

HALIFAX REGIONAL COUNCIL
MINUTES

May 29, 2012

PRESENT:

Mayor Peter Kelly
Deputy Mayor Bill Karsten
Councillors: Steve Streach
Barry Dalrymple
David Hendsbee
Lorelei Nicoll
Gloria McCluskey
Jackie Barkhouse
Jim Smith
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

REGRETS:

Councillor Darren Fisher

STAFF:

Mr. Richard Butts, Chief Administrative Officer
Mr. Martin Ward, Acting Municipal Solicitor
Ms. Cathy Mellett, Municipal Clerk
Ms. Sherryl Murphy, Acting Municipal Clerk
Ms. Shawnee Gregory, Legislative Assistant

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1. INVOCATION

The Mayor called the meeting to order at 1:05 p.m. with the Invocation being led by Councillor Hum.

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:

14.4.1 In Camera Item – Legal Matter

Councillor Hendsbee – from Marine Drive Valley and Canal Community Council
re: Federal /Municipal Jurisdiction – Telecommunications Towers

MOVED by Councillor Hendsbee, seconded by Councillor Johns that item 14.1.1 be added to the agenda. MOTION PUT AND PASSED.

MOVED by Councillor Uteck, seconded by Councillor Hum that Item 14.1 be moved up on the agenda to be dealt with immediately following item 9.2.

A discussion on the motion ensued.

MOTION DEFEATED.

MOVED by Councillor McCluskey, seconded by Councillor Blumenthal, that the agenda be accepted as amended. MOTION PUT AND PASSED.

5. BUSINESS ARISING OUT OF THE MINUTES – None

6. MOTIONS OF RECONSIDERATION – None

7. MOTIONS OF RESCISSION – None

8. CONSIDERATION OF DEFERRED BUSINESS – None

9. CORRESPONDENCE, PETITIONS & DELEGATIONS

9.1 Correspondence - None

9.2 Petitions - None

10. REPORTS

10.1 CHIEF ADMINISTRATIVE OFFICER

10.1.1 Tender 12-244 – Paving, Sidewalk and Water Main Renewal – Pine Street – East Region

A report dated May 8, 2012 was before Council.

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

- 1. Approve a budget increase of \$375,973 (net HST included) to Project Account No.CYX01345 – Street Recapitalization, funded through cost sharing with Halifax Water.**
- 2. Award Tender No. 12-244, Paving, Sidewalk and Water Main Renewal – Pine Street - East Region, to the lowest bidder meeting specifications, Brycon Construction Limited for a Total Tender Price of \$718,530.54 (net HST included) with funding from Project Account Nos. CYX01345 – Street Recapitalization and CKU01084 – Sidewalk Renewals, as outlined in the Budget Implications section of the May 8, 2012 staff report.**

Councillor McCluskey requested that the contractor be cognizant of the plumbing business and facilitate access during this work.

MOTION PUT AND PASSED.

10.1.2 First Reading - Proposed By-Law L-135, An Amendment to By-Law L-100, Respecting Local Improvement Charges, Kings Road Bridges (Private Road) – Wellington

A report dated May 14, 2012 was before Council.

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

- 1. Direct staff to provide financing assistance to the property owners for the replacement of two existing bridges on Kings Road, a private road located in Wellington;**
- 2. Give First Reading of By-Law L-135, an amendment to By-Law L-100, Respecting Charges for Local Improvements, as outlined in Appendix “A” of the May 14, 2012 staff report, for the replacement of the private bridges at Little Rawdon River and Golden Brook, Kings Road, Wellington, and the**

assignment of Local Improvement Charges for full recovery of HRM's financing assistance; and

- 3. Require that the property owners be responsible for all facets of the project including but not limited to relevant design, construction, inspection and permits, and that upon completion of the bridge repairs, require that the property owners provide certification from a professional engineer that the bridge meets the load requirements for the safe passage of heavy fire fighting apparatus.**

A discussion ensued with staff responding to questions of clarification.

