

COMMITTEE OF THE WHOLE

MINUTES

SEPTEMBER 14, 2010

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

REGRETS: Councillors: Gloria McCluskey
Jerry Blumenthal
Peter Lund

STAFF: Mr. Wayne Anstey, Acting Chief Administrative Officer
Ms. Mary Ellen Donovan, Municipal Solicitor
Ms. Cathy Mellett, Municipal Clerk
Ms. Chris Newson, Legislative Assistant

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1. CALL TO ORDER

Mayor Kelly called the meeting to order at 1:05 p.m.

2. APPROVAL OF THE MINUTES – August 10 & 17, 2010

MOVED by Councillor Sloane, seconded by Councillor Wile that the minutes of August 10 & 17, 2010, as presented, be approved. MOTION PUT AND PASSED.

3. PROPOSED ADMINISTRATIVE ORDER 46, RESPECTING HRM ASSET NAMING POLICIES

A copy of the HRM Asset Naming Policy staff presentation was before Council.
A copy of the staff report dated August 26, 2010 was before Council.

Ms. Donna Davis, Manager, Data and Business Information Management and Ms. Gayle MacLean, Coordinator, Civic Addressing, presented the draft policy. Ms. MacLean noted the following revisions to the information circulated to Council:

- the Halifax Regional School Board and the Geographic Names Board of Canada should be included on the list of groups contacted as part of the research and consultation for the draft policy (slide 3 of the presentation).
- HRM's Cultural Affairs department has requested that replacing the naming of Monuments and Markers program with the HRM Asset Naming policy be removed as HRM's Cultural Affairs is in the process of evaluating their various programs.

Councillor Hendsbee entered the meeting at 1:09 p.m.

MOVED BY Councillor Mosher, seconded by Councillor Sloane that Halifax Regional Council:

- 1. Approve in principle Administrative Order 46, Respecting HRM Asset Naming Policies as outlined in Attachment 1 of the staff report dated August 26, 2010, with the proviso to remove the naming of monuments and markers from the policy.**
- 2. Recognize the Asset Naming program as the primary means for commemoration in the municipality.**

Councillor Mosher gave regrets for the remainder of the day due to a medical appointment then excused herself from the meeting at 1:20 p.m.

Councillor Hendsbee suggested that the gold strike areas of Lawrencetown be considered for the list of commemorative names as cultural/local significance for the Lawrencetown area.

MOVED BY Councillor Hendsbee, seconded by Councillor Uteck that Section 16 C (iii) (4) of the Application Process for Commemorative Names be amended to include support letters be required from the Halifax Regional School Board and a Federal Senator. MOTION TO AMEND DEFEATED.

Deputy Mayor Johns entered the meeting at 1:28 p.m.

Ms. Davis and Ms. MacLean responded to questions of Council and provided the following information:

- more thought would be given to monetary contribution levels for “gifting”; any suggestions from Council on this matter would be appreciated.
- staff have been maintaining a “list of requests” for the last year. Once the proposed policy is approved by Council, staff will contact those persons and advise them of the application process.

Councillor Watts suggested a percentage contribution, in regard to “gifting”, that would be in relation to the overall cost of the project. She also suggested that gender equity be considered when issuing commemorative names as the majority of existing requests appears to commemorate males.

- there had been discussions on the issue of “renaming” and the decision was that renaming existing commemorative names is not contemplated unless it were for an Administrative Name such as the renaming of a Community Centre from a street name to a Commemorative Name.
- if only one street was being developed the Developer would be able to choose the name of the street. A Developer may submit a list of “theme” names and if they met the criteria, they would be added to the list.
- HRM takes over 100 to 150 streets per year; more than parks.
- if there were fewer than five names available for a specific community, the 50% requirement for Developers would be waived.
- some municipalities have a longer than one year waiting period from the time of death for a name to be added to the Commemorative List.
- a person may only be commemorated once (a street or a building but not both).
- in regard to the naming of playgrounds/playfields/parks associated with a school, the HRM Asset Naming policy would only consider those properties owned by HRM.
- if a school or associated land became surplus, HRM could rename an Administrative Name to a Commemorative Name.
- staff would review all proposed names suggested for an asset and submit a bi-annual report to Council with staff’s recommendation based on the Policy’s criteria.

Ms. Davis explained that the issue of duplicate street names is outside the policy under consideration at this time. Council could provide direction to eliminate all duplicate streets names, however; that would be a huge process. The Public Safety Committee has recommended that duplicate names be eliminated based on public safety issues. Having a street in Halifax and a street in Dartmouth with the same name is acceptable as they are two different districts separated by a harbour.

Councillor Harvey suggested that the time frame for reflection on a commemorative name be increased to three to five years as, in some instances, one year would not be long enough.

