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## Item No. 8

Halifax Regional Council  
December 9, 2008

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

**SUBMITTED BY:**

  
M.E. Donovan, Director, Legal Services & Risk Management

**DATE:** December 3, 2008

**SUBJECT:** Legislation at the Fall 2008 Session of the House of Assembly

### INFORMATION REPORT

#### ORIGIN

Council request for report re Fall 2008 session of the Legislature.

#### BACKGROUND/ DISCUSSION

Council has made a number of legislative requests to the Province. These include (1) major legislative initiatives such as the HRM Charter and HRMbyDesign, (2) legislative changes needed to support major projects such as the Dartmouth Transit Terminal and the land exchange with the province involving the QEH site, and (3) a list of other changes some of which have been outstanding since 2007.

In addition to those Bills enacted at the request of the Municipality, a number of other Bills, some government, and some opposition bills were enacted, or others simply introduced that have implications for the Municipality, the specifics of which are outlined below.

#### ***Bills Enacted***

##### **I. Bill 179 - Halifax Regional Municipality Charter**

On September 11, 2007, Council approved adoption of a new Charter using the *MGA* as a template, with no substantive changes, except to:

- clarify that general powers are not limited by specific powers, a provision to this effect being included in section 187 of the *Charter*;

- reduce the need for province wide consultations for legislative amendments, section 382 of the *Charter* requiring consultations between the Minister and HRM; and
- grant Regional Council the power to provide greater notice of variances beyond the legislated 30 metres, the power being granted in section 251(1) of the *Charter*.

On November 25, 2008, the *Charter* received Royal Assent, but is still subject to proclamation, which proclamation is anticipated within the next couple of weeks. The *Charter* is essentially the *MGA* with mostly non-substantive changes, the exceptions being the addition of the Auditor General provisions. Administration is currently reviewing the implications of this provision as it relates to current operations as well as the terms of reference of the Audit Committee.

Certain Parts of the *MGA* were not replicated in the *Charter* as it would be the intention of the Province to continue to take a universal approach to these issues, those being: the FOIPOP, Boundaries, and Municipal Affairs Parts of the *MGA*.

The changes contained within the *Charter*, as previously discussed with Regional Council, relate to:

- updating language for drafting purposes, including changing “shall” to “must” and “if” to “where”;
- adding “administrative orders” to the definition of “policies” since it is the practise of Regional Council to describe its policies as “Administrative Orders”;
- responding to a prior request of Regional Council to increase the dollar amount for Ministerial approval for lease and lease purchase agreements from \$100,000 to \$500,000;
- renumbering and reorganizing the sections so the HRM only provisions of the current *MGA* are located in the appropriate sections of the *Charter*;
- adding specific preamble language about HRM; and
- adding a new power to award a site plan approval or a variance for the external appearance of a structure, additions necessary for the implementation of HRM by Design and found in section 120(3)(l) and 250(2)(d).

To further mirror the *MGA* and provide Regional Council with consistent legislative authority as the municipality transitions from the *MGA* to the *Charter*; there were several amendments to the *Charter* at Third Reading: the sections relating to planning appeals were amended to reflect the amendments to the *MGA* passed in the Spring of 2008.

The 2007 amendments to the supplementary funding provisions and a correction in the civic numbers power were inadvertently not incorporated in the *Charter*. These changes were passed by the Province in Bill 41 on December 10, 2007 but not proclaimed until February 26, 2008, after the *MGA* had been converted to the *Charter*. This is currently under review by provincial staff but is not anticipated to be an issue.

In addition to the changes adopted to the *MGA*, the *Charter*, as passed, contains the following amendments added at Third Reading:

- in response to Regional Council's request in June, 2008, section 66 (5) was added permitting a six-acre portion of the Dartmouth Common to be used for an expanded transit facility, the land reverting back to their use as part of the Dartmouth Common, when the land is no longer used by the Municipality for public transit facilities; and
- the District Council concept was removed.

## **II. Bill 181 - HRM By Design**

HRMbyDesign is the urban design study of the Regional Centre, which includes peninsular Halifax and Dartmouth inside the Circumferential Highway. This project was identified as a priority in the Regional Plan. For the past fourteen months the project has focused, at Council's request, on the special challenges and opportunities that exist in downtown Halifax to:

- Update the 30+ year old Halifax Municipal Planning Strategy.
- Create clear policy and a predictable development approval process so that growth and densification can occur more efficiently and with fewer appeals.
- Improve heritage protection and heritage assistance.
- Implement new design standards to improve the beauty of downtown's architecture, public spaces and streetscapes.
- Give direction on capital investment in amenities such as public art and open spaces in the downtown.
- Bring more people to live and work in downtown Halifax.
- Further HRM's regional goals related to sustainability, economic competitiveness, and walkable, bicycle and transit-oriented communities.

