


Item No. 11.1.7
Halifax Regional Council
August 6, 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 26, 2013

SUBJECT: Legislative Requests Review

ORIGIN

March 19, 2013, Council Report “Legislative Requests – 2012 Update”

February 2012 report to all Standing Committees “HRM Legislative Requests Strategy”

LEGISLATIVE AUTHORITY

The relevant *HRM Charter* sections and authority are outlined for each amendment request in the attached Legislative Amendments tracking sheet.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Approve the list of seven legislative amendment requests to keep, as set out in Items 1 to 7 of section I of the revised legislation request chart attached to this report;
2. Include the request, if approved by Council on July 23, 2013, to legislate the Halifax International Airport Authority (HIAA) Development Grant Agreement as a Tax Agreement and include it in the HRM Charter;
3. Add a request to work with Service Nova Scotia and the Property Valuation Services Corporation (PVSC) to change the commercial tax assessment so it is based on 3 past years of assessment rather than one year;

Recommendations continued on pg. 2.....

4. Approve removal of Item 10 (Salary Disclosure) and Item 11 (Community Council Powers) in section II, as these matters can be addressed outside the current legislative review process;
5. Approve retention of Item 12 (NS Utility & Review Board to conduct Municipal Boundary Review) in section II, as a continued priority of Regional Council in the interest of good governance;
6. Approve the removal of the 23 remaining amendment requests, as set out in numbers 13 to 35 of section III of the revised legislation request tracking sheet attached hereto; and
7. Direct staff to forward the revised list of legislative requests to the Minister of Service Nova Scotia & Municipal Relations.

BACKGROUND

Given the number of amendment requests HRM has on the books and the length of time some have been there, Council directed staff on March 19, 2013, to review all amendments for their ongoing relevance and necessity. Previously there was no mechanism to remove legislative requests, once made, and they stayed on the status sheet indefinitely. Government Relations & External Affairs (GREA) worked with Legal Services and business units to review all existing amendment requests, and recommendations have been made on which should be kept and which should be removed. In addition, there are three requests which originated from Council discussion rather than a staff report (Salary Disclosure, Community Council Powers and Municipal Boundary Review). Staff have provided their recommendation on these three items and are seeking Council direction.

Finally Council directed staff to begin work around a comprehensive review of the HRM Charter, with a goal of working with Service Nova Scotia & Municipal Relations to develop a more flexible and autonomous legislative framework for Halifax. Preliminary work has begun on this and will be outlined in a separate Council report when project scope and goals are clearly developed.

DISCUSSION

Government Relations and Legal Services staff have completed a review of all 33 outstanding legislative requests made to the Province, dating back to 2006. Government Relations has worked with business units to understand the rationale for each request and determine whether the proposed amendment is still relevant. The legislative request tracking chart (Appendix II) sets out which amendments staff recommend keeping and removing.

There are six substantive requests recommended to keep:

- Capital Cost Contributions - HRM currently has the ability to implement CCCs for wastewater and solid waste, and is asking the Province to expand that ability to include

the growth-related portion of capital costs related to Fire Services, Recreation Facilities, Libraries and growth-related studies. This request is still relevant in terms of Regional Plan goals of promoting density, discouraging sprawl and reducing municipal service costs.

