

Item No. 11.1.6
Halifax Regional Council
June 12, 2012

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

Original signed

SUBMITTED BY: Richard Butts, Chief Administrative Officer

DATE: June 6, 2012

SUBJECT: Proposed Amendments to Administrative Order #1 Respecting the
Procedures of Council – Recorded Votes & In Camera procedures

ORIGIN

Motion of Halifax Regional Council of May 29, 2012 “That all votes taken by Halifax Regional Council be recorded votes”

Regional Council Information report of December 5, 2011 outlining changes to Regional Council In Camera proceedings and subsequent ruling of Legal counsel at Regional Council June 5, 2012.

RECOMMENDATION

It is recommended that Halifax Regional Council adopt the proposed amendments to Administrative Order #1, outlined in this report, to:

- 1) Implement the May 29, 2012 motion of Halifax Regional Council in regard to recorded votes, as outlined in Attachment #1 of this report.
- 2) Provide clarity in regard to In Camera procedures, as outlined in Attachment #2 of this report.

BACKGROUND/DISCUSSION

At the May 29, 2012 meeting of Halifax Regional Council a motion was put forward that all votes at Regional Council be recorded votes. After due discussion and deliberation the motion was put and passed. Council directed the Municipal Clerk to bring forward the required recommendation to Administrative Order #1 for consideration and adoption by Regional Council.

Attachment #1 of this report provides Regional Council with the recommended wording to amend Administrative Order #1 based on Regional Council's motion in regard to recorded votes.

In addition, in December 2011 new procedures in regard to In Camera meetings of Regional Council were implemented in order to enhance the transparency in regard to the matters being brought to In Camera and to allow Regional Council to adopt recommendations put forward by Private and Confidential In Camera Reports in the public session of Council without debate or amendment. Legal advice at the time determined that the revised procedures did not require any amendments to Administrative Order #1.

Subsequently it is the view of HRM Legal Services that amendments should be made to Administrative Order #1 for clarity and to ensure debate on any matter is taken up by Council when and where appropriate.

Attachment #2 provides Council with the recommended approach to In Camera matters. The intent is that Council debate and take the decision on whether items listed in the In Camera portion of the agenda should be addressed in private session (In Camera) or in public session during the approval of the Order of Business. By having the debate in regard to In Camera matters during the Approval of the Order of Business it will be less disruptive to the flow of Council meetings.

The results of the amendments would be that, if an In Camera item is listed on the Council agenda and Council does not choose, during the approval of the Order of Business, to move an item to the public agenda Council would convene to a closed session automatically as the last order of business (without a motion required) and consider the In Camera agenda items. Ratification would continue to require Council to reconvene to public session.

If, during the approval of the Order of Business, Council moved an In Camera item to the public agenda the associated reports would become public documents.

In the view of Legal Council and the Office of the Municipal Clerk the proposed approach retains the intent and integrity of the Charter and Administrative Order # 1 in regard to Council's determination to convene to private session and provides full transparency as to when and for what purpose Council may determine to do so. In effect Council would be reverting to the previous procedures for In Camera except for additional clarity provided in regard to In Camera items on the agenda.

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

Not applicable

ALTERNATIVES

Halifax Regional Council may choose not to adopt either or both the recommendation in regard to recorded votes or In Camera procedures.

Should Council not adopt the amendments in regard to recorded votes the current clauses in regard to voting at Regional Council would continue to be in effect.

Should Council not adopt the amendments in regard to procedures for In Camera Council would continue to be required to convene to In Camera to discuss any In Camera recommendations brought forward through Private and Confidential reports.

ATTACHMENTS

Attachment #1 – Proposed Amendments to Administrative Order #1 – Respecting the Procedures of Council in regard to recorded votes

Attachment #2 – Alternative Amendments that Council may choose to adopt in regard to Section 12 In Camera Meetings

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 & Martin Ward, General Counsel, HRM Legal Services

Report Approved by: **Original signed**
Marian Tyson, A/Director Legal Services and Risk Management

Attachment #1 - Proposed Amendments to Administrative Order #1 –Regarding Recorded Votes

Rules Adopted

3. (1) The proceedings of Council and committees, the conduct of members and the calling of meetings shall be governed by the provisions of this Administrative Order unless otherwise stated in the Administrative Order.(add)
- (2) Notwithstanding subsection (1), any one or more or all of the rules and regulations contained herein may be suspended by the affirmative vote of two-thirds of the members present and voting.

