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Item No. 4.1

Solid Waste/Resource Advisory Committee
March 26, 2009

TO: Bill Karsten, Chairman and Members of
Solid Waste/Resource Advisory Committee

SUBMITTED BY: 

Robin McNeil, Staff Sergeant, HRM Police



Jim Bauld, Manager Solid Waste/Resources

DATE: March 18, 2009

SUBJECT: Removal of Recyclables from Curb

INFORMATION REPORT

ORIGIN

January 20, 2009 meeting of Regional Council.

BACKGROUND

At the January 20, 2009 meeting of Regional Council, Councillor Blumenthal reported that complaints have been received of recyclables being removed from blue bags, and non recyclables items being left in front of residential properties. Councillor Blumenthal requested clarification of the residents' (i.e. abutting property owner) responsibility for material left at the curb, and that of the HRM, respecting who has ownership of the material. Regional Council approved this matter be referred to the Solid Waste/Resource Advisory Committee (SWRAC) for consideration and comment.

At the January 22, 2009 meeting of SWRAC, Councillor Uteck requested information respecting what is HRM's position regarding constant illegal dumping, how is dumping monitored, and is the homeowner (who finds material left by other persons in front of their property) expected to comply. SWRAC approved that staff provide a report on this issue.


DISCUSSION

1.0 By-Law S-300 and S-600:

The governance of materials placed at the curb or side of the road is regulated by HRM By-Law S-300 “Streets” and By-Law S-600 “Solid Waste/Resource Collection and Disposal”. Both By-Laws have been in effect for more than ten years. The role and responsibility of both the residential property owner who’s property abuts the sidewalk, as well as the general public, has not changed since the By-Laws were adopted.

1.1 *By-Law S-300 “Streets”:*

By-Law S-300, Part II - “Use of Sidewalks”, Section 10 “Littering” specifies in subsection (1) that:

“Owners shall maintain the area between the curb and the property line free from garbage, waste or debris, wether or not it is place in containers.”

Subsection (2) specifies that:

“Where the owner fails to maintain the area between the curb and their property line as required by subsection (1), the Engineer or peace office may serve an Order to remove Improperly Placed Solid Waste upon the owner by posting the Order in a conspicuous place upon the property. Such an Order shall not be given on a collection day for the property, pursuant to By-Law S-600 Solid Waste Collection and Disposal by-law.”

Subsection (3) specifies that:

“If the solid waste is not removed from the sidewalk in accordance to the by-law and the 24 hour time period outlined in the Order to Remove Improperly Place Solid Waste, the Engineer or peace officer may remove such garbage, waste or debris and may recover the cost of such work from the owner.”

Subsection (4) specifies that:

“The Municipality’s cost in removing the garbage, waste or debris, pursuant to subsection (3), shall constitute a lien against the property which shall be applied and enforced in the same manner as for rates and taxes under the Assessment Act.”

1.2 By-Law S-600 “Solid Waste/Resource Collection and Disposal”

Section 16. “Prohibitions” specifies that, 16.1) “No person shall:

- a) pick over, remove, disturb or otherwise interfere with any waste material that has been set out for municipal collection;
- b) collect waste material placed for municipal collection; or
- c) remove a container or organics collection cart placed at curbside.”

Section 16.2 specifies that:

“The prohibitions in Section 16.1 do not apply to the person who placed the waste material for collection, or to the Municipality, its contractors or authorized Municipal collection contractors.”

To summarize the above noted section of the two By-Laws:

- ▶ only the abutting property owner is permitted to place materials at the curb, in the sidewalk area directly in front of their property (i.e. no one is permitted to place material at the curb in the sidewalk area in front of a property without the owners' consent);
- ▶ only the abutting property owner is permitted to remove or disturb material, once it is placed at the curb in the sidewalk area for collection by the HRM contractor;
- ▶ the property owner is responsible to remove any garbage, waste or debris in the sidewalk area in front of their property which is not on a collection day; and
- ▶ failure by the property owner to remove the material from the sidewalk area, after having received an Order to remove same, could result in a Summary Offense Ticket being issued, and the cost of removal be placed as a lien against the property.

2.0 Response to Questions Raised by Regional Council and SWRAC

The following information is provided as a response to the questions raised at the January 20, 2009 meeting of Regional Council, and the January 22, 2009 meeting of SWRAC. The information is provided to clarify the role and responsibility of the abutting property owner, and the procedure to follow when incidents are observed.

2.1 Role and Responsibility of the Property Owner:

The By-Laws are clear. The adjacent property owner is responsible to remove any material at the sidewalk area in front of their property, regardless if they or other persons placed the material. This requirement is similar to the responsibility specified in the Dangerous and Unsightly Property By-Law for material existing on private property. This requirement applies to every property owner.

2.2 Public Health & Safety:

The purpose of the By-Laws is to ensure that the HRM does not experience public health and safety issues, which would be at risk if refuse and debris was permitted to remain on the sidewalks throughout the HRM. The By-Laws also ensure that the HRM is aesthetically pleasing and free of debris and litter for the enjoyment of all citizens and tourists.

Were the By-Laws be amended not requiring property owners to remove improperly placed material from the side walk area, material would remain on sidewalks throughout the HRM, potentially causing public health and safety issues, and creating unsightly litter/nuisance issues. The removal of material and debris from the

sidewalk area by the abutting property owner, ensures that the HRM residential collection service (organics, recyclables and refuse) is completed efficiently on the prescribed residential collection weekday.

Residents who observe material on the sidewalk area placed by other persons, are to remove the material and report the matter to the HRM Corporate Call Centre 490-4000. Corporate Call Centre staff are familiar with both By-Laws and advise the property owner of the requirement to remove the material, otherwise they could be subject to a SOT and the cost of removal by the HRM.

2.3 Illegal Dumping and Scavenging- Enforcement:

Residents who observe the illegal removal of material from the sidewalk area (i.e. scavenging), or the placement of material on the sidewalk area by other persons (i.e. illegal dumping), are to report the details of the incident, including street address, week day, time, description of the vehicle, and license plate (if possible) to 490-4000. This information is made available to HRM Police for assignment of a patrol unit to the area, when a pattern of incidents in the same general area on the same week day is documented.

3.0 Options/Solutions:

3.1 Enforcement by HRM Police:

The requirement of the property owner to maintain the sidewalk area free of material and debris, has generally worked very well for the majority of residents over the past ten years. Incidents of scavenging of recyclables and illegal dumping are more frequent in the urban core, particularly in Halifax peninsula. Where incidents are reported and a pattern or trend is determined, the present business practise is for HRM Police to enforce the by-laws, i.e. lay a charge against those persons observed removing or placing material on the sidewalk area.

3.2 Tag System:

The utilization of a tag system as a deterrent to prevent illegal dumping, would be a major shift in approach/business practise for the HRM. The adoption of such a system would affect the 128,000 residential properties that receive municipal curbside collection services. The adoption of a tag system (which would signify that the abutting property owner placed the material at the sidewalk for collection - not another person) would be a major new initiative which would require, at a minimum, the following:

- ▶ a communication and education campaign;
- ▶ the design and distribution of the tags;
- ▶ verification of tags (counterfeit tags have been experienced in municipalities that have a Tag-a-Bag (i.e. \$2/bag fee) system as a methodology to increase recycling and composting; and
- ▶ data management/tracking system.