- Heritage Property Act sunset clause for clerical errors impacting heritage status. Retain this request as there is a high possibility of other properties being impacted and the matter is under review with NS Communities Culture & Heritage.
- Notice of Claims, adding a 21 day limitation period in the *HRM Charter* for transit and snow and ice claims to allow gathering and preservation of the necessary evidence. The *HRM Charter* currently allows 12 months to initiate a claim, which prejudices HRM's ability to gather evidence, interview witnesses and examine the location where damage has occurred in a timely way. Transit, snow and ice claims form the majority of claims HRM receives; however should Council wish to expand the request to include all claims HRM receives, it could consider doing so.
- Search Warrants, allowing a Justice of the Peace to issue a search warrant under the *HRM Charter* mirroring provision in *Summary Proceedings Act*. Currently there are two different processes. The *Summary Proceedings Act* allows a Justice of the Peace to issue a search warrant to a peace officer investigating a probable offence under the *HRM Charter*. However the *HRM Charter* specifically requires an investigator, inspector or administrator to apply to a Justice of the Supreme Court for a search warrant, rather than a Justice of the Peace. This request is to bring the *HRM Charter* in line with the *Summary Proceedings Act*.
- Fine Collections, asking to enhance the ability to collect municipally-issued fines, by amending the HRM Charter to make fines imposed by a Provincial Court collectible in the same manner as property taxes. Currently HRM issues fines for infractions of bylaws, land use bylaws, and motor vehicles. These fines are collected by the Province, which manages all collections. However these municipal fines are not classified as taxes, so they cannot be collected by tax sale provisions and are more difficult to collect. This amendment request would allow municipal fines to be made liens against real property and collected in the same manner as property taxes.
- Charges for Future Use, so that Council has the ability to impose charges against persons who will benefit, in the future, from a service (i.e., water & sewer) – keep this because of its alignment with development and growth strategies in RP+5.

There is one housekeeping amendment recommended to keep:

- Surveys for Expropriation – keep request to ensure the *Expropriation Act* and *HRM Charter* are consistent in making surveys optional (currently mandatory for HRM expropriation).

There are also three amendment requests which originated with Council rather than staff operational requirements. Staff have included their recommendations in regard to these three requests and are seeking confirmation from Council. The requests are:

- Salary Disclosure, whereby HRM would be required to disclose the compensation it pays to any employee whose yearly income exceeds \$100,000. –Retain as a Council priority but remove from legislative requests as no changes to the Charter are required for the Province to proceed by Order in Council as recommended by Regional Council.
- Request for the NSUARB to conduct Municipal Boundary Reviews – Retain, as the current process for Boundary Reviews does not serve the interest of good governance.
- Expanded Community Council Powers – Remove pending specificity of requests coming from further HRM governance reviews

There are 23 amendment requests recommended for removal. The rationale for each one is included in the tracking chart. Reasons for removal include requests related to one-time scenarios which have been resolved, requests not related to HRM's mandate, and requests that are no longer relevant due to changes in Council focus or policy.

Lastly, there are two potential new requests to add to the list. One is the request to legislate the HIAA Development Grant Agreement as a Tax Agreement (versus a Development Grant Agreement), as approved by Council on July 23, 2013. Currently all Provincially-endorsed tax agreements are enshrined in legislation (e.g., the Imperial Oil tax agreement). Tax agreements provide clarity and certainty for both parties about the level of tax to be paid/received, and can be tools to enhance economic activity. However municipalities are not currently able to establish their own tax agreements. A Development Grant Agreement is a way to achieve the same outcomes as a Tax Agreement (by making a grant), but they lack the same certainty and transparency as a piece of legislation and can be more complex to administer. Establishing the HIAA Tax Agreement in legislation would provide that transparency.

The other new request is to work with the Property Valuation Services Corporation (PVSC) to change the method of calculating commercial property tax. Although PVSC monitors commercial property sales on an ongoing basis, in some cases there may be a limited number of commercial sales in a neighbourhood. Hence, it can take several years before a clear trend emerges and PVSC makes a change in assessment. In such cases it means that when PVSC does change the commercial assessment, it represents increases built up over several years that are put into the assessment roll in one single year. Hence, there is a sudden and significant increase for businesses as well as difficulty planning and adjusting. Some provinces use a rolling average to calculate taxes, rather than just the current year, to mitigate dramatic increases and lessen the financial impact on businesses. This concept of a "moving average assessment" was presented to Council during the April 30, 2013 Operating Budget presentation. Staff would like direction to pursue this change with PVSC. This request would enable Council to use the average of the three most recent years of assessed value for a particular property and then apply the tax rate to that average. Presently, the tax rate is applied to only the most recent assessed value.

