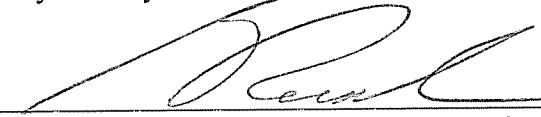


10.2.1

Halifax Regional Council
March 23, 2004

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


Gordon Roussel, Co-Chair, HRM Pension Committee


Nigel Field, Co-Chair, HRM Pension Committee

DATE: March 5, 2004

SUBJECT: **Amendment to Halifax Regional Municipality Pension Plan**

ORIGIN

The Halifax Regional Municipality Pension Plan Committee has recently had difficulty in obtaining fiduciary insurance. Although it was successful in obtaining limited coverage, the Committee, upon recommendation from its legal advisor, is seeking an amendment to the Halifax Regional Municipality Pension Plan which will provide Committee members with indemnification out of the Fund for actions taken against it, such actions as more clearly defined in section 6.11A(2) of the attached Amendment Resolution.

RECOMMENDATION

It is recommended that Halifax Regional Council approve the **Resolution of the Halifax Regional Council Indemnification of the Pension Committee** as attached hereto.

BACKGROUND

The Committee responsible for the Administration of the Halifax Regional Municipality Pension Plan(Plan) is a Joint Committee (Committee) and consists of 12 Members of the Plan designated as follows:

- a) Five persons designated by the Municipality
- b) One person designated by each of the transit, inside, outside, police and firefighter unions
- c) One person from the Non Union Municipality Employees Association
- d) One person chosen among the retired employees

The Committee acts as an independent body, and at arm's length from the Municipality. In the performance of their duties, Committee members shall exercise the care, diligence and skill that a person of ordinary prudence would exercise in dealing with the property of another person.

In addition to the members of the Committee outlined above, each Committee member appoints two alternates who can act in the place of an absent member.

The insurance "crisis" which had consumed much attention in the fall of 2003, as it relates to vehicle and household insurance, was not limited to just those facilities. Coupled with the downturn in the investment performance of the stock and financial markets which has had a direct affect upon the funding of Pension Plans throughout North America, the Committee found it extremely difficult to obtain a renewal of its fiduciary insurance. It was faced with rising insurance premiums and reduced coverage. Close to the last day when the existing policy expired, September 29, 2003, it was able to obtain an insurance policy with a much increased premium (\$40,500 vrs \$17,165). The coverage obtained has a deductible of \$50,000 and an annual and one event coverage of \$5,000,000. The policy has three insurance companies subscribing to the \$5,000,000 coverage.

DISCUSSION

The insurance coverage now in place is no more than defense coverage should a serious claim be advanced against the Plan and the Committee. The Committee had to determine whether the current expenditure of \$40,500, with the possibility that insurance in the future may not be obtainable, was a reasonable expense to incur. The Committee requested that its Legal Advisor review the alternatives available to the Committee members. The recommendation from the advisor was to amend the Pension Plan document which would provide indemnification for Committee Members, alternates and Plan administrative staff as long as there was no dishonesty or willful misconduct.

Before insurance coverage would be completely abandoned, the Committee would review its risk management processes including its contracts with its service providers.

Committee members offer their time on a voluntary basis. With increased attention now being paid to Pension Plans in general, it is important that the HRM Pension Committee members continue with their work with no fear or concerns of their personal liability or encroachment upon personal assets. In addition, for succession planning for Committee members, an indemnification by the Plan will assist in the recruitment of new members.

BUDGET IMPLICATIONS

There are no Operating, Capital, or Reserve Fund implications to this recommendation.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from and the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

Council could reject the amendment and recommend the Committee obtain insurance coverage at any cost to the Plan.

ATTACHMENTS

Resolution of the Halifax Regional Council, Indemnification of the Pension Committee.

<p>Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208. Report Prepared by: Reg H. Ridgley, CGA, Acting Manager, HRM Pension Plan 490-6475</p>

**RESOLUTION OF THE
HALIFAX REGIONAL COUNCIL
INDEMNIFICATION OF THE PENSION COMMITTEE**

WHEREAS:

1. Section 7.04 of The Halifax Regional Municipality Pension Plan as amended (“Plan”) provides that on the recommendation of the Halifax Regional Municipality Pension Committee (“Committee”), Halifax Regional Municipality and certain bargaining units may make amendments to the Plan with respect to the rights, responsibilities and indemnification of the Committee; and
2. The Committee has recommended the adoption of an indemnification provision for the Plan to protect the members, alternates, observers and employees of the Committee who are generally acting in a voluntary capacity.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Plan shall be amended to provide for an indemnification provision as follows:

6.11A Indemnification of Committee

- (1) This Section 6.11A shall be effective as of the Effective Date;
- (2) For the purposes of this Section 6.11A, "Observer" shall mean a representative of a participating employer as described in Section 2.19 or a representative of a trade union or employee group for employees of such participating employer who has been designated by his or her employer, trade union or employee group to attend meetings of the Committee on behalf of the participating employer, trade union, or employee group.
- (3) Every Member, Alternate, Observer and employee of the Committee shall be indemnified out of the Fund and it shall be the duty of the Committee to pay out of the Fund all liabilities, costs, losses and expenses, including any amount paid to settle an action or judgment, that the Committee or any Member, Alternate, Observer or employee may incur or become liable to pay by reason of any contract entered into, or acts, neglects or defaults of such Member, Alternate, Observer or employee or in respect of any civil, criminal or administrative claim, action or proceeding or in any way in the discharge of his or her duties as Member, Alternate, Observer or employee;

- (4) No Member, Alternate, Observer or employee of the Committee shall, in the absence of any dishonesty or willful misconduct on his or her part, be liable for the acts, neglects, or defaults or otherwise for any liabilities of the Committee or the Plan;
- (5) Nothing in this subsection shall exempt any Member, Alternate, Observer or employee of the Committee from any liability, costs, losses and expenses arising out of his or her dishonesty or willful misconduct.
- (6) The Committee shall have the duty and exclusive responsibility to retain and instruct legal counsel to defend any claims, actions or proceedings against the Committee, or any Member, Alternate, Observer, or employee.

THIS IS A TRUE COPY OF AN EXTRACT OF THE MINUTES OF THE HALIFAX REGIONAL COUNCIL MEETING HELD AT HALIFAX, NOVA SCOTIA ON _____, THE ____ DAY OF MARCH, 2004.

**CLERK
HALIFAX REGIONAL COUNCIL**