

**Item No. 12.1**  
**Halifax Regional Council**  
**December 6, 2011**

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

**SUBMITTED BY:** original signed  
Cathy J. Mellett, Municipal Clerk

**DATE:** December 5, 2011

**SUBJECT:** Procedures – In Camera Agenda Items

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**INFORMATION REPORT**

**ORIGIN**

Mayor Kelly's announcement regarding increased transparency in procedures regarding In Camera agenda items at Halifax Regional Council.

Meeting of Friday December 2, 2011 with Mayor Kelly, The Municipal Solicitor and the Municipal Clerk to discuss options and opportunities for revising the In Camera processes of Regional Council as provided for within the *Halifax Regional Municipal Charter* and HRM Administrative Order #1 – Procedures of Council.

Proposed changes do not require amendment to HRM's Administrative Order #1 – Procedures of Council.

## **BACKGROUND**

The *Halifax Regional Municipal Charter* (adopted from *The Municipal Government Act*) and HRM Administrative Order #1 – Procedures of Council – are the legislative acts and orders under which proceedings of Council are conducted.

The general provision for the conducting of Council business is found in Section 19 (1) of the HRM Charter:

*19(1) Except as otherwise provided in this Section, Council meetings and meetings of committees appointed by Council are open to the public.*

Closed sessions of Regional Council are provided for under specific circumstances outlined in Section 19 (2) of the HRM Charter:

*19 (2) The Council or any committee appointed by the Council may meet in closed session to discuss matters related to*

- a) acquisition, sale, lease and security of municipal property;*
- b) setting a minimum price to be accepted by the Municipality at a tax sale;*
- c) personnel matters;*
- d) labour relations;*
- e) contract negotiations;*
- f) litigation or potential litigation;*
- g) legal advice eligible for solicitor-client privilege;*
- h) public security*

These categories indicate when Council (or Committees) **may** choose to convene to a closed session. The nature of the discussion, the degree of risk to the Municipality and to the tax payers of HRM, and the public interest for disclosure all need to be considered and weighed carefully in the decision to convene to a closed session.

HRM's Administrative Order #1 Section 12 – In Camera meetings – provides the procedural framework for the conduct of closed sessions of Council. The Administrative Order is posted on the web site at <http://www.halifax.ca/legislation/adminorders/index.html>.

Council and Administration may be constrained, in specific circumstances, in what private information may be provided publically under the provincial Freedom of Information and Protection of Privacy Legislation (*Part XX of the Municipal Government Act*). Privacy legislation is not to be considered a barrier to openness but must be considered carefully in the balance of personal privacy and public access. The Municipality has a legislated responsibility to do so.

## **DISCUSSION**

The legislative framework already exists to ensure greater rigour, improved transparency and intentional direction on the part of Council (or Committees) in the conducting of closed meeting through:

- Adopting a more rigorous review, at the setting of the agenda, in regard to items to be considered for a closed session of Council. The intent would be to substantially reduce the number of items being referred to a closed sessions.
- Adopting clearer and more detailed descriptors of items to be placed and posted on the In Camera portion of the public agenda.
- Adopting procedures which enable Council to address the recommendation and ratification of items on the In Camera agenda prior to a decision to convene to a closed session of Council.
- Adopting a formal motion, in the public session, in order to convene to In Camera (if required) which clearly outlines the matters to be discussed in the closed session.

The procedures, as revised and provided as Attachment A of this report, fall within *The HRM Charter* and *HRM Administrative Order #1* and are in keeping with some of the best and most rigorous practises adopted for the conduct of closed meetings of Council by Canadian Municipalities under the Ontario Municipal Government Act.

The procedures, for clarity, would be included as an appendix to Administrative Order #1. No amendments to the Administrative Order are required in order to implement the proposed changes. The changes are intended to be implemented commencing with the Regional Council meeting of December 13, 2011.

## **BUDGET IMPLICATIONS**

There are no budget implications to this report.

## **FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

## **COMMUNITY ENGAGEMENT**

The procedures are intended to provide increased transparency in the conduct of closed meetings.