Mr. Ken Reashor, Director of Transportation and Public Works, advised that private roads are no longer allowable and the three items before Council were to address pre amalgamation issues. He stated there would now only be private driveways so residents would have to make their own arrangements and these matters would not occur in the future.

Mr. Bruce Fisher, Manager of Financial Policy and Planning, clarified that these were lienable charges.

MOTION PUT AND PASSED.

10.1.3 First Reading - Proposed Amendment to Administrative Order 45 – Respecting Private Road Maintenance - Road Maintenance Fee for St. Margaret's Community Association

A report dated May 1, 2012 was before Council.

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

- 1. Set an annual uniform charge of \$450.00 per property to be applied to all properties with residential dwellings which are accessed from private roads within the St. Margaret's Village sub-division as depicted in the map shown as Appendix "A" of the May 1, 2012 staff report effective with the 2012-13 fiscal year for the purpose of funding the road maintenance activities of St. Margaret's Community Association; and**
- 2. Give First Reading of an amendment to Administrative Order 45, Respecting Private Road Maintenance, by adding schedule 6, respecting a Uniform Charge for the St. Margaret's Community Association, as shown in Appendix "B" of the May 1, 2012 staff report: and**

3. **Subject to the approval of Schedule 6 of Administrative Order 45, authorize the Mayor to sign, on behalf of HRM, a Management and Operating Agreement between HRM and the Association.**

A discussion ensued with staff responding to questions of clarification.

Mr. Gordon Roussel, Financial Consultant, clarified that the charges were lienable if payment of the tax bill was late and the \$200 fee was for the Community Association and would be collected from residents at the first of each year. He also noted that HRM would have to conduct another ballot mail out and public consultation if they wished to amend the fixed amount of \$450 per year in the future.

MOTION PUT AND PASSED.

- 10.1.4 **First Reading – Proposed Amendment to Administrative Order 45 - Respecting Private Road Maintenance - Road Maintenance Fee for Rutter Court Residents Association**

A report dated May 16, 2012 was before Council.

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

1. **Approve an annual uniform charge of \$350.00 per property, to be applied against all properties abutting Rutter Court, as depicted in the map shown in Appendix “A” of the May 16, 2012 staff report, effective with the 2013-14 fiscal year for the purpose of funding the road maintenance activities of the Rutter Court Residents Association;**
2. **Give First Reading of an amendment to Administrative Order 45, Respecting Private Road Maintenance, by adding schedule 7, respecting a Uniform Charge for the Rutter Court Residents Association, as shown in Appendix “B” of the May 16, 2012 staff report; and**
3. **Subject to the approval of Schedule 7 of Administrative Order 45, authorize the Mayor and Municipal Clerk to sign on behalf of HRM, a Management and Operating Agreement between HRM and the Association.**

MOTION PUT AND PASSED.

- 10.2 **AUDIT AND FINANCE STANDING COMMITTEE**

10.2.1 First Reading – Proposed Administrative Order 55 Respecting HRM Sponsorship and Proposed Administrative Order 56 Respecting HRM Sale of Naming Rights

A report dated May 16, 2012 was before Council.

Correspondence dated May 28, 2012 from Dan and Jane Steeves was submitted.

Mayor Kelly left the meeting at 1:45 p.m. Deputy Mayor Karsten assumed the Chair.

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

- 1. Give First Reading to consider approval of proposed Administrative Order 55, Respecting HRM Sponsorship, as outlined in the March 16, 2012 staff report with the following amendment: “Alcohol sponsorships must contain a responsible drinking component; , and**
- 2. Give First Reading to consider approval of Administrative Order 56, Respecting HRM Sale of Naming Rights, as outlined in the March 16, 2012 staff report.**

MOVED by Councillor McCluskey, seconded by Councillor Watts that this matter be referred to a future Committee of the Whole meeting for further discussion.

Discussion on the motion of referral ensued.

A recorded vote was requested.

MOTION PUT AND PASSED. (13 in favour, 9 against)

Those voting in favour of the motion were Deputy Mayor Karsten, and Councillors Barkhouse, Dalrymple, Harvey, Hum, Johns, Lund, McCluskey, Nicoll, Outhit, Streach, Uteck, and Watts.

