schedule 4 be formally written out of the books of account.**

MOTION PUT AND PASSED.

12.3 Motion - Councillor Watts – Canada-European Comprehensive Economic and Trade Agreement (CETA) Negotiations

“To request a staff report on the current status of negotiations of the Canada-European Comprehensive Economic and Trade Agreement (CETA) and the possible impacts on HRM of the proposed trade agreement. Specifically, I would request an update from the Province of Nova Scotia on the status of negotiations with the federal government on behalf of Nova Scotia municipalities. The staff report to include possible actions for Regional Council to consider in response to possible negative impacts of the proposed agreements”

An email submission from Judith Curtis dated October 24, 2011 was circulated to Council.

MOVED by Councillor Watts, seconded by Councillor Sloane that Halifax Regional Council request a staff report on the current status of negotiations of the Canada-European Comprehensive Economic and Trade Agreement (CETA) and the possible impacts on HRM of the proposed trade agreement. Specifically, I would request an update from the Province of Nova Scotia on the status of negotiations with the federal government on behalf of Nova Scotia municipalities. The staff report to include possible actions for Regional Council to consider in response to possible negative impacts of the proposed agreements. MOTION PUT AND PASSED.

12.4 Councillor Rankin

(i) Request for staff report re: Street Signage Management Non-100 Series Provincial Highways

A Councillor request form memo dated October 25, 2011 was circulated to Council.

MOVED by Councillor Rankin, seconded by Councillor Lund that Halifax Regional Council request staff to prepare a report to be presented to Council prior to the end of the year providing a workable package of enabling measures through proposed By-law and/or management agreements relative to street signage management on Non-100 series Provincial Highways.

MOTION PUT AND PASSED.

(ii) Request for staff report re: Western Common Advisory Committee

A Councillor request form dated October 25, 2011 was circulated to Council.

MOVED by Councillor Rankin, seconded by Councillor Walker that Halifax Regional Council request a staff report to advise on the merit of the implementation of an advisory committee for the Western Common Wilderness Park. MOTION PUT AND PASSED.

12.5 Deputy Mayor Smith – Cell Towers

MOVED by Deputy Mayor Smith seconded by Councillor Sloane that Halifax Regional Council request a staff report on how to move forward to ensure that the Land Use By-Laws, at a minimum, require some form of public input on cell towers in urban areas with a view to standardizing/harmonizing the criteria around permits and the role of the Community Council relative to cell tower applications.

MOTION PUT AND PASSED.

13. NOTICES OF MOTION – NONE

14. ADJOURNMENT

In response to questions raised by Council and prior to adjourning, Mayor Kelly referenced the documentation circulated to Council during the meeting respecting:

- Notice to Grand Parade Protest Participants
- News Release - Mayor Kelly to “Occupy” Participants: Return Grand Parade to the Public

The meeting adjourned at 5:45 p.m.

Cathy J. Mellett
Municipal Clerk

INFORMATION ITEMS
October 25, 2011

1. Proclamation – International Epidermolysis Bullosa Awareness Week
– October 25-31, 2011
2. Memorandum from Managing Director, Government Relations and External Affairs dated
September 20, 2011 re: 2011-12 Government Relations Priority Areas
3. Memorandum from Chair, Environment and Sustainability Standing Committee
Dated October 11, 2011 re: Alderney 5 Energy Project
4. Memorandum from the Municipal Clerk dated October 14, 2011
re: Requests for Presentation to Council - None