Voting

18. ~~(1) When a vote on any motion is taken, the presiding officer shall determine whether the vote shall be taken orally, by show of hands or using the electronic voting system installed in the Council Chamber.~~
~~(2) If the presiding officer determines that the vote shall be taken orally or by show of hands, before the question is decided or immediately after the question is decided, a member may require that the vote be taken using the electronic voting system or, if the electronic voting system for any reason is not operational, that the vote be recorded.~~
~~(3) When a vote is taken orally, and no dissent is declared, the vote shall be deemed to be unanimously in favour of the motion.~~
~~(4) When a vote on any motion is taken, no vote shall be recorded as unanimous, unless the vote is taken by a recorded vote.~~
(1) At Regional Council when a vote on any motion is taken that vote shall be taken as a recorded vote. using the electronic voting system installed in Council Chambers.
(Amendment to numbers – previously 18 (5))
(2) When the electronic voting system is utilized for recorded votes at Regional Council (add),
 - (a) when the presiding officer calls for the question to be taken, each member shall indicate whether they are in favour of or opposed to the question by pressing the “Yea” or “Nay” button provided at their desk;
 - (b) after the vote is completed, the Clerk shall display ~~on the television monitors in the Council Chamber and when technically possible, on home televisions when the Council sessions are televised,~~ the total number of votes for and against the motion and the presiding officer shall declare whether the motion is carried or lost;
 - (c) ~~the Clerk shall then display on the television monitors in the Council Chamber and when technically possible, on home televisions when the Council sessions are televised, the result as to how each member voted on the question; and~~
 - (d) the Clerk shall print off and maintain in the records ~~of the meeting the screens showing the total votes on each question and the result as to how each member~~

voted on each question, and include those results in the minutes, and such records shall be open to the public.

(e) when the results of how each member voted on the question are displayed or stated ~~on the television monitors in the Council Chamber,~~ a member shall immediately bring any error in the result due to the member's vote either not being recorded or being recorded improperly, to the attention of the Clerk and the presiding officer, and the clerk shall make a note of the error and record it in the minutes of the meeting and the presiding officer shall declare any change in the result if necessitated by the error.

(3) The requirement for recorded votes for all motions applies to Regional Council and does not apply to Committee of the Whole Council, Community Council or Boards and Committees of Regional or Community Councils (add).

(4) When a vote is taken on any motion at Committee of the Whole, Community Councils or Boards and Committees of Regional or Community Councils, the Chair person shall determine whether the vote shall be taken orally or by show of hands. (add).

(a) When a vote is taken orally, and no dissent is declared, the vote shall be deemed to be unanimously in favour of the motion (add).

(b) If the vote shall be taken orally or by show of hands, before the question is decided or immediately after the question is decided, a member may require that the vote be a recorded vote of the members present (add).

Attachment #2 – Proposed Amendments to Administrative Order #1 in Regard to In Camera

In Camera Meetings

12. (1) Council or a Committee of Council may meet in closed session (In Camera) to discuss any items designated in Section 19 (2) of the *Halifax Regional Municipal Charter*. ~~When Council or a Committee of Council meets In Camera to discuss any items designated in Section 19 (2) of the *Halifax Regional Municipality Charter*, the Clerk shall list such items at the end of the agenda of regular meetings of Council.~~
- (2) Council may, at the request of one or more of its members, and with the agreement of two-thirds majority of Council members present, agree to enter into In Camera discussions without meeting the requirements set out in subsections Sections 25(4) and 25(5) provided however, that the request is supported by information which explains a legitimate reason for the necessity of In Camera discussions taking place.
- (3) No In Camera meeting may proceed in the absence of the Municipal Solicitor, or delegate.
- (4) The rules of procedures set forth in this Administrative Order for regular meetings of Council shall apply to In Camera discussions except as otherwise specifically provided for in this Section.
- (7) Minutes of In Camera meetings will be taken by the Clerk or a designate and kept in the office of the Clerk. The minutes of In Camera meetings shall be approved at the next In Camera meeting of the Council as the first item of business of the In Camera meeting. Subject to subsections (8), (9) and (10), such minutes are not considered to be of public record.
- (8) Recommendations resulting from discussions taking place in the In Camera meeting shall be brought forward as an added item for approval by Council in open session immediately following dissolution of the In Camera session and the rules of procedure will apply to the adoption of such recommendations, provided, however, that the motion to adopt a recommendation shall not be debated.
- (9) Staff reports submitted to In Camera Meetings of Council and details of the matters discussed at and the minutes kept of such meetings, except background information, shall be maintained by the Clerk as confidential information unless Council determines that the information or any part thereof be made available to the public pursuant to subsection (10).
- (10) If it is determined by Council, following a recommendation of staff, that the release of information identified as confidential, has the potential to unduly damage or embarrass or in other ways be detrimental to an individual or individuals, Council may decide to maintain the confidentiality of the information for a further specified or unspecified period of time. This clause will not, however, be used to protect an elected official from potential embarrassment or damage arising from a position taken, or remarks made, during In Camera meetings.
- (11) Reports and other information arising out of In Camera meetings, for which Council determines no legitimate reason exists to maintain such records as confidential information, will be made available to the public upon request in writing to the Clerk.