Accordingly, the Urban Design Task Force has articulated the community's vision for downtown Halifax, created the policies that embody the vision, and have recommended a development approval process (Site Plan Approval) with which to implement the policies to bring the community's vision to life. This has been possible as a result of extensive public consultation over the course of more than two years in which thousands of residents have provided input.

A key component of HRMbyDesign's **Downtown Halifax Urban Design Plan** is the replacement of the *Development Agreement* process with *Site Plan Approval* as the tool for approving development in the downtown Halifax plan area. Site Plan Approval is preferred because development applications can be processed within sixty days as opposed to six months or more with development agreements.

Although the Municipal Government Act has had *Site Plan Approval* as a tool at the disposal of communities across the Province for many years, it did not enable the scope of design review recommended by HRMbyDesign (i.e. review of the external features, character, and appearance of a building or structure). Therefore, several amendments to the *Municipal Government Act* were required. These amendments were included in Bill 181 HRMbyDesign, which was passed nearly unanimously.

Bill 181 HRMbyDesign received Royal Assent on November 25, 2008 and is enabling legislation. It too is subject to proclamation. Council now has the authority to implement new procedures for development in downtown Halifax. It is important to note that the legislation does not commit Council to implementing these changes. A new Downtown Urban Design Plan for downtown Halifax with new planning policies, bylaws and procedures still needs to be adopted by Council to fully implement HRMbyDesign. A public hearing is required before the Urban Design Plan can be adopted.

The objective of Bill 181 was to enhance Site Plan Approval as it currently exists through the following amendments:

- the ability to consider the external appearance of structures (i.e. the design of buildings and building additions);
- the ability of Council to appoint a Design Review Committee to make decisions on substantial development applications; and
- set guidelines for entering into bonus zoning agreements.

Unchanged since First Reading on May 23, 2008, the Bill:

- provides for the creation of incentive or bonus zoning agreements to allow ongoing enforceability after a building is constructed;

- allows Regional Council to delegate the authority to enter into an incentive or bonus zoning agreement to Community Council or a development officer, with the exception that where an incentive or bonus zoning agreement entered into by a community council or a development officer purports to commit the municipality to an expenditure, the commitment having no force or effect until approved by Regional Council;
- provides for the mechanism to create and discharge an incentive or bonus zoning agreement;
- broadly defines the term “external appearance of structures”;
- allows the creation of a design review committee and permits the delegation of some or all of the power of the development officer to the design review committee, with the exception of the power to issue permits, a power retained by the development officer;
- determines the composition, the duties, and the matters the committee may consider when reviewing the external appearance of structures for a development; and
- allows an appeal to Council, identical to the variance appeal procedure.

#### **How Bill 181 differs from what was requested by HRM**

On November 18, 2008, Bill 181 was debated at Law Amendments Committee. As a result of this debate, the following changes and additions were made to Bill 181:

- An early draft of the Bill in the Spring applied to all of peninsula Halifax. However, Council only asked for it to apply to the Downtown Halifax Plan Area as specified in HRMbyDesign. The Bill was amended to correspond to Council’s original request. This means that only in the Downtown Halifax Plan area can Site Plan Approval consider the external appearance of structures, and bonus zoning can only be used in the Downtown Halifax Plan area.
- There is a requirement for a mandatory public consultation to be held before a Site Plan Approval. (Previously this was to have been optional on the part of the applicant.)
- Decisions on Site Plan Approval applications must be made within 60 days of the receipt of a complete application. (As previously drafted this time frame was 30 days.)
- If Council chooses to adopt HRMbyDesign’s Downtown Halifax Urban Design Plan, there is a requirement for it to be reviewed within 10 years.

All of the changes are acceptable and will not cause any difficulty in implementing the Downtown Halifax Urban Design Plan portion of HRMbyDesign.

### **Time line for Downtown Halifax Urban Design Plan**

The Urban Design Task Force and staff are currently reviewing public comments received during the Plan's last public review period. Once this review and any subsequent amendments are completed, the Plan will be subject to the following process:

**December/08:** Final Plan distributed to the Urban Design Task Force, Regional Plan Advisory Committee, Heritage Advisory Committee, HRM Legal Department and the Urban Design Steering Committee for review.

**January/09:** Meetings with the Urban Design Task Force, Regional Plan Advisory Committee, Heritage Advisory Committee, HRM Legal Department and the Urban Design Steering Committee to ascertain final comments and forward recommendations to Council.

**February/09:** Anticipated First Reading of Downtown Halifax Urban Design Plan at Regional Council.

**March/09:** Anticipated Public Hearing (with subsequent dates or times to be set by Council as needed).

### **III Bill 204 - Queen Elizabeth II Health Sciences Centre Expansion Act**

Bill 204 received Royal Assent on November 25, 2008. This Bill permits Regional Council, upon such terms and conditions as Regional Council determines are appropriate, to convey to the Province the former Queen Elizabeth High School site on the Halifax Commons to allow for the expansion of the Queen Elizabeth II Health Sciences Centre.