Those voting against were Councillors Adams, Blumenthal, Hendsbee, Mosher, Rankin, Sloane, Smith, Walker, and Wile.

Mayor Kelly, and Councillor Fisher were absent from the vote.

10.3 COMMUNITY PLANNING AND ECONOMIC DEVELOPMENT STANDING COMMITTEE

10.3.1 2012-13 Service Level Agreement – Greater Halifax Partnership

A report dated May 11, 2012 was before Council.

MOVED by Councillor Nicoll, seconded by Councillor Wile that Halifax Regional Council endorse the Collateral Agreement, attached to the April 12, 2012 staff report, to the 2011-12 Service Level Agreement with the Greater Halifax Partnership, in an effort to specify key deliverables, measures and anticipated costs between April 1, 2012 and March 31, 2013, and authorize the Mayor and Municipal Clerk to execute the Collateral Agreement.

A discussion on the motion ensued.

Councillor Nicoll requested to know which one or two items of economic development in HRM's Economic Strategy the Greater Halifax Partnership (GHP) could focus on and, once identified, find some way to measure those as stated in the recommendation.

Mr. Richard Butts, Chief Administrative Officer, reminded Council that HRM has given GHP direction by approving the Economic Strategy and they have proceeded in implementing this direction in a rather industrious fashion; noting they were actively working on the approximately 30 items provided to them by Council at the time the Economic Strategy was approved less than a year prior.

Councillor Hendsbee requested that a letter be sent to the Provincial Ministers expressing Council's concerns regarding the removal of core funding for regional development programs across Atlantic Canada. He also requested as to whether there was going to be a third party assessment of these measureable tools; who would critique them and provide a score.

Deputy Mayor Karsten advised that staff would get back to Councillor Hendsbee regarding this matter.

MOTION PUT AND PASSED.

11. MOTIONS

11.1 Councillor Watts

MOVED by Councillor Watts, seconded by Councillor Sloane that Halifax Regional Council request the Community Development and Economic Planning Standing Committee review the comparative analysis resource tool for municipal cultural investments and consider requesting a similar analysis for HRM so that Regional Council can assess its support for HRM's cultural community in comparison with other major cities across Canada.

Councillor Watts submitted a copy of the Hill Strategies document titled, 'Municipal Cultural Investment in Five Large Canadian Cities' and requested that the Standing Committee consider it as a model.

Councillor Nicoll noted that while she welcomed investigating this model, she requested that the staff report be linked to the review of the Cultural Plan.

MOTION PUT AND PASSED.

11.2 Deputy Mayor Karsten

Councillor McCluskey moved the following motion on behalf of Councillor Karsten:
MOVED by Councillor McCluskey, seconded by Councillor Sloane that all votes taken at Halifax Regional Council be recorded votes.

A discussion on the motion ensued with staff responding to questions.

Ms. Cathy Mellett, Municipal Clerk, clarified that currently Administrative Order 1 contains the ability for any member of Council to request a recorded vote at their own discretion.

Councillor Smith advised that the proposed amendment should be supported in principle and a report from the Municipal Clerk provided regarding how Council could manage not having to take a recorded vote for simple matters such as approval of the minutes and the agenda.

Ms. Mellett indicated that there were many technologies available that make the recorded vote process more efficient; however, they would require a substantial amount of funding to upgrade the current Council Chamber equipment. She advised the current Council Chamber system was working well.

Several members of Council were not in support of the motion as they did not know if the problem had been adequately identified. Concern was expressed regarding the optics of having so many recorded votes and the cost to improve the system in order to get more timely responses.

MOVED by Councillor Dalrymple, seconded by Councillor Sloane that the motion be amended to state that agenda items 1 through 9 only be recorded votes upon request.

A discussion on the amendment ensued.

Several members of Council advised they would not support the amendment as all motions should be recorded votes or none at the Councillor's discretion. It was noted that items such as motions of reconsideration and recession, items 6 and 7 on the agenda, were often important and warranted recorded votes.