Going forward, a strategic approach to submitting legislative amendment requests is being emphasized. Developed with input from Legal Services and GREA, legislative requests should focus on achieving outcomes related to strategic Council Focus Areas and the Regional Plan. Amendments which support economic and social benefits to the municipality and, by extension, the province, are likely to have a higher profile with the Provincial government and a great chance of success. Reviews of outstanding amendments such as this one will be undertaken on a semi-regular basis to ensure requests continue to address current Council priorities. In addition, it is hoped that a renewed Charter would lead to a more streamlined process and greater success in achieving legislative requests. As noted above, an update on the Charter Review project will come to Council outlining project scope and objectives.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

COMMUNITY ENGAGEMENT

No community engagement was undertaken in relation to this report.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

ALTERNATIVES

Council could retain some or all of the amendments staff are recommending be removed. This is not recommended. Staff have reviewed the outstanding amendments and determined which are still needed from an operational point of view. In addition, the lack of progress on the outstanding requests over a period of several years, indicates that achieving their passage through the Legislature is unlikely.

ATTACHMENTS

Appendix I: Legislative Request Tracking Chart Spring 2013

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.

Report Prepared by: Anne Totten, Corporate Policy Analyst, 490-5623

Report Approved by: Jennifer Church, Managing Director, Government Relations & External Affairs, 490-3677

Report Approved by: Martin Ward Q.C., Acting Director, Legal Services, 490-6532

**Revised Legislative Amendment Requests
Spring 2013**

I) REQUESTS RECOMMENDED TO KEEP

Number	Year Requested	Particulars of Request	Section(s) and Updated Status
1.	2011	Capital Cost Charges for recreation, libraries and growth studies Request that the HRM Charter be amended to allow Capital Cost Contributions to be collected from developers for the growth related portion of capital costs related to Fire Services, Recreation Facilities, Libraries and growth-related studies. Currently HRM has the ability to collect Capital Cost Charges related to wastewater and solid waste only.	<i>HRM Charter</i> - s. 104 and s. 284 This request is still relevant in terms of Regional Plan goals of promoting density, discouraging sprawl and reducing municipal service costs.
2.	2008	Heritage Property Act Requesting sunset clause of 90 days for impact clerical errors have on heritage registration	<i>Heritage Property Act</i> – s.17, 18 June 2012 – Minister of Communities, Culture & Heritage (CCH) agreed to consider request and the implications it might have on broader policy around procedural errors in heritage property registration. HRM Heritage staff indicates this amendment is still needed as there is a high possibility of many other properties being impacted. UNSM President has sent a letter to the Minister requesting an update (May 2013). Response received in June 2013 saying CCH is still considering impacts of request.
3.	2007	Notice of Claims Add a 21 day limitation period in the <i>Charter</i> for transit and snow and ice claims to allow gathering and preservation of the necessary evidence.	<i>HRM Charter</i> - s. 376(4)(a), 376(4)(b) This is an ongoing issue with HRM's ability to collect evidence.
4.	2008	Search Warrants Allow a Justice of the Peace to issue a search warrant under the Charter mirroring provision in Summary Proceedings Act.	SS. 27(4), 352(3), 367(3)(c) Keep amendment, to improve consistency and ease of process.

