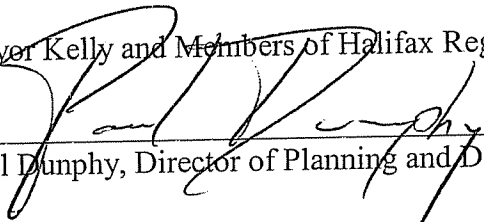


Halifax Regional Council

July 13, 2004

August 17, 2004

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**   
Paul Dunphy, Director of Planning and Development Services

**DATE:** July 7, 2004

**SUBJECT:** Tree Cutting on Private Lands

### INFORMATION REPORT

#### ORIGIN

August 28, 2001, Motion of Regional Council that staff assess the regulatory measures for control of vegetation and tree loss on private lands during development in Halifax Regional Municipality (Status Sheet Item number 11.1)

#### BACKGROUND

- September 24, 2001, letter sent from the Mayor to the Minister of Service Nova Scotia and Municipal Relations requesting that amendments to the Municipal Government Act be considered to enable municipalities to regulate the cutting and removal of trees on private property (see Attachment 1);
- October 16, 2001, response by the Minister of Service Nova Scotia and Municipal Relations identifying the request for an amendment to the Municipal Government Act regarding vegetative retention be included in a list being compiled of potential amendments and recommending further discussion between municipal and provincial staff (Attachment 2);
- Subsequent meetings with provincial staff most recently held November 19, 2003.

#### DISCUSSION

There are several matters identified on the Status Sheet in association with this item:

- a request for the Provincial Government to provide the legislative authority to Municipalities to regulate and manage vegetation on private property whether in connection with developments or otherwise;
- a request for Legal Services to apply to the Utility and Review Board (URB) regarding the NS Power Tree Easement Policy;
- the creation of a Steering Committee in July 17, 2001, to investigate the feasibility of installing underground utilities in new developments which was also tasked by Regional Council on August 28, 2001, to analyze by-laws from other Canadian municipalities that manage private vegetation; and
- the status of an Urban Forest Master Plan.

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**Legislative Authority**

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Planning staff have met with representatives of the Provincial Government to discuss the possibility of amending the Municipal Government Act (MGA) to enable HRM to regulate and manage vegetation on private property whether in connection with developments or otherwise. Staff of the Provincial Government are receptive to the idea provided that the rights of the forestry sector to continue their operations and the rights of individual home owners to cut firewood and manage small woodlots is not jeopardized. The Provincial Government would also have to fulfill their commitment to consult with the Union of Nova Scotia Municipalities (UNSM) on any proposed legislative changes.

Future meetings are to be held between Provincial and HRM staff. Additional research is required in order to determine the appropriate form that any legislative amendments should take. This research will include an analysis of by-laws from other Canadian Municipalities and a review of any associated implementation and administrative procedures.

Regional Planning is presently preparing a series of reports to Regional Council identifying proposed legislative amendments that should be requested in order to further Regional Plan Principles. One of the recommendations may be that further study opportunities be undertaken with the Provincial Government to consider enhanced municipal authority for the protection of trees on private property through an amendment to the MGA.

Should Council choose to pursue amending the MGA to allow the Municipality to issue tree cutting permits and establish tree cutting standards, then subsequent methods of implementation become important. The implementation process needs more study and clarity in determining not only the permitting process but the extent of control, enforcement methods, penalties, and how to ensure no undue impact on legitimate management of woodlots and forestry operations. A balance must be sought between protection of the environment and infringement into personal property rights.

Continuing discussion with the Province will help to further define the scope of any legislative amendments and subsequent implementation methodology. The work being done by Regional Planning, Real Property Planning, Planning Services and the Steering Committee will be consolidated to determine an appropriate by-law and associated service delivery model. This information, along with budget and resource implementation requirements, will be brought forward at a future date to Regional Council for consideration.

**Application to the URB Regarding NS Power Easements**

Legal Services is responsible for the URB application and have advised that the application respecting the NS Power Tree Easement Policy has been filed with the URB. The date of the hearing has not been set, as yet, but an October, 2004, date has been requested.

**By-law Review by Underground Services Steering Committee**

The Underground Services Steering Committee was struck at the request of Regional Council at its meeting of July 17, 2001, to investigate the feasibility of installing underground utilities in new

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developments. At the August 28, 2001, meeting of Regional Council, the Steering Committee was further tasked to assess clear-cutting issues on private lands and directed to analyze by-laws from other Canadian municipalities that manage private vegetation.

The issue of clear-cutting trees on private lands is as large as, or larger, than the issue the Underground Services Steering Committee was set up to study. Many of the members of the Steering Committee have technical expertise that is appropriate to the underground utility issue but not necessarily to the issue of clear-cutting trees on private lands. As a result, to date, this Committee has not worked on the tree cutting on private lands issue and is not expected to as they are fully absorbed in the technical issues of to the placement of underground services in new developments.

If and when the Provincial Government amends the MGA to grant Municipalities the ability to create a by-law to regulate tree cutting on private lands, then a Steering Committee should be struck. The mandate and expertise of the Underground Services Steering Committee is appropriate to their task and, similarly, a Private Tree By-law Steering Committee should be established which is pertinent, in terms of knowledge and expertise, to their task.

Planning Services staff have begun a literature review looking at Canadian and International legislation, implementation methodologies, issues and problems related to private tree preservation.

### **Urban Forest Master Plan**

The proposed Urban Forest Master Plan (UFMP) is intended to provide a strategic approach to sustaining the urban forest canopy on a long-term basis, and to redress immediate challenges to the health and abundance of urban trees in HRM.