A vote was taken on the amendment. **MOTION DEFEATED.**

Discussion on the main motion continued.

Mr. Martin Ward, Acting Municipal Solicitor, advised that the motion would require an amendment to Administrative Order 1 as it was in conflict with the existing rules of voting; noting Council could best accomplish this by referring the matter to the Municipal Clerk who could return with the proposed changes to Administrative Order 1. He stated they could also adopt the motion in principle and refer the matter to the Municipal Clerk.

In response to a question from Councillor Johns, Ms. Mellett clarified that if the motion passed and, at a later time, Council decided they wanted to amend the Administrative Order, it would take approximately two weeks to complete the required first and second reading process.

A recorded vote was requested.

MOTION PUT AND PASSED. (19 in favour, 3 against)

Those voting in favour of the motion were Deputy Mayor Karsten, and Councillors Adams, Barkhouse, Blumenthal, Dalrymple, Hendsbee, Hum, Johns, McCluskey, Mosher, Nicoll, Outhit, Sloane, Smith, Streach, Uteck, Walker, Watts, and Wile.

Those voting against the motion were Councillors Harvey, Lund, and Rankin.

Mayor Kelly and Councillor Fisher were absent from the vote.

12. ADDED ITEMS - None

13. NOTICES OF MOTION

13.1 Councillor Hendsbee

Take notice that, at the next regular Regional Council meeting, to be held on Tuesday, the 12th day of June 2012, I propose to move approval of an amendment to Administrative Order 45, Respecting Private Road Maintenance, the purpose of which is to add Schedule 7 Respecting a Uniform Charge for the Rutter Court Residents Association.

13.2 Councillor Lund

Take notice that, at the next regular Regional Council meeting, to be held on Tuesday, the 12th day of June 2012, I propose to move approval of an amendment to Administrative Order 45, Respecting Private Road Maintenance, the purpose of which is to add Schedule 6 Respecting a Uniform Charge for the St. Margaret's Community Association.

14. IN CAMERA

Council may rise and go into a private In Camera session, in accordance with Section 19 of the Halifax Regional Municipality Charter, for the purpose of dealing with the following;

14.1 Legal Matter

14.1.1 Metro Centre Limited Liability Private and Confidential Report

Deputy Mayor Karsten asked Council if they wished to move In Camera to discuss this matter.

Mr. Ward advised that, as Council was aware, the Municipal Charter provides a limited number of matters which could be discussed In Camera; two being Legal Advice and Potential Litigation, and both were attached to this item. He advised that if Council was to discuss the pros and cons of potential legal action in public it may jeopardize HRM's legal position.

Councillor Uteck noted that the pros and cons of public interest must also be weighed and she wanted to see this matter dealt with publically for closure.

Deputy Mayor Karsten advised members of Council to be careful not to discuss the contents of the In Camera report while in the public session.

Councillor Hum respectfully requested that the Deputy Mayor step down as Chair and that no other member of Council act as Chair during this discussion.

Mr. Ward advised that, as prescribed in the Charter, a member of the elected body of Regional Council was required to sit as Chair.

Councillor Walker stated that the item could be addressed in one of two ways; by having a discussion In Camera which would include advice from Mr. Ward or by reading the motion in the public session and voting on it without debate.

MOVED by Councillor Walker, seconded by Councillor Wile that Halifax Regional Council convene In Camera in order to address this matter.

Discussion on the motion ensued.

Mr. Ward advised that the potential risk in this was that if Council did not accept the recommendation, they would have exposed the entire legal position. He indicated there was no legal issue with Council simply approving the staff recommendation; however, if they chose not to deal with the matter In Camera, they would take away their right to go in any other direction than the recommendation.

Mr. Butts agreed with Mr. Ward's interpretation.

Several members of Council advised they wished to move In Camera in order to receive further background information regarding the recommendation.

Councillors Smith and Lund requested an amendment to move In Camera to obtain the legal advice on this item only and then come back to the public session.