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### ***Other Enacted Government Bills***

#### **IV Bill 191 - Motor Vehicle Act (Amended) (1 of 3)**

Bill 191 received Royal Assent on November 25, 2008 and grants the Minister the authority to designate vehicles that may drive, on a divided highway, from one roadway to another. The Bill also requires the use of either daytime running lights or headlights at all times unless the vehicle is an antique.

#### **V. Bill 193 - Municipal Grants Act (Amended)**

Bill 138, amending the *Municipal Grants Act*, received Royal Assent on November 25, 2008. Currently, a grant in lieu of taxes is paid after the municipality submits a formal claim to the Minister. This Bill alters that procedure and allows a grant to be paid to the municipality after the municipality supplies the Minister with the information the Minister requires, thereby removing the requirement for a formal claim.

**VI. Bill 208 - Conservation Property Tax Exemption Act**

Bill 208 received Royal Assent on November 25, 2008. This Bill amends the *Assessment Act* to exempt from taxation “conservation property” excluding buildings and structures. A change of use tax is not payable when the property becomes “conservation property”; however, a change in use tax of twenty percent is payable when the property, or part of the property, ceases to be “conservation property”.

**VII. Bill 239 - Democracy 250 Act (Amended)**

Bill 239 received Royal Assent on November 25, 2008 and extends the termination date of Democracy 250 from December 31, 2008, to March 31, 2010.

**VIII. Bill 129 - Trade Union Act (Amended)**

Bill 129, a private member’s bill, received Royal Assent on November 25, 2008 and amends the *Trade Union Act* to remove the limitation on interest arbitration for police to the items listed in the Schedule to Part I of the *Act*. Regional Council was previously briefed on this Bill and HRM appeared at Law Amendments and spoke against this Bill.

**IX. Bill 78 - Assessment Act (Amended)**

Bill 78, a private member’s bill, received Royal Assent on November 25, 2008. This Bill requires a Notice of Assessment to include the assessments for the preceding five years in addition to the current assessment year.

**X. Bill 93 - Motor Vehicle Act (Amended) (2 of 3)**

Bill 93, a private member’s bill, received Royal Assent on November 25, 2008. This Bill exempts, for up to six months, a non-resident member of the Canadian Forces who becomes a resident of Nova Scotia from registering his or her motor vehicle in Nova Scotia and from obtaining a Nova Scotia driver's licence so long as he or she is in Nova Scotia on a temporary posting for training purposes and if, in the case of the vehicle, it is only used for non-business purposes.

**XI. Bill 234 - Privacy Review Officer Act**

Bill 234, a private member’s bill, received Royal Assent on November 25, 2008. This Bill requires the appointment of a privacy review officer and permits a person who believes that his or her own personal information has been collected, used or disclosed in contravention of the privacy provisions to request the Privacy Review Officer to review the matter. The Privacy Review Officer powers include the power to:

- monitor how the privacy provisions are administered and conduct reviews of privacy complaints arising from the privacy provisions;
- initiate an investigation of privacy compliance if there are reasonable grounds to believe that a person has contravened or is about to contravene the privacy provisions and the subject-matter of the review relates to the contravention;
- require the production of any record that is in the custody or under the control of the municipality and enter and inspect any premises occupied by the municipality;
- make recommendations on and mediate privacy complaints; and
- on the request of the municipality, provide advice and comments on privacy.

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### ***Bills In Progress***

#### **XII Bill 182 - Heritage Property Act (Amended)**

Bill 182 received First Reading on May 23, 2008, and Second Reading debates were adjourned on May 26, 2008, the debates did not resume in the Fall Session. The Bill amends the *Heritage Property Act* to increase, from one year to two years, the waiting period before the owner of a municipal heritage property may substantially alter the exterior appearance of or demolish the property without the approval of the municipality. The change only applies until September 1, 2009. This is a legislative change that was requested by the municipality as part of the HRM by Design amendments.

#### **XIII Bill 238 - Motor Vehicle Act (Amended) (3 of 3)**

Bill 238 passed Second Reading on November 24, 2008, where it remains. This Bill would increase the roadside suspension for a blood alcohol level of .05 or more from 24 hours to 7 days for a first suspension, 15 days for a second suspension, and 30 days for a third suspension, within ten years.

#### **XIV. Bill 209 - Electricity Act (Amended)**

Bill 209, a private member's bill, received First Reading on November 6, 2008, where it remains. This Bill permits renewable energy providers to sell directly to customers.

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### ***Outstanding Legislative Requests***



In relation to the outstanding legislation requests, staff have set up a meeting with SNSMR in early January, 2009, to move the legislative requests forward with the hope that outstanding legislative requests will be included in the Spring 2009 session of the House of Assembly.

### **BUDGET IMPLICATIONS**

There are tax implications associated with the enactment of the Conservation Property Tax Exemption Act which are currently unknown but not considered to be material.

### **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**

None

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

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