

Executive Standing Committee
March 24, 2014

TO: Chair and Members of Executive Standing Committee

original signed by

SUBMITTED BY: _____

Jennifer Church, Managing Director, Government Relations & External
Affairs

original signed by

John Graves, Director, Legal, Insurance and Risk Management Services

DATE: February 18, 2014

SUBJECT: **HRM Charter Review**

ORIGIN

March 19, 2013 Council motion authorizing a joint review of the HRM Charter with Service Nova Scotia & Municipal Relations.

LEGISLATIVE AUTHORITY

Not applicable

RECOMMENDATION

That Executive Standing Committee recommends that Regional Council direct staff to negotiate a new Halifax Regional Municipality Charter based on the scope as outlined in this report, reporting back to the Executive Standing Committee as appropriate and for approval and recommendation to Regional Council when complete.

BACKGROUND

HRM requested its own Charter, separate from the Municipal Government Act, in 2007. The primary reason for the request was to customize HRM's governing legislation to meet its unique needs. As is the case today, in 2007 HRM was experiencing population growth and sustained commercial and residential development. This continued growth created the need for innovative policy design, regulatory flexibility and the ability to secure legislative amendments within a reasonable amount of time to manage local challenges effectively.

The HRM Charter was adopted in 2009 in recognition of the fact that HRM is different from other Nova Scotian municipalities and warrants its own legislative framework. While the preamble to the Charter contains references to HRM's importance to Nova Scotia's economy, the legislation itself does not contain substantial differences from the MGA. The differences in the current version of the Charter are summarized as follows:

Additional Powers

- HRMbyDesign planning powers
- Increased notification distance to grant variances
- Power to build Oval on Halifax Common
- Increase in monetary amount for which Ministerial approval needed (\$100K to \$500K)
- Create Community Councils and delegate powers
- Provide supplementary funding to school board

Additional Restrictions

- Requirement to appoint Auditor General
- Requirement to protect Dartmouth Commons
- Must conduct a 10-year review of HRMbyDesign
- Bonus zoning & site plan approval for external appearance of structures limited to HRMbyDesign downtown area
- Bonusing agreements must include an affordable housing component in Centre Plan area (although not in HRMbyDesign downtown area)

When first adopted, it was understood that the Charter would evolve to allow HRM a more autonomous framework that recognized its unique needs and responsibilities. However this has not occurred. In March 2013, Council directed staff to work towards undertaking a joint review of the HRM Charter with SNSMR, to make it a more flexible and responsive document.

DISCUSSION

HRM occupies a unique position among Nova Scotian municipalities. As home to 44% of Nova Scotia's population and generator of 55% of provincial GDP, Halifax has a dramatic impact on Nova Scotia's economy. As noted above, Halifax is experiencing consistent commercial and population growth which is expected to continue.

There is a growing body of evidence that demonstrates how investment in urban hubs actually increases economic activity in the broader region, including associated rural areas. The Conference Board of Canada, the Organisation for Economic Co-operation and Development (OECD), and most recently the Ivany report on Building the New Nova Scotian Economy all speak to the need for strong urban areas to achieve economic success. To accomplish this municipalities need the autonomy and flexibility to implement policies that maximize economic growth and development in a timely manner.

The Ivany Commission report recommends accelerating municipal reform to encourage the development of dynamic urban centres that will foster growth and innovation. This aligns with a Canada-wide trend towards separate governing legislation for municipalities that are the major economic drivers in their respective provinces. Toronto, Montreal, Winnipeg, Saint John, Vancouver and St John's all have their own city charters which recognize the unique contributions they make to their provincial economies, and which seek to let them maximize their potential through increased autonomy. In addition, Edmonton and Calgary are finalizing a new legislative framework which recognizes their evolving needs and responsibilities. HRM staff has reviewed these city charters and the varying scope of powers, limitations, and innovative approaches taken by some jurisdictions. Staff have also reviewed the summary reports and draft findings from NS Provincial-Municipal Fiscal Review to consider the financial tools already under discussion between Nova Scotian municipalities and the Province. Based on this research, the following principles for a review or rewrite of the HRM Charter have been established.

A New HRM Charter will:

- Recognize the maturity of HRM
- Be strategically focussed
- Be permissive in nature
- Provide increased legislative autonomy
- Provide increased financial autonomy

It is proposed that the scope of this review include a review of the legislative and financial tools needed to maintain the current underlying Council directed CAO model of governance, while moving HRM to a more permissive statutory regime that would broadly empower HRM to act on behalf of the interests of residents, subject only to such limits as are necessary. Some legislative and financial tools adopted under other city charters are outlined below.

