

Item No. 10.1.4
Halifax Regional Council
March 5, 2013

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original signed by 
Richard Butts, Chief Administrative Officer

Original Signed by
Mike Labrecque, Deputy Chief Administrative Officer

DATE: February 14, 2013

SUBJECT: Administrative Order One Amendment: Motion to Allow An Appeal

ORIGIN

This report originates from staff in relation to tie votes when an appeal is heard by Regional Council, a Community Council or a Committee of Council.

LEGISLATIVE AUTHORITY

Section 20 of the *Halifax Regional Municipality Charter* allows Regional Council to make policies regulating its own proceedings.

RECOMMENDATION

It is recommended that Halifax Regional Council amend Administrative Order One, the *Procedure of Council Administrative Order*, by adding subsection 8A of section 25, as set out in attachment "A" attached hereto.

BACKGROUND

The Halifax and West Community Council and the Appeals Committee both have an even number of Members, six and eight respectively. The North West Community Council and the Harbour East-Marine Drive both have five Members, and Regional Council has seventeen Members (including the Mayor). When one or more Members are absent from Regional Council, North West Community Council or the Harbour East-Marine Drive Community Council, the number of Members voting can be reduced to an even number.

Anytime there is an even number of Members voting on a motion, there is the possibility of a tie vote. Subsection 4 of section 18 of the *Halifax Regional Municipality Charter* provides that in the event of a tie vote, “the vote is determined in the negative”.

DISCUSSION

Subsection 8 of section 25 of *Administrative Order One* provides that a motion contained in a report from staff must be defeated by the Members before an alternative motion may be placed on the floor. When the matter before the Members relates to an appeal, the motion contained in the report is to uphold the decision of staff. The majority vote of the Members will determine whether the decision of staff is upheld (the appeal is denied) or overturned (the appeal is allowed). In the event of a tie vote, the motion to uphold the decision of staff is defeated (determined in the negative) resulting in the decision of staff not being upheld while, at the same time, not allowing the appeal.

When Council, Community Council or the Appeals Committee hears an appeal, staff is suggesting the report be in the form of an appeal report, a sample template attached hereto as Attachment 3. Under the recommendation section of the appeal report, the question for the Council, Community Council or Appeals Committee to consider is whether to allow the appeal or deny the appeal.

When Council, Community Council or the Appeals Committee considers the matter, rather than the motion on the floor being “to uphold” the decision of staff, the motion on the floor would be to “allow the appeal”. When the Members vote on the motion to “allow the appeal”, if there is a tie vote or a vote in the negative, the result will be a denial of the appeal thereby providing certainty that the decision of staff is intended to stand. The Appeal would be granted only with a clear affirmative majority vote to “allow the appeal”. To facilitate this approach, staff is recommending Administrative Order One be amended to require, if the matters relates to an appeal, the motion on floor be to “allow the appeal”.

The proposed change is intended to provide clarity in regard to the intent of Council, Community Council, or Appeals Committee in regard to disposition of an appeal.

FINANCIAL IMPLICATIONS

None.

COMMUNITY ENGAGEMENT

None.

ENVIRONMENTAL IMPLICATIONS

None.

ALTERNATIVE

Regional Council could refuse to amend Administrative Order One. This will maintain the status quo whereby a tie vote on a motion to uphold the decision of staff is defeated (determined in the negative) resulting in the decision of staff not being upheld while, at the same time, not allowing the appeal.

ATTACHMENTS

- | | |
|--------------|---|
| Attachment 1 | Proposed changes to section 25 of Administrative Order One. |
| Attachment 2 | Amendments to Administrative Order One |
| Attachment 3 | Appeal Report Template |

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: Derk Slaunwhite, Senior Solicitor, 490 4226
Cathy Mellett, Municipal Clerk, 490 6456

Original Signed by Director

Report Approved by: _____
Marian Tyson, Acting Director, Legal, Insurance and Risk Management

Attachment 1

(proposed changes to Administrative Order One)

**HALIFAX REGIONAL MUNICIPALITY
ADMINISTRATIVE ORDER NUMBER ONE
RESPECTING THE PROCEDURES OF COUNCIL**

...

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) adjournment.

(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) The Clerk shall also have prepared an Information Agenda with copies of all reports or communications to be provided to Council only for its information. The Agenda shall indicate the source of the item, the date received. No anonymous item shall be included in the Agenda.

(4) 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 agenda.

(5) Where a member of Council wishes to have an item placed on the Council agenda following the deadline prescribed by subsection (4), 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.

(6) The request required to be submitted pursuant to subsections (4) and (5) 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.

(7) The Council shall not consider any matter not listed on the Agenda or added to the Agenda pursuant to subsection (5), 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.

(8) 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 the consideration of Council.

(8A) Notwithstanding subsection 8 of this section, where Regional Council, a Community Council or a committee hears an appeal, the motion to "allow the appeal" shall be placed on the floor even if such motion is in opposition to the recommendation contained in the report before them.

(9) Where a Councillor wishes to bring forward an alternative motion relating to an item on the Council agenda the Councillor shall provide a copy of the motion in writing to the Clerk.

(10) 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.

**Attachment 2
(Amendment to Administrative Order One)**

**HALIFAX REGIONAL MUNICIPALITY
ADMINISTRATIVE ORDER NUMBER ONE
RESPECTING THE PROCEDURES OF COUNCIL**

BE IT RESOLVED by the Council of the Halifax Regional Municipality that Administrative Order One, the Procedure of Council Administrative Order, is further amended as follows:

1. Subsection 8A of section 25 of Administrative Order One is added after subsection 8 and before subsection 9 as follows:

(8A) Notwithstanding subsection 8 of this section, where Regional Council, a Community Council or a committee hears an appeal, the motion to “allow the appeal” shall be placed on the floor even if such motion is in opposition to the recommendation contained in the report before them.



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

[Name of Community Council, Board, etc.]
[Date of Session]

TO: Chair and Members of (Name of Community Council or Board)

SUBMITTED BY: _____
[Director, BU]

DATE: [Today's Date]

SUBJECT: Appeal Report - [Insert topic/ case no etc.]

ORIGIN

LEGISLATIVE AUTHORITY

[Refer to Charter sections, plus Administrative Order or By-Law sections]

RECOMMENDATION

The question before (Name of Committee or Community Council) is whether to allow or deny the appeal before them.

BACKGROUND

[Insert background to the item before the Committee or Community Council including chronologies if relevant]

DISCUSSION

[Insert any discussion relevant to the decision to be taken by the Committee or Community Council including the position taken by staff on the matter]

FINANCIAL IMPLICATIONS

[Insert any financial implications if applicable]

COMMUNITY ENGAGEMENT

[If applicable]

ENVIRONMENTAL IMPLICATIONS

[Complete this section according to the Environmental Implications Section Guidelines posted on InsideHRM: <http://insidehrm/Forms/Index.html#MunicipalClerk>]

ALTERNATIVES

- To allow the appeal before [insert name of Committee or Community Council]
- Or
- To uphold the decision of the [insert official's title] and deny the appeal.

ATTACHMENTS

[If applicable]

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

Report Prepared by: _____ [Name/Title of who prepared rpt. & Phone #]

Report Approved by: _____ [Name/Title of Manager/Supervisor & Phone #]

Financial Approval by: _____
Greg Keefe, Director of Finance and Information Technology/CFO, 490-6308