The UFMP is envisioned to entail three (3) elements:

- management of trees on HRM property;
- jurisdictional and regulatory controls for the protection of trees on private property, and more specifically, in terms of:
  - subdivision development;
  - cutting on private lands (not to include rural wood lands);
  - protection of heritage trees; and,
- utility conflicts.

Capital funds to support the UFMP project were approved by Regional Council through the Capital Budget process in fiscal 2002/03 and 2003/04. The amount available is approximately \$150,000. Project funding is initially anticipated to be used to update HRM's urban tree inventory to more accurately reflect changes to the canopy over the past decade. Other uses for remaining funds will be identified at project inception.

The UFMP initiative is planned to commence in August 2004 with adoption by Council estimated for sometime in the Spring of 2005.

Real Property Planning of the Real Property & Asset Management Business Unit will be the coordinating division for the UFMP project.

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**BUDGET IMPLICATIONS**

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To be determined at a later date.

**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 the utilization of Capital and Operating reserves, as well as any relevant legislation.

**ALTERNATIVES**

N/A

**ATTACHMENTS**

Attachment 1: September 24, 2001, letter sent from the Mayor to the Minister of Service Nova Scotia and Municipal relations

Attachment 2: October 16, 2001, response by the Minister of Service Nova Scotia and Municipal Relations

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: Randa Wheaton, Planner II, Planning Applications, Planning and Development Services (902)490-4499

MUNICIPAL CLERK'S OFFICE

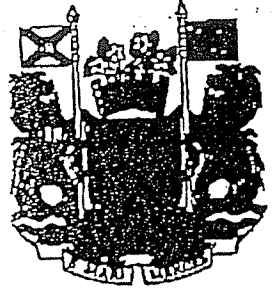
Directed to: J. O'Brien  
Mayor; Councillors, CAO  
Solicitor, Wanstey

HALIFAX REGIONAL MUNICIPALITY

SEP 25 2001

*J*

Halifax Regional Municipality



Peter J. Kelly  
Mayor

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September 24, 2001 DATE

Honourable Angus MacIsaac  
Minister of Service Nova Scotia and  
Municipal Relations  
4th Floor, 1601 Lower Water Street  
P.O. Box 216  
Halifax, NS B3J 2M4

Dear Mr. Minister:

At a recent meeting of Halifax Regional Council, Council directed that I write to you and request that your Department consider putting forward to the Legislature amendments to the Municipal Government Act which would broaden the authority of Halifax Regional Municipality to regulate the cutting and removal of trees on private property in urban areas.

Presently, Section 214(1)(f) of the Municipal Government Act, permits municipalities to include in their municipal planning strategies policies respecting the "retention of trees and vegetation for the purposes of landscaping, buffering, sedimentation and erosion control. This power is only given "in connection with development". Section 220(5)(d) contains a similar provision respecting the contents of a Land Use By-law.

Unfortunately, quite frequently, property owners may clear cut large tracts of land before any application for a development agreement or permit is made, thereby defeating the application of any provisions adopted pursuant to the foregoing Sections. Similarly, after a development is complete, as part of a change in the landscaping of property, property owners may alter significantly the tree cover on their property. These



actions are beyond the regulatory authority of the municipality and are often seriously detrimental to the urban environment.

We would therefore request that amendments to the Municipal Government Act be considered to enable municipalities to regulate the cutting and removal of trees on private property in urban areas whether the cutting takes place in the context of a development or not.

Respectfully, I remain,



Peter J. Kelly  
Mayor

/jc

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Hem



Service Nova Scotia  
and Municipal Relations  
Office of the Minister

PO Box 216  
Halifax, Nova Scotia  
Canada B3J 2M4

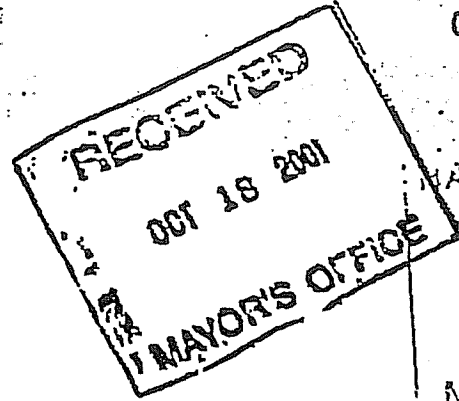
BUS: 902 424-5350  
FAX: 902 424-0381

Our File Number:

00-2001-0042

OCT 16 2001

Mayor Peter J. Kelly  
Halifax Regional Municipality  
P.O. Box 1749  
1841 Argyle Street  
Halifax, N.S. B3J 3A5



HALIFAX REGIONAL  
MUNICIPALITY

OCT 18 2001

MUNICIPAL CL

Dear Mayor Kelly:

I am writing in reply to your letters of September 24, 2001 requesting that the *Municipal Government Act* be amended with respect to vegetation retention and the disposal of uneconomical parcels of land.

The Planning and Advisory Services section of my Department is currently compiling a list of potential amendments to the *Municipal Government Act* respecting planning. I have requested that they include your request regarding vegetation retention as part of that process. Staff of the Department will also contact HRM Planning staff regarding this issue.

The Department supports the amendment concerning the disposal of uneconomical land. However, as you are aware Government has a commitment to consult with the UNSM on all proposed amendments to the MGA. Therefore, your suggestion will be forwarded to the Union for its consideration and review.

Thank you for your suggestions on ways to improve the MGA. It is our intention to continually update the legislation to ensure that municipalities have a clear modern legislative framework in which to operate.

Sincerely,

Angus MacIsaac