(12) When any member of the public requests access to In Camera discussion information, which is classified as confidential, the Municipality, under the signature of the Chief Administrative Officer, shall provide reasons in writing addressed to the inquirer why such information is so classified.

(13) For the purposes of subsection (11), merely identifying the requested information as being access restricted because it is considered to be of a confidential nature will not constitute a satisfactory response to a request for information.

(14) Where a request for information from an In Camera meeting has been denied on the grounds of it being confidential, or where such information is considered by the inquirer to have been withheld for an unreasonable period of time, the inquirer may in writing request Council to review the decision, whereupon the inquirer shall be granted the right to make a formal presentation either orally or in writing and by a two-thirds majority vote of the Council members, Council may direct the release of the information.

Agenda and Order of Proceedings

25. (1) The Clerk shall have prepared and printed the agenda of Council together with copies of all reports or communications to be dealt with at each regular meeting of Council under the following headings:

- a) Invocation
 - b) Special community announcements and acknowledgments
 - c) minutes of the previous meeting; including correction of errors and omissions;
 - d) approval of the listed order of business and approval of any additions thereto or deletions therefrom;
 - e) business arising out of minutes unless dealt with elsewhere;
 - f) motions of reconsideration;
 - g) motions of rescission;
 - h) consideration of deferred business;
 - i) public hearings (when required will be held at 6 p.m.)
 - j) correspondence, petitions and delegations;
 - k) reports from:
 - i) staff;
 - ii) standing committees of council;
 - iii) committees other than standing committees;
 - iv) members of Council.
 - l) motions;
 - m) added items;
 - n) notices of motion;
 - o) In Camera Items
 - p) adjournment.
- Information Items

(2) The sequence established in the foregoing paragraph shall apply unless otherwise determined by a vote of two-thirds of the members present and the vote upon a matter of priority of Council business shall be decided without debate.

(3) For In Camera agenda items the Clerk shall list any items designated in Section 19 (2) of the *Halifax Regional Municipality Charter* for which Council may meet in closed session as items for the closed (In Camera) section of each meeting of Council.

(4) In Camera agenda items shall be identified by the type of matter to be discussed, with additional information, where possible, to further identify the item but not as to disclose the confidential information.

(5) A brief description or summary of the subject matter of the items to be discussed In Camera shall be made available to Council no later than the commencement of the Council meeting at which time such items are intended to be discussed In Camera. Such a summary will identify the reason In Camera discussion is warranted.

(6) The Clerk shall also list any item for information only at the end of the agenda of each meeting of Council. The agenda shall indicate the source of the item, the date received and whether public or confidential. All information reports are provided to Council for information only. No anonymous items shall be included in the agenda.

(7) Where a member of Council wishes to have an item placed on the Council agenda, the member shall submit the request in writing to the office of the Municipal Clerk no later than 12:00 noon on the Thursday prior to the Council meeting at which the item is to be considered, whereupon the Clerk shall cause the item to be added to the Information Agenda.

(8) Where a member of Council wishes to have an item placed on the Council agenda following the deadline prescribed by subsection (7), the member shall submit the request in writing to the Mayor and the Chief Administrative Officer by noon on the Monday immediately preceding the Council meeting, whereupon the Mayor and the Chief Administrative Officer shall review the request and decide whether or not to place the item on the agenda.

(9) The request required to be submitted pursuant to subsections (7) and (8) shall include an explanation of the item and the reasons for making it as well as a copy of the resolution which Council will be requested to consider.

(10) The Council shall not consider any matter not listed on the Agenda or added to the Agenda pursuant to subsection (8), unless the matter has been added to the Agenda with approval to such addition given by a two-thirds majority vote of the members present, duly recorded in the minutes.

(11) Where a member of Council has an issue concerning staff, either individually or collectively, the issue shall not be added to the agenda of a Regular Council meeting until the Council member has discussed the issue with the Chief Administrative Officer and the matter has been discussed at an In Camera Session of Council.

Move the following from Section 25 (8) and 25 (9) to stand alone clauses in the AO:

49. Where a member of Council wishes to bring forward a motion in opposition to the motion contained in the report before Council on the Agenda, Council shall first vote on

the motion before them in the report. If that motion fails, the alternative motion may then be placed on the floor for consideration of Council.

- 50 Where a Councillor wishes to bring forward an alternative motion related to an item on the Council agenda the Councillor shall provide a copy of the motion in writing to the Clerk.