


Item No. 10.1.5
Halifax Regional Council
July 30, 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: July 8, 2013

SUBJECT: Airport Noise Contour Boundary – Charter Amendment

ORIGIN

Bill 138 amending HRM Charter s 235 (5) allowing development regulations near the airport (Spring 2008).

January 12, 2010 motion, moved by Councillor Dalrymple, seconded by Councilor Hendsbee, that Halifax Regional Council authorize staff to initiate a process to consider amending the Planning Districts 14 and 17 Municipal Planning Strategy and Land Use By-Law to regulate noise-sensitive land uses around Halifax Stanfield International Airport.

LEGISLATIVE AUTHORITY

HRM Charter s 235 (1)(p) and 235 (5)(q)

RECOMMENDATION

It is recommended that Halifax Regional Council support a provincial amendment to the Municipal Government Act and HRM Charter, clarifying municipal authority around land use planning and regulation near airports.

BACKGROUND

In 2006/2007, as part of a greater review of zoning around the Halifax International Airport, HIAA requested that HRM consider adding land use controls in noise sensitive areas around the airport. HIAA was, and continues to be, concerned about the noise issue in regards to possible residential development in the area. Previously the federal Aeronautics Act governed airport zoning issues, but these sections were repealed in the early 2000's. Currently there is no policy which links airport noise issues and land use around the airport, although Transport Canada recommends municipalities implement land use controls which limit residential development around airports.

HRM demonstrated its support of this position and had language in the 2006 Regional Plan, this commitment continues in the Regional Plan Review (RP+5). RP+5 contains language that recognizes the importance the HIAA plays in economic development for HRM. One of the key requirements for the success of the airport is the ability to operate as a 24 hours operation. This requires the ability to restrict development in the vicinity of the airport which would be incompatible by virtue of noise.

On January 12, 2010, Council initiated a process to consider restricting the development of future land uses around the airport that may be adversely impacted by noise. This process was begun in consideration of the economic importance of the airport in the local and regional economy. There is approximately 2400 acres of public land, the majority of which is Aerotech Business Park, the Waverley Game Sanctuary and undeveloped forest. Private lands are intermixed with these areas, and residential development includes areas in Goffs, Enfield, Oakfield, Grand Lake, Fletchers Lake and Fall River.

HRM began the process to amend the Land Use Bylaw and undertook public consultation. However, HRM staff discovered that the HRM Charter had wording which was incorrect. It stated:

Statements of Policy in Planning Strategy

235 (1) A municipal planning strategy may include statements of policy with respect to any or all of the following:

(p) the regulation or prohibition of development and the use of land in order to carry out an agreement pursuant to the Aeronautics Act (Canada);

Content of land-use by-law

235 (5) Where a municipal planning strategy so provides, a land-use by-law may

(q) regulate or prohibit development and the use of lands in order to carry out an agreement pursuant to the Aeronautics Act (Canada);

These sections state that agreements under the Aeronautics Act can be used to control land use. This is outdated as the applicable Aeronautics Acts sections no longer exist and Transport Canada urges municipalities to institute their own land use controls. HRM raised this issue with

Province and the Province concurred, agreeing to correct the MGA (and the subsequent HRM Charter).

In 2008 the Legislature passed Bill 138 which included changes to the above land use bylaw to correct it. However the corresponding change to the Statements of Policy was not made, meaning it still refers to agreements under the Aeronautics Act being sufficient to control land use. Therefore the legislation allows for land use by-law regulations pursuant to the Noise-exposure Forecast 30, but only where there is corresponding policy support for this within a municipal planning strategy - which is still lacking in the Charter. The issue with the legislation is that HRM may only adopt policies pursuant to an agreement, whereas such agreements are no longer used. HRM notified the Province about this inconsistency and the Province agreed to change it, however no timeframe was provided.

DISCUSSION

Concerns around the level of noise and encroaching residential development remain since Council reactivated the airport planning process in 2010. HRM would like to proceed with regulating noise levels through land use controls, but the inconsistent wording in the HRM Charter is problematic as the conflicting Statements of Policy and Land Use Bylaw Content sections in the Charter provide two different interpretations.

The airport is a major economic generator for HRM and Nova Scotia. Its economic impact to HRM is \$746 million, and \$1.26 billion to Nova Scotia. The presence of an airport in a region can help attract investment, help retain or expand existing business, and attract new businesses. Of particular benefit to a region is the extent to which an airport promotes the ability of businesses to export. Providing clear land use rules that allow the airport to develop and grow while preserving the quality of life for residential developments are needed. Placing regulations on the development of noise-sensitive land use around airports is common in many municipalities

The Province has committed to change the Statements of Policy to reflect the correct state of affairs and bring it in line with the Land Use Bylaw Content section. HRM staff is recommending that Council voice its support for this change and urge the Province to bring it forward during the next session of the Legislature. Once the change is made HRM may proceed with developing a land use bylaw that deals with noise and residential development around the airport. Regional Council's support of these Charter amendments do not pre-suppose the outcome of the possible regulations that might be developed by HRM. These are to be the subject of new public consultation and Regional Council direction and approval.

FINANCIAL IMPLICATIONS

No financial implications were identified in this report.

COMMUNITY ENGAGEMENT

Public consultation has taken place to inform the development of land use controls around the airport. Further consultations may also occur.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified in this report.

ALTERNATIVES

HRM could let the matter lapse and not develop any land use controls around the airport. This is not recommended because development pressure is growing in the airport area, and as such there should be clear and consistent rules in place to guide it.

ATTACHMENTS

None

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.

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