A vote was then taken on the motion on the floor as follows:

MOVED BY Councillor Mosher, seconded by Councillor Sloane that Halifax Regional Council:

- 1. Approve in principle Administrative Order 46, Respecting HRM Asset Naming Policies as outlined in Attachment 1 of the staff report dated August 26, 2010, with the proviso to remove the naming of monuments and markers from the policy.**
- 2. Recognize the Asset Naming program as the primary means for commemoration in the municipality.**

MOTION PUT AND PASSED.

The Committee of the Whole recessed at 2:00 p.m.

The Committee of the Whole reconvened at 2:16 p.m.

4. PROPOSED BY-LAW O-109, AND AMENDMENTS TO ADMINISTRATIVE ORDER 33, RESPECTING OPEN AIR BURNING

A copy of webpage information on Open Air Burning was before Council.

A copy of the staff presentation on the proposed By-Law O-109 Respecting Open Air Burning dated Tuesday, September 14, 2010 was before Council.

A Supplementary Staff report dated June 3, 2010 was before Council.

Mr. Roy Hollett, Deputy Director, Fire Services, presented the report. He explained that the existing By-Law was trying to address two issues: Fire Safety and Respiratory Health Issues. Halifax Regional Fire and Emergency (HRFE) services are not equipped, nor trained, to properly monitor outdoor air quality or to medically confirm respiratory health hazards. The HRFE is required to investigate smoke issues and, in the case of health hazard calls, to extinguish all fires even if all conditions are met.

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

1. **Approve in principle By-Law O-109, Respecting Open Air Burning, as outlined in Attachment 1 of the June 3, 2010 Supplementary Report, and set a public hearing;**
2. **Approve in principle amendments to Administrative Order 33, Respecting Open Air Burning as outlined in Attachment 2 of the June 3, 2010 staff report, and;**
3. **Subsequent to the approval of By-Law O-109, repeal By-Law 0-103, Respecting Open Air Burning.**

In response to concerns raised by Members of Council, Mr. Hollett provided the following information:

- patio warming devices were built to be located on combustible surfaces and are permitted as long as the manufacturer's recommendations are adhered to.
- Chimineas and similar devices are not permitted on combustible surfaces.
- the proposed By-Law recommends that fire burning permits be required for properties that have both municipal water and sewer services with a minimum clearance of 75'.
- the notice for the Fire Weather Index (FWI) Rating comes from headquarters not the local Fire Chief; therefore it would not be a local monitoring tool for permitting purposes. The Chief of Fire Prevention will determine whether there are safe weather conditions to burn; wind speed and humidity level are also considered.
- Fire services does not ask for bonding/insurance before granting a permit; Fire services, on occasion, has been successful in court and obtained reimbursement for costs associated with fighting a fire.

Ms. Donovan, Municipal Solicitor, added that the existence or non-existence of insurance would not be a determining factor.

- due to fire science there is variation across Canada in regard to setback measurements. Based on past fires, 75' seems to be the distance when fire would not get out of control, however; even a small fire could blow if a wind came up.

Councillor Rankin expressed concern with Section 6.1 and noted that in the rural areas, the requirement was to contact the provincial Department of Natural Resources (DNR) in regard to fire permits and that practice should remain. He explained that he has not been contacted by the DNR nor advised by them that they are having any issues with their licensing process.

In response to Councillor Rankin's concerns, Mr. Hollett explained that the DNR's approach is to control who is burning and when the permit is issued but does not put into place fire prevention means. The Halifax Regional Fire Services fire prevention approach is, from experience, concern with low land fires between April to October and their ability to get resources to the site immediately. Permits would not be required in

the new “no permit” zone from April to October when there is more moisture in the ground.

Councillor Fisher expressed concern that HRF does not have the ability of enforcement when a backyard fire is blowing smoke into a child’s bedroom at night. The proposed By-Law does not have enough “teeth” in regard to enforcement. He expressed concern that, with the current wording, a chiminea could be placed near a shed not a dwelling and be further from the home in a residential area. The dates for when a burning permit is required needs to be clarified as the wording is confusing on whether or not you may open air burn on October 15th or does it mean not until October 16th. He suggested the dates be amended to October 16th to April 14th.

In response to Councillor Fisher’s concerns, Mr. Hollett noted that Council may decide to include the smoke issue under the Nuisance By-Law. The wording for the open air burning dates was taken from the provincial information and will be modified to clarify the dates as up to and including April 15th / October 16th.

Councillor Karsten noted that the proposed By-Law has to include outdoor solid burning appliances otherwise it will have no “teeth” as the expectation was that something logical and comprehensive would come forward including control of these devices. The only possible solution would be requiring a greater distance setback from a building that may force their use out of the smaller lots. He expressed confusion that HRF are now required to extinguish a fire once on the scene regardless of whether the fire was out of control or not yet he receives complaints from residents about the outdoor burning devices.

