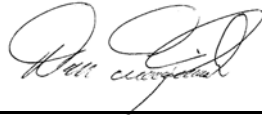


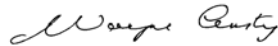
**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**



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Dan English, Chief Administrative Officer



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Geri Kaiser, Deputy Chief Administrative Officer - Corporate Services  
and Strategy

**DATE:** November 4, 2008

**SUBJECT:** Public Hearing Process

**ORIGIN**

At the October 30, 2007 meeting of Regional Council a motion was passed that Administrative Order No. 1 be amended by incorporating the concepts set forth in the presentation to better reflect the rules applicable to the spectrum of public hearings conducted by Regional Council.

**RECOMMENDATION**

It is recommended that Council adopt the amendments to Administrative Order No. 1 set out in Appendix "A" attached hereto.

## BACKGROUND/DISCUSSION

The requirement for attendance at a public hearing in order to be able to vote has resulted in a number of questions by members of Council such as: Can I leave during the presentations by members of the public? Can I leave during presentations by staff? Can I leave during presentations by the applicant/developer? Can I leave during clarification questions by members of Council and their response by staff? Can I leave during the debate? If I can leave, for how long can I leave? What are the implications of the 3pm rule? Does the 3pm rule mean that I cannot speak with a member of the public in the grocery store after the 3pm rule is in effect and prior to the vote?

As was noted during the discussion at the October 30, 2007 meeting, the answer to these questions is dependent on the nature of the public hearing. To provide more certainty around this subject, Councillor Mosher moved a motion that Administrative Order No. 1 be amended to incorporate the legal advice received. Attached are proposed amendments for Council's consideration. These amendments embody the following concepts as outlined at the meeting as being the existing legal requirements that Council must follow:

1. **In respect of by-laws of general application such as the taxi by-law, vending by-law or animal by-law:** there can be no material circulated from members of the public after 3pm on the last day of the public hearing, that one-on-one contact with the public is permissible, that members can leave during debate, that members can leave during the question and answer session but not during the public hearing.
2. **With respect to dual function hearings, which have a legislative component (public interest) as well as private interest (developers) component, such as the adoption of an MPS, RPS or land use by-law amendment:** as in the case of the adoption of by-laws of specific application, there can be no circulation of written material after 3pm on the final day of the public hearing, that one-on-one contact with the public is permissible, that members can leave during debate, members can leave during the question and answer session but not during the public hearing, provided that the amendment is not specific to a single developer or to a limited number of individuals but rather is of relatively broad application as in the case of the adoption of the Regional Plan.
3. **With respect to quasi-judicial hearings where the primary focus is on a decision in respect of an individual application such as an application for a development agreement (including where there is an accompanying MPS or LUB amendment), variance appeal, heritage registration or de-registration, site plan appeal, and less than market value property sales:** the 3pm rule is to be strictly applied including no one-on-one contact after the public hearing and before the vote, members could not leave during the debate and could not leave during the question and answer session following the public hearing.

**BUDGET IMPLICATIONS**

Nil

**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**


Council can choose not to amend Administrative Order No. 1.

**ATTACHMENTS**

APPENDIX "A" - Proposed Amendments

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared & Approved by:



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M.E. Donovan, Director, Legal Services & Risk Management, 490-4226

## Appendix “A”

1. Appendix A of Administrative Order No. 1 in respect of the conduct of Public Hearings is amended by adding the following sections:
  - (21) Any member who fails to attend for the presentation, or any portion thereof, from a member of the public is not eligible to vote.
  - (22) Any member who leaves the council chamber during the debate, including during any clarification by staff, the developer or members of the public, is not eligible to vote in respect of those matters considered quasi-judicial in nature including development agreement applications and any associated Regional Planning Strategy, Municipal Planning Strategy, Secondary Planning Strategy or Land Use By-law amendments, site-plan appeals, variance appeals, heritage registrations, and heritage de-registrations.
  - (23) Further to section (4) hereof, following the close of the public presentation portion of the public hearing, members of council shall not accept individual, representations, whether oral or in writing, following the close of the public presentation portion of the public hearing in respect of those matters considered quasi-judicial in nature such as development agreement applications, site-plan appeals, variance appeals, heritage registrations, heritage de-registrations and less than market value property sales.