Ms. Mellett clarified that this was an In Camera motion so Council could come out of the In Camera session, read the motion, and vote on it without debate or, otherwise, suspend the rules of order to have the discussion.

The meeting recessed at 3:08 p.m.

The meeting reconvened at 3:26 p.m. with the same members present with the exception of Councillor Mosher.

Discussion on the motion continued.

Councillors Blumenthal and Sloane recused themselves from the vote, citing a conflict of interest due to their membership on the Trade Centre Limited Board. The Councillors left the meeting at 3:36 p.m.

Deputy Mayor Karsten stated that he was also a member of the Trade Centre Limited Board; however, would not be recusing himself as he had learned no additional information via the Board that would put him in conflict.

Councillor Outhit noted he would not support this item moving In Camera as he viewed it as a budgetary matter.

It was noted that part of the staff recommendation was, in fact, to release the In Camera report to the public.

Councillor Uteck pointed out that if Council wanted middle ground, they could follow section 9 in Administrative Order 1 by having sections of the In Camera minutes released.

Councillor Mosher entered at 3:54 p.m.

In response to a question in regard to providing legal advice, Mr. Ward advised that it was his obligation to provide advice to Council, when requested by Council, whether it was In Camera or not.

Councillor Walker did not agree that In Camera motions were debatable in the public session, and stated, for the record, that the rules should be straightforward about what was or was not In Camera and what could and could not be debated.

Mr. Ward advised that the changes in the In Camera rules adopted in 2011 changed the order and now a motion was required to bring an item to an In Camera session of Council rather than the previous rule.

A recorded vote was requested.

MOTION DEFEATED. (6 in favour, 14 against)

Those voting in favour of the motion were Deputy Mayor Karsten, and Councillors Harvey, Hendsbee, McCluskey, Walker, and Wile.

Those voting against were Councillors Adams, Barkhouse, Dalrymple, Hum, Johns, Lund, Mosher, Nicoll, Outhit, Rankin, Smith, Streach, Uteck, and Watts.

Mayor Kelly, and Councillors Fisher, Blumenthal, and Sloane were absent from the vote.

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

- 1. Approve the payment of \$359,550.00 to Metro Centre Limited from Fiscal Services account M310-6999 (Other Goods and Services). As this amount has already been recorded as an expense in Fiscal 2010/11, there will be no impact on the general rate surplus for Fiscal 2011/12;**
- 2. Take no further action to pursue recovery; and**
- 3. The private and confidential report dated April 25, 2012 be released to the public following acceptance of the recommendation.**

MOVED by Councillor Adams, seconded by Councillor Johns that the question now be put.

It was noted that a two thirds majority vote in favour was required in order to have the question put.

A recorded vote was requested.

MOTION DEFEATED. (11 in favour, 9 against)

Those voting in favour of the motion were Deputy Mayor Karsten, and Councillors Adams, Dalrymple, Harvey, Johns, McCluskey, Mosher, Rankin, Streach, Walker, and Wile.

Those voting against were Councillors Barkhouse, Hendsbee, Hum, Lund, Nicoll, Outhit, Smith, Uteck, and Watts.

Mayor Kelly, and Councillors Fisher, Blumenthal, and Sloane were absent from the vote.

Discussion on the motion ensued.

Deputy Mayor Karsten agreed with Councillor Outhit's statement that this was a budgetary issue and advised he would limit questions to that area. Councillor Uteck asked what avenues had been exhausted regarding recovery. She advised, for the record, that she had no interest in suing the Trade Centre and wondered why the recommendation was to settle if this was an unlawful expenditure. Mr. Ward advised that included in the agreement reached with the former Acting CAO upon his resignation was the settlement of any and all issues arriving out of his employment; therefore, that avenue could not be pursued. He stated that the Administration had pursued recovery from the promoter which provided some recovery that Council had been advised of; however, the Trade Centre Limited had refused HRM's approaches. Mr. Ward indicated that, given the likelihood of recovery versus cost of pursuing recovery to HRM, staff thought the potential of recovery did not warrant such.

