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Item No. 5

**Halifax Regional Council
December 11, 2007**

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
Sharon Bond, Acting Director of Community Development

DATE: November 27, 2007

SUBJECT: Request for Amendments to *Heritage Property Act*

INFORMATION REPORT

ORIGIN

April 5, 2005 (item #10.2), Council requested staff to prepare a report regarding needed amendments to the *Heritage Property Act* to strengthen the protection of registered municipal heritage properties from demolition, and that the required amendments be forwarded to the Province.

BACKGROUND

In October, 2006, staff presented a report to Council regarding requested amendments to the *Municipal Government Act* and the *Heritage Property Act*. The proposed amendments were based on recommendations which originated with the Regional Plan and which staff had earlier presented to the Provincial Heritage Strategy Task Force (see below). Council approved the report and the requested amendments were forwarded to the Province for consideration (see Attachment “A”).

The need for amendments to the *Heritage Property Act* was first identified in 2004/2005 when the Regional Plan was being prepared and public input consistently called for strengthened heritage protection and improved heritage incentives. In parallel with this, in 2005/2006 the Province established the Voluntary Planning Heritage Strategy Task Force to gain input on the issues that should be addressed in a Provincial Heritage Strategy.

In January, 2006, staff presented a brief to the Task Force recommending that the *Heritage Property Act* be amended to:

- 1) Strengthen municipal authority to control demolition, either by:
 - providing the same level of protection to individually registered heritage properties that is currently enabled for properties in heritage conservation districts, whereby a municipality may refuse demolition or approve demolition with conditions, both subject to the right of appeal; or
 - extending the current one-year demolition delay to two years.
- 2) Clarify and confirm municipal authority to provide financial assistance to registered heritage properties and properties in heritage districts in the form of grants, loans, and property tax relief. (The Act is presently ambiguous about the range of incentives that may be provided).
- 3) Clarify and confirm that financial assistance may be conditional on an agreement respecting ongoing maintenance and protection from demolition. (This is a common condition of financial assistance in many other jurisdictions and has recently been put into practice in HRM through the Heritage Incentives Program).

The brief also recommended that the term “agreement” as presently used in the *Act* should be defined to include a “*conservation easement or covenant respecting the use, preservation or protection of a heritage property or property located in a heritage conservation district*” and that the Province should request Revenue Canada to accept conservation easements for built heritage as a charitable donation for income tax purposes. This would provide a powerful additional incentive for heritage conservation, not only in HRM but across the province and the country as a whole.

DISCUSSION

Shortly after Council's submission to the Province, the Voluntary Planning Heritage Strategy Task Force delivered its final report in December 2006. The report included recommendations on a wide range of topics including built heritage, natural heritage, underwater heritage, cultural heritage and diversity, museums, archives, documentary heritage, intangible heritage, heritage education and heritage promotion. With regard to built heritage, the Task Force recommended stronger demolition protection for municipal heritage properties, increased funding for grants, property tax relief, and financial support for the creation of heritage districts.

At present, the Provincial Department of Tourism, Culture and Heritage is preparing a report regarding implementation of the Task Force's recommendations, which is expected to be released in the near future. The Department has advised that this report will include a recommendation for a full legislative review of the *Heritage Property Act* and it is expected that the amendments requested by HRM will be considered as part of that comprehensive review. However, a time frame for the review has not yet been established. Staff will continue to monitor the situation and remain alert to opportunities for further input, and will advise Council accordingly.

In addition, HRM by Design is looking at avenues for strengthening heritage protection in the urban core through heritage conservation districts and incentives which are anticipated to be brought before Council in Spring 2008.

BUDGET IMPLICATIONS

None

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.

ATTACHMENTS

Attachment "A": Proposed amendments to *Heritage Property Act*, as forwarded to Service Nova Scotia and Municipal relations in October, 2006.

ATTACHMENT "A"

**PROPOSED AMENDMENTS TO THE NOVA SCOTIA HERITAGE PROPERTY ACT
as included in a Staff Report to Regional Council dated October 10, 2006.**

III. Heritage Incentives

Rationale:

In most provinces, strong demolition control is counterbalanced by financial incentives to encourage maintenance, rehabilitation, or restoration of heritage properties. Most provinces enable municipalities to provide grants, but many enable loans and property tax relief, and state this clearly in their legislation. The *Nova Scotia Heritage Property Act* is less specific than most and clarification would be helpful. Currently section 22 of the *Nova Scotia Heritage Property Act* states:

22(1) The Minister, subject to the approval of the Governor in Council, may provide financial assistance in respect of provincial heritage property and the council may provide financial assistance in respect of municipal heritage property or property located in a heritage conservation district to any person to assist in the restoration or renovations of such property upon such terms and conditions as the Minister or the council, as the case may be, deems fit.

Amendments:

The following amendments were proposed in a report dated January 31, 2006 and submitted to the Nova Scotia Voluntary Planning Strategy Task Force and prepared by HRM Planning and Development Services: Heritage Property Program, wherein it was proposed that the *Heritage Property Act* be amended to provide that:

22 (1)(a) Such assistance may be in the form of grants, loans, or property tax relief.

22 (1)(b) Where the Council considers it appropriate, such assistance may be granted on condition that the owner enter into an agreement with the municipality regarding the ongoing maintenance and protection of the property from demolition or substantial alteration.

Section 3 is amended by adding:

(aa) “Agreement” includes an easement or covenant respecting the use, preservation or protection of provincial heritage property, municipal heritage property or property located in a heritage conservation district;

Section 20 (1) is amended by:

- i) adding after “the council” “or the municipality”;
- ii) adding after “the council” “or the municipality”;

It is proposed the section 20 (1) would read as follows:

The Minister may enter into an agreement with the owner of a provincial heritage property, and the council **or the municipality** may enter into an agreement with the owner of municipal heritage property or property located in a heritage conservation district, whereby the owner grants to the Minister or the council **or the municipality** a right or incurs an obligation respecting the use, preservation or protection of the heritage property or property located in a heritage conservation district.

Section 18 is deleted and the following substituted therefor:

18 The municipality may establish regulations for demolition or removal of a municipal heritage property, which may include:

- (a) a requirement that any application for demolition or removal shall include a report by an independent consultant regarding the structural condition of the building, with the cost of the study borne by the applicant.
- (b) a requirement that no building shall be demolished and no permit for demolition shall be granted until the owner has listed the building for sale with a Multiple Listing Service within the municipality for a period of not less than six months, at a market price determined by a qualified appraiser, and no contract has been made for the sale of the property.
- (c) a requirement that no approval for demolition shall be granted until a permit for a replacement building has been granted, including a time frame for commencement and/or completion of construction.

Add a new section 17(4A) as follows:

17(4A) An application for demolition or removal of a municipal heritage property shall be considered at a public hearing.

Add a new section 17(7) as follows:

17(7) The granting or refusal or permission or the imposition of conditions pursuant to subsection (5) may be appealed by the owner to the Nova Scotia Utility and Review Board.