Mr. Hollett explained that when HRF responds to a call and orders a fire extinguished, due to the smoke being a health hazard, they cannot pour water on it, they often have to let it burn out and advise the resident not to reignite the fire. HRF are currently caught in the “prove to me it’s a health hazard” scenario. Determining whether something is a health hazard is not an area in which they are trained nor equipped to handle. He noted that even EMS will not say that smoke from a particular fire is causing a respiratory issue.

Councillor Streach advised that he supports Fire Services but feels they are going overboard in the rural communities by implementing more restrictions than the DNR has called for. He inquired who asked Fire Services to eliminate all open air burning from April 15th to October 15th. He noted that he has not received any complaints in his district concerning open air burning.

In response to Councillor Streach, Mr. Hollett explained that the proposal was based on call responses on compliant burning. He concurred that one shoe does not fit all, however; the safest fire prevention approach was to eliminate burning in the summer and allow it when the conditions were safer.

Councillor Streach noted that the biggest concern he has heard is that more fire fighters are required in the rural area. He does not understand why HRM should supersede the DNR regulations in regard to fire permits. The timeframe restricting open air burning is during the time farmers are clearing their land. This proposal is the wrong approach.

MOVED by Councillor Streach, seconded by Councillor Hendsbee that the proposed By-Law be amended so that the provincial Department of Natural Resource requirements be the permitting requirements in place from April 15 to October 15 in the areas specifically outlined in the current By-Law.

Chief Bill Mosher explained that the environment has changed over the years with some devastating effect to some communities, therefore; Halifax Regional Fire Services (HRF) is trying to stop this by submitting the no open air burning recommendation between April 15th and October 15th for Council's consideration.

In response to a question by Councillor Smith, Mr. Hollett advised that there had been two occasions where major fires occurred when no permits had been issued and a number of fires when permits had been obtained but the fires had gotten out of control.

Councillor Hendsbee explained that he appreciates the rationale behind the no open air burning from April to October as there have been three devastating wildfires in the HRM. Residents, however, have some concern with issues such as lot clearing and whether they will now have to stock pile the brush and wait until winter to burn it. He expressed concern that residents and contractors will not stock the cleared material. He noted his support for the amendment to permit the DNR permit regulations to remain in place as they are adequate and sufficient.

Councillor Rankin advised he was in support of the amendment as he was not aware of any open air burning restrictions, other than the DNR regulations, for other parts of the province. There are very few complaints from the rural areas in regard to smoke or illegal fires. He suggested that HRM invest DNR with continued authority in rural Nova Scotia and that DNR take into consideration the issue of global warming and its effects as they are also in the business of fire prevention for rural Nova Scotia. He reiterated that he has not received any calls in regard to this issue.

In response to a request for clarification from Councillor Watts on why burning was required in the rural areas and what type of material was being burned, Councillor Streach explained that a farmer would harvest timber in the winter months and burn the brush in the spring for land clearing and propagation of crops such as blueberries. Grass burning also continues to be done each spring. Some Farmers have moved away from this practice but for 250 years the farming community has been able to do this and for consistency they should be permitted to continue this practice.

Councillor Sloane commented that HRF staff are correct in this approach as no one wants to see more forest fires. HRF knows what is best for us in regard to fire prevention. She advised that she would rather be safe, even if the policy supersedes the DNR, and help prevent more forest fires as safety and fire prevention are more important than being able to light a grass fire.

Councillor Dalrymple expressed concern that if open air burning were restricted there would be an increase in illegal dumping of construction material.

In response to a question by Councillor Dalrymple, Mr. Hollett explained that leaving the issuing of burning permits to the discretion of the local Fire Chief would mean that someone would have to be available at each fire station in order to issue a local burning permit. The only items that may be burned is brush, not construction material as the burning of construction material or garbage would be a violation.

In response to a request for clarification by Deputy Mayor Johns, Councillor Streach clarified that his request for open air burning to be permitted under DNR regulations was for those communities currently listed in the existing By-Law and that they be carried over in the proposed By-law.

Councillor Walker expressed concern that the issue was that of public safety and although the proposed By-Law would not stop all illegal burning there would be more control over the burning between April and October. He advised that he would be voting against the amendment as the issue of global warming has brought drier weather conditions.

Councillor Uteck expressed her support for the proposed By-Law noting that Fire Services had been asked to review this issue and bring forward recommendations, which they have done, with three simple amendments to the existing By-Law. She expressed her support for the amendment.

Councillor Hendsbee suggested that HRF needs to have knowledge of how many fires are burning and that information could be obtained through the permitting process. Also, the permits would be a revenue source for HRM.

Councillor Streach noted that no regulations were being relaxed as he was simply requesting status quo for his district as DNR is the regulatory body in his area.