The public are encouraged to view agendas and reports on the HRM web site at:  
Regional Council at <http://www.halifax.ca/council/index.html>  
Community Councils at <http://www.halifax.ca/commcoun/cc.html>  
and, Standing Committees of Council at <http://www.halifax.ca/boardscom/index.html>

### **ATTACHMENTS**

Attachment A – In Camera Procedures

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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 by: Cathy J. Mellett, Municipal Clerk

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## **Attachment A – In Camera Procedures**

### General Procedures

(1) Section 19 (2) of the Halifax Regional Municipality Charter provides for the circumstances under which Regional Council “may” convene an In Camera meeting of Regional Council. Where Regional Council is referred to it applies equally to Community Councils and Committees of Council.

(2) The rules of Administrative Order #1, including Section 12 – In Camera Meetings, apply to the In Camera portion of the Regional Council Agenda.

(3) These procedures are intended to clarify the application of the HRM Charter and Administrative Order #1 to In Camera meetings of Regional Council

### Procedures for In Camera Items on the Regional Council Agenda

(4) In Camera items shall be listed by the Clerk at the end of the regular agenda of Regional Council and shall appear on the agenda after n) notices of motion and prior to o) adjournment on the agenda.

(5) When In Camera items are not scheduled the In Camera section will still appear on the agenda and be listed as - NONE

(6) Each scheduled In Camera item will be listed on the posted agenda and will include:

The category under Section 19 (2) of the Charter by which the item meets the criteria for In Camera

Examples: Property Matter; Land; Litigation; Personnel; Labour Relations; Contract Negotiations; Legal Advice; Public Security

The category will be followed by a brief description of the matter that clearly identifies the item but does not disclose the confidential information. The descriptions will use standard descriptive phrases adopted by the Office of the Municipal Clerk in consultation with Legal Services.

Examples:

Property Matter– A matter pertaining to providing instruction and direction to officers and employees of the Municipality pertaining to the acquisition/sale (specify which) of land in regard to (as appropriate specify type) at (as appropriate specify where).

Litigation – a matter pertaining to litigation or potential litigation in regard to an identifiable person and information whose disclosure could reasonably be expected to prejudice the interests of the Municipality.

The agenda shall note if the In Camera item is to be considered by Council under a private & confidential report, a private & confidential presentation or orally.

Where appropriate, the description of the In Camera item on the Council agenda will be followed by the motion intended for ratification in the public portion of the Council meeting.

#### Sample Agenda

#### 15. IN CAMERA

15.1 Litigation – a matter pertaining to litigation or potential litigation in regard to an identifiable person and information whose disclosure could reasonably be expected to prejudice the interests of the Municipality.

15.1.1 Agenda TITLE of the ITEM- Private and Confidential Staff Report/ or Private and Confidential Presentation/ or Oral

Motion: To direct staff to settle with the individual under the terms and conditions as outlined in the Private & Confidential report of (date) or, where appropriate, to name the individual and/or terms and conditions of settlement.

#### Council Procedures

(7) No item, placed on the In Camera portion of the Council agenda, may be discussed in the public session of Council unless determined by a vote of two-thirds of the members present to do so.

(8) Except as provided for in section 7 (above) items placed on the In Camera agenda are not debatable in a public session of Council. In Camera items, as posted, will be either:

a) Moved by motion without debate or amendment and voted on in the public portion of the agenda at the In Camera section of the agenda prior to Council resolving to convene to In Camera

Or

b) Moved by motion without debate to be further discussed at the In Camera (closed) session of Council.

(9) Council will, by motion and vote of the majority of members present, resolve to go In Camera prior to discussing any In Camera Items.

#### Added Items or Moving to In Camera for Discussion

(10) Section 12 (4) of Administrative Order #1 would apply to items not on the posted In Camera agenda and would require a two-thirds vote of the members present for an In Camera discussion to take place provided a) a motion to do so is made in the public session of Council and b) is supported by information which explains the legitimate reason for the necessity of an In Camera discussion.

(11) In Camera agenda items requiring ratification following discussion In Camera will be brought back to the public session of Council immediately following In Camera and prior to adjournment. As noted in

Section 12 (8) of Administrative Order #1, the rules of procedure will apply to the adoption of such recommendations; however, as also outlined in Section 12 (8), the motion to adopt the recommendation shall not be debatable.