Mr. Ward also stated that attention had been given in regard to recovery from the Mayor's Office; however, the facts were that the primary party was the former Acting CAO who admittedly entered into these contracts without authorization.

In response to a question, Mr. Butts stated that monies were paid out of HRM's account at the Metro Centre; therefore, the Metro Centre surplus that was expected at the end of fiscal year 2009 became a deficit. Council would be replenishing their own Metro Centre bank account and money would cycle through and return as a surplus for 2011-2012; however, Council should understand that this is a defined and real loss to HRM.

Mr. Louis DeMontbrun, Manager of Financial Reporting, advised that there was a direct financial cost to HRM in 2010-2011 that was recorded and also, because HRM had told the Metro Centre they would not pay, the Metro Centre recorded an allowance; therefore, there was a double count of the expense on both HRM's and the Metro Centre's books. He stated that when HRM pays the Metro Centre, the Metro Centre would no longer require the allowance on their books so they would realize their expected surplus and that money would then flow back to HRM.

A recorded vote was requested.

MOTION PUT AND PASSED. (19 in favour, 1 against)

Those voting in favour of the motion were Deputy Mayor Karsten, and Councillors Adams, Barkhouse, Dalrymple, Harvey, Hendsbee, Hum, Johns, Lund, McCluskey, Mosher, Nicoll, Rankin, Smith, Streach, Uteck, Walker, Watts, and Wile.

Councillor Outhit voted against the motion.

Mayor Kelly, and Councillors Fisher, Blumenthal, and Sloane were absent from the vote.

Mr. Butts clarified that this was a definitive \$369,000 loss in 2009 to HRM.

The meeting recessed at 4:36 p.m.

The meeting reconvened at 4:50 p.m.

14.2 In Camera Minutes – May 22, 2012

MOVED by Councillor Hendsbee, seconded by Councillor Nicoll that the In Camera minutes of May 22, 2012 be approved as circulated. MOTION PUT AND PASSED.

MOVED by Councillor Hendsbee, seconded by Councillor Walker that Halifax Regional Council convene to In Camera in order to address matters related to NSUPE contract negotiations and a telecommunications matter. MOTION PUT AND PASSED.

At 4:53 p.m. Council convened to an In Camera session.

The meeting reconvened at 5:54 p.m.

14.3 Labour Relations

14.3.1 NSUPE Contract Negotiations - Oral

This matter was dealt with In Camera.

14.4.1 In Camera Item – Legal Matter Councillor Hendsbee – from Marine Drive Valley and Canal Community Council re: Federal /Municipal Jurisdiction – Telecommunications Towers

The following motion was dealt with during the In Camera session and was now before Regional Council for ratification:

MOVED by Councillor Hendsbee, seconded by Councillor Sloane that the May 28, 2012 Private and Confidential Information Report prepared for the Marine Drive Valley and Canal Community Council regarding Federal Municipal Jurisdiction re: Telecommunication Towers be declassified. MOTION PUT AND PASSED.

15. ADJOURNMENT

The meeting was adjourned at 5:55 p.m.

Cathy J. Mellett
Municipal Clerk

INFORMATION ITEMS
May 29, 2012

1. Proclamation – Sexual Assault Awareness Month – May 2012
2. Proclamation – Clean Across Nova Scotia – June 8 & 9, 2012
3. Memorandum from Director, Community and Recreation Services dated May 4, 2012 re: Petition (Case 17167): Telecommunication Tower at 2699 Old Sambro Road, Williamswood
4. Memorandum from Director, Community and Recreation Services dated May 4, 2012
re: Petition (Case 17418): Telecommunication Monopole at 30 Chipstone Close, Halifax
5. Memorandum from Acting Director Finance and Information Technology dated May 22, 2012 re: Uniform Charge for Birch Bear Run Homeowner's Association
6. Memorandum from Chief Administrative Officer dated May 22, 2012 re: Relocation of Halifax Regional Council during Phase 3 City Hall Restoration
7. Memorandum from the Municipal Clerk dated May 18, 2012
re: Requests for Presentation to Council – None