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5.	2008	<p>Fine Collections Amend the Summary Proceedings Act so a fine imposed by a court is deemed a judgment of the Nova Scotia Supreme Court - avoids an application to the Supreme Court which is effectively an administrative rather than judicial exercise.</p> <p>Enhance HRM's ability to collect fines by amending the Charter to make fines imposed by a Provincial Court:</p> <p>(1) relating to specific properties, first liens against real property and collectable in the same manner as taxes;</p>	<p><i>Summary Proceeding Act</i> - S. 4(2) <i>HRM Charter</i> - 369A, 369B</p> <p>This was originally a 2-part request asking for (a) the ability to collect fines in the same way as taxes, and (b) the ability to impose a lien against properties with multiple noise convictions.</p> <p>Keep the first part as an amendment related to fine collection, in order to increase HRM's ability to collect these monies.</p> <p>Recommend removing the second part, related to imposing a lien against properties. This was primarily a problem around universities, which now take a more active role in encouraging good neighbourhoods. (This is included among the recommendations for withdrawal).</p>
6.	2008	<p>Charges for Future Use Clarify the <i>HRM Charter</i> so that Council has the ability to impose charges against persons who will benefit, in the future, from a service (i.e. water and sewer).</p> <p>Regional Council may impose charges (LIC) for the provision of services for persons who use or benefit from the service. Regional Council approves the services and spends the money providing the service. The cost of the improvement is then charged back to the benefited property owners. At times, there are properties whose future access to services, typically, water and sewer, is facilitated by the project, but those properties cannot connect until the infrastructure is further extended.</p>	<p><i>HRM Charter</i> - ss. 96(1), 102, s.104(3)(f)</p> <p>This differs from the capital cost charge request in the timing of the money collection. Charges for future use accommodate development far into the future (e.g., 20 years+). The alternative is to fund upfront and recover the cost later when development actually occurs. Recommend keeping the request.</p>
7.	2009	<p>Surveys for Expropriation Ensuring <i>Expropriation Act</i> and HRM Charter are consistent making surveys optional (currently mandatory for HRM expropriation).</p>	<p><i>HRM Charter</i> - s. 65(2)(a) <i>Expropriation Act</i> - s. 11(1)</p> <p>Keep as a housekeeping amendment so that Charter and Expropriation Act say the same thing. Currently the Charter requires a survey</p>

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			whereas Expropriation Act does not.
8.	2013	HIAA Development Grant Agreement Request to legislate the Halifax International Airport Authority (HIAA) Development Grant Agreement as a Tax Agreement and include it in the HRM Charter	<i>HRM Charter</i> – addition as there is no current authority/section.
9.	2013	Commercial Tax Assessment Request to work with Service Nova Scotia and the Property Valuation Services Corporation (PVSC) to change the commercial tax assessment so it is based on 3 past years of assessment rather than one year	<i>Assessment Act</i> and/or <i>HRM Charter</i>

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II) SEEKING COUNCIL DIRECTION			
Number	Year Requested	Particulars of Request	Section(s) and Updated Status
10.	2012	Salary Disclosure Halifax Regional Council requested that the provincial government designate HRM, including all agencies, boards and commissions as a public sector body for the purposes of the public sector Compensation Disclosure Act. This would mean that HRM would be required to disclose the compensation it pays to any employee whose yearly income exceeds \$100,000.	<i>Compensation Disclosure Act</i> Retain as a Council priority but remove from legislative requests as no changes to the Charter are required for the Province to proceed by Order in Council as recommended by Regional Council.
11.	2009, 2010	Community Council power to (1) set area rates, (2) have authority over local matters, (3) to amend MPS. a) 2009 request: an amendment to the HRM Charter to allow Regional Council to delegate to Community Councils their authority to make decisions concerning amendments to the various Municipal Planning Strategies when they are of a local, site-specific nature. b) 2010 request: (i) amendments to the <i>HRM Charter</i> that will allow Halifax Regional Council to delegate general authority to Community Councils for local matters, with the intent that the delegation of this authority evolve over time; and (ii) Approve in principle the vesting of authority to Community Councils for the establishment of area rates for enhanced services deemed by Halifax Regional Council to be local, if the necessary amendments to permit this are made to the <i>HRM Charter</i> .	<i>HRM Charter - s.25, 29, 30</i> Community Council composition has changed since these requests were made. The original 2009 request came about in response to discussions on how to improve planning application processes. Since then, other steps have been taken to streamline the process. Regional Council currently has the power to delegate to Community Councils the adoption of land use bylaw amendments. Recommend removing this request pending more specific asks that may come from further HRM governance reviews.
12.	2010	Power for UARB to conduct Municipal Boundary Review	MGA - s.354 Discussions with the Province indicated that the UARB would not have resources to undertake 54 boundary reviews simultaneously. A possible alternative put

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			<p>forward proposed that municipalities provide funding for UARB to hire independent consultant to conduct review.</p> <p>Direction is sought on whether this request continues to be a Council priority. Staff recommend retaining the request, in keeping with Council’s decision in 2010 that the current process for Boundary Reviews does not serve the interest of good governance.</p>
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III) REQUESTS RECOMMENDED TO REMOVE