Chief Mosher noted that in regard to local fire departments issuing the permits, many Fire Departments are staffed by volunteers who also have other jobs and would not be in the position to issue permits.

MOTION TO AMEND PUT AND PASSED.

The amended motion now reads as follows:

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

- 1. Approve in principle By-Law O-109, Respecting Open Air Burning, as outlined in Attachment 1 of the June 3, 2010 Supplementary Report, and set a public hearing;**
- 2. Approve in principle amendments to Administrative Order 33, Respecting Open Air Burning as outlined in Attachment 2 of the June 3, 2010 staff report, and;**
- 3. Subsequent to the approval of By-Law O-109, repeal By-Law O-103, Respecting Open Air Burning.**
- 4. That the provincial Department of Natural Resources requirements be the permitting requirements in place from April 15 to October 15 in the areas specifically outlined in the current By-Law.**

Councillor Nicoll noted that she receives complaints from the urban areas of her district in regard to burning but none from the rural area. The issue comes down to being responsible. She noted that she has had to close all her windows due to smoke coming into her home.

In response to a question by Councillor Nicoll, Mr. Hollett explained that the requirement for a Doctor's note was an example of what some Canadian cities have done, however; this approach is not being recommended as HRF cannot assess a health risk.

Councillor Harvey expressed concern that the proposed By-Law would relax the burning requirements in District 20 as currently it is a No Burn Zone for open air burning. The proposed By-Law would enable open air burning for some parts of District 20 if the requirements were met. None of his residents have been asking for the By-Law to be relaxed. He noted that the residents have been educated to the point where they do not burn and if this By-Law passes the environmental issues will return.

Mr. Hollett advised that many calls had been received from residents of larger lots questioning why they could not burn.

Councillor Hum noted that there have been issues for many years in District 16 with chimineas as the lots are generally smaller and it is a densely developed area. There are also areas in District 16 with no city sewer/water service yet it is near the Hemlock Ravine. There are large tracks of forest land and land under the DNR. People near Kearney Lake do burn in their backyards and there have been illegal camp fires in Birch Cove area.

In response to Councillor Hum's concerns, Mr. Hollett explained that there is an aggressive fire prevention program for provincial lands. HRF staff have visited the communities she referenced and were recommended to chip bundles of brush not burn the brush. HRF services spends more time chasing smoke in the higher population areas which is not the best use of the resources.

Councillor Karsten suggested that perhaps two By-laws were required and offered to work with staff in regard to a Nuisance By-law for such issues as the use of chimineas.

In response to a question by Councillor Karsten, Mayor Kelly confirmed that the HRM By-Law Rationalization Committee had asked staff to prepare this report and the Committee has held several meetings throughout the year.

In response to a request for clarification from Councillor Smith, Mr. Hollett explained that outdoor burning appliances are acceptable as part of construction and a primary source of heat for a home. HRF cannot advise someone that they cannot use those devices as a heating source for their home as they would be considered under the Building Permit process. Outdoor wood burning appliances must be installed as per the manufacturer's recommendations.

Councillor Smith advised that he would vote against the proposed By-Law on the issue of not setting setback requirements for outdoor wood burning appliances and suggested that a setback be set for outdoor wood burning appliances of 100' from a dwelling.

Mr. Hollett noted that the manufacturer's recommended setback may be 300' so it would be risky for HRM to implement their own setback requirements.

Ms. Donovan, Municipal Solicitor advised that Council consider the manufacturer's recommendations as there would be a safety issue if Council recommended a setback of 100' when the manufacturer recommends 300' . A specific reference to the manufacturer's setback would be required.

Mayor Kelly clarified that the wording for the requested setback be *"the manufacturer's setback or 100' whichever is greater."*

Councillor Rankin suggested that the Solicitor be charged with setting the penalty amount for those who do not comply with the permit. He also suggested a higher threshold for the penalties.

Council agreed to have the Municipal Solicitor set the penalty for non compliance with the burning permit.

Councillor Rankin requested more restrictive language be included in the By-Law between what would be permitted in urban communities versus rural communities. He suggested that residents in the Burn Zone also be permitted to apply for a permit between April and October.

In response to a request for clarification by Councillor Watts, Ms. Donovan explained that if Council had the power to consider chiminea use it would belong under a Nuisance By-law.

In response to a question of clarification from Councillor Watts, Mr. Hollett explained that complaints would still be investigated and would include a check of the distance setback and what was being burned. A summary Offence Ticket could be issued as enforcement of the safety issue. Air quality is a provincial responsibility and an expensive process that takes time; he noted that air quality changes right away.

Deputy Mayor Johns advised that he was in support of a review on limiting outdoor wood burning devices in urban and suburban areas.

MOTION PUT AND PASSED.

5. ADJOURNMENT

The meeting was adjourned at 4:13 p.m.

Cathy J. Mellett
Municipal Clerk