Legislative Tools

- Natural person powers – These powers are the powers enjoyed by a real person when granted to some form of corporate or in HRM's case a municipal body. They would give HRM the right to own, sell, and use property with the full discretion of any natural person. They would further permit HRM to enter into contracts, to sue, and to be sued. Ultimately, natural person powers accord municipalities the freedom to do anything the law does not expressly prohibit. This reduces the need for amendments that merely clarify existing powers.

Natural person powers expand authority, but not revenue or fiscal tools. Natural Person Powers are granted to all municipalities in Quebec, Ontario (with limitations), Saskatchewan, Alberta, Yukon, NWT and Nunavut. Winnipeg was also given natural person powers in its Charter.

- Residual and expanded By-Law powers – Powers of this nature would authorize HRM to exercise authority in areas not otherwise specifically laid out in Federal or Provincial legislation. Examples of residual power being granted to Canadian municipalities - Toronto is given “broad and permissive powers” to pass bylaws in economic, social, health and environmental areas; Winnipeg’s charter clarifies that issues which do not affect provincial interest do not require provincial approval.
- Concurrent authority - Concurrent Powers are powers that both levels of government can exercise. British Columbia’s Communities Charter recognizes five spheres in which municipalities and the province have a shared interest in regulating activities.
 - Public health;
 - Protection of the natural environment;
 - Wildlife;
 - Building standards; and
 - Prohibition of soil deposit or removal.

In BC, municipalities are provided with powers to adopt bylaws in the spheres of concurrent authority; however, the municipal authority is subject to provincial involvement or direction. Concurrent authority can broaden municipal power but also has potential for increased involvement in traditional areas of provincial jurisdiction. It also adds to the amount of consultation, intergovernmental negotiation and approvals needed to take action on an issue.

- Governance structures – both Toronto and Winnipeg are given powers to determine some aspects of their own governance structures - for example, delegating powers to Community Councils, adopting a Councillors Code of Conduct, setting the number of districts/wards.
- General Powers v. Specific Powers - Currently the HRM Charter states that general powers are not limited by specific powers (HRM Charter c. 39, s.187). This means the municipality has broader powers beyond a specifically stated power and can pass bylaws in any area of its mandated responsibilities. This requires further review and clarification to ensure the appropriate distinction is maintained with respect to specific, limited powers.

Financial Tools

It is further proposed that the scope of the review include an analysis of current programs and services and determine how they could better meet municipal needs, within the context of a balanced budget. The overarching goal is to strengthen HRM’s abilities to provide a basic level of service at an acceptable tax burden. Some possibilities for new fiscal tools include:

- Greater flexibility in how HRM levies taxes, in order to influence development patterns through the municipality. Possibilities include creating a tax base besides assessment (for example, frontage), and creating classes of taxes for different types of development.
- Review special tax legislation, such as telecommunications, wind and emerging energy sector
- Consider establishing special tax rates for non-profits and low income ratepayers rather than having statutory exemptions that must be applied for.
- Explore legislative changes to increase municipal ability to partner with the private sector, non-profits and other agencies. This could include developing commercial tax incentives to attract business.
- Allow HRM to develop tax agreements. Tax agreements provide clarity and certainty for both parties about the level of tax to be paid/received, and can be tools to enhance economic activity. HRM has already requested that the HIAA development grant agreement be enshrined in legislation as a tax agreement.

Halifax Regional Municipality is a strong and fiscally disciplined organization. HRM oversees an \$800 million annual operating budget, a \$165 million capital budget and a 10-year capital plan. A multi-year financial strategy is in place which has decreased tax-supported debt by 24% over the past 15 years and seen increased capital funds come from operating revenues rather than increased borrowing. Similarly, HRM meets all the thresholds set in the Province's Financial Condition Index (FCI), which indicate a municipality's strength in revenue generation, financial management and budget accuracy. HRM is also an accountable and transparent organization, with a Municipal Auditor General and regular public reporting on finances, human resources and Council-approved strategic direction.

HRM has undertaken innovative policies such as HRMbyDesign and Solar City which have led to increased economic activity and seen improved environmental outcomes. However HRM was not able to implement these policies without securing legislative changes from the Provincial government – often an uncertain and time-consuming process. By pursuing a Charter with a more permissive outlook and which allows more autonomy in areas of municipal scope, HRM will have more autonomy in areas of municipal scope and be better able to respond to economic, demographic and social issues that arise. HRM has the support of UNSM in seeking a new Charter, as a stronger HRM will benefit all municipalities through enhanced economic activity in the region and increased tax revenues available for province-wide programming. HRM and UNSM will continue to work together to advance municipal issues, as has been the case since receiving the HRM Charter in 2009.

FINANCIAL IMPLICATIONS

There are no financial implications of this report.

COMMUNITY ENGAGEMENT

N/A

ENVIRONMENTAL IMPLICATIONS

None

ALTERNATIVES

Council could choose a more narrow or broad scope for the review, or put forth other legislative and financial tools for consideration.

ATTACHMENTS

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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