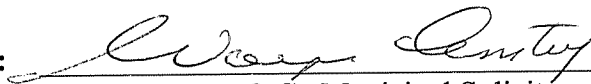


**Halifax Regional Council**  
**March 01, 2005**  
**6:00 p.m.**

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

**SUBMITTED BY:**   
Wayne Anstey, Q.C., Municipal Solicitor

**DATE:** February 24, 2005

**SUBJECT:** **Eligibility Of Councillors For Voting At Public Hearings**

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**INFORMATION REPORT**

**ORIGIN**

Questions from Councillor Mosher put at the meeting of Halifax Regional Council held on February 22, 2005, specifically:

- (1) Is there a requirement that Councillors attend the Public Information Meetings in order to be eligible to vote when items come to the Official Public Hearings?
- (2) Can a Community Council hold a public hearing in the absence of the councillor for the district in which the development is located?

**RESPONSE:**

**Question #1: Is there a requirement that Councillors attend the Public Information Meetings in order to be eligible to vote when items come to the Official Public Hearings?**

The answer to this question is no. The Public Information Meetings are held primarily to provide information to the public on the development. The only meeting which the Councillor is required to attend in order to be able to vote on the issue is the official Public Hearing.

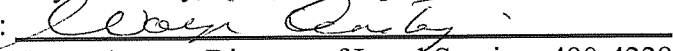
**Question #2: Can a Community Council hold a public hearing in the absence of the councillor for the district in which the development is located?**

The answer to this question is yes. It is the Community Council that has jurisdiction to consider a re-zoning or an application for a development agreement. While it may be a reasonable expectation that public hearing be held and the decision made at a time when the councillor for the area is in attendance, this is not a legal requirement. Furthermore, if the timing of the holding of the public meeting is dependent on the schedule of the local councillor, this must be weighed against the right of the applicant to have his application considered in a timely manner. If the local councillor is to be absent from community council for an extended period, then the rights of the applicant outweigh the desirability of the local councillor being in attendance and the public hearing should be held even if the local councillor cannot attend. Furthermore, if the date of a public hearing is set and advertised, the inability of the local councillor to attend is not a valid basis for postponing the public hearing.

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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: Wayne Anstey, Q.C., Municipal Solicitor.

Report approved by:   
Wayne Anstey, Director of Legal Services 490-4229

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