Number	Year Requested	Particulars of Request	Section(s) and Updated Status
13.	2009	Code of Conduct for Municipal Elected Officials	<i>HRM Charter - s. 16A</i> UNSM has led the work on this initiative. In Sept 2012, the UNSM annual conference decided against proceeding with the issue until further work is done on potential sanctions. Recommend removing it from HRM's requests until UNSM is ready to proceed, at which time HRM can reconsider the request.
14.	2009	Geothermal Exemption Exempt small thermal projects with 10 customers or less from UARB utility oversight.	<i>Public Utilities Act</i> There is decreasing activity currently on district energy, with the focus moving towards renewables (eg, solar). This request could be re-submitted if work on district energy reactivates and the request is still determined to be necessary.
15.	2009	Ban on the Importation and Sale of Alien Invasive Species	<i>HRM Charter</i> Request originated with a presentation to Council from the NS Dept of Environment. This is a Provincial issue and HRM does not have a mandate in this area.
16.	2009	Water Fowl Enabling legislation to allow regulation of feeding of waterfowl from lakes.	<i>HRM Charter</i> This has not received any attention at the Provincial level and does not align with strategic corporate priorities of either HRM or the Province.
17.	2008	Waterton Decision Lack of clarity around power of UARB in the event of an appeal from decision of Development Officer.	<i>HRM Charter –ss. 265 & 267</i> Request appears to have stemmed from a unique situation and is not a recurring problem.

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18.	2008	Spending Power for Special Events The <i>HRM Charter</i> permits Regional Council to spend money on advertising opportunities for the municipality for business, industrial and tourism purposes and to promote and attract institutions, industries and businesses. For greater clarity, it is recommended that the MGA <i>HRM Charter</i> be amended to clarify that Regional Council may expend funds on special events such as cultural, musical, social, recreation or sporting events.	<i>HRM Charter</i> – ss. 71, 79(1) Council is considering a more strategic approach to supporting arts and culture than is outlined in this request. Recommend withdrawing it.
19.	2007	Noise 1. Address excessive noise and make the owner responsible for the noise of an occupier. 2. Empower peace officer to demand from the owner, within 48 hours, the name and the address of the person occupying the premises or a copy of the lease. 3. Provide landlord redress for noisy tenants.	<i>HRM Charter</i> - s. 369 <i>Residential Tenancies Act</i> - s 9(10) This issue falls mainly under Provincial mandate (<i>Residential Tenancies Act</i>). HRM does not have a mandate to act in the manner proposed by these amendments. Recommend withdrawing request.
20.	2006	Parks Management Powers	<i>HRM Charter</i> - s. 66A Staff are unable to find any record of what this request entailed.
21.	2006	Maximum Tax Rate and Flexibility Seek powers to: (a) set a maximum tax rate; and (b) to impose charges, in lieu of taxes, for rural area, urban area on: (1) taxable assessed property or (2) dwelling unit based on acreage or frontage.	<i>HRM Charter</i> - s. 94; 94A No immediate need for this amendment and no clear direction from Council currently on changes to the tax system.
22.	2009, 2006	Vacant Building Management (1) Section- 536C 62 grants the municipality the power to expropriate boarded up vacant buildings; however, a clarification is required to ensure that the dangerous and unsightly powers in the Charter also apply to vacant buildings. (2) To provide feasibility to existing option to acquire vacant buildings through certainty of an affordable acquisition cost by fixing acquisition cost at assessed value less demolition costs where demolition is undertaken.	<i>HRM Charter</i> – 3 (q) (r)(xiii)(a) 3(r)(ix) Request stemmed from a unique situation. No need currently for these powers.

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23.	2007	Increasing Building Requirements Near Nuisances To facilitate greater proximity of residential uses to commercial and industrial developments, allow HRM to impose more stringent construction standards for residential development near nuisances than are contained in the N.S. <i>Building Code Act</i> .	<i>Building Code Act</i> - s. 7(1A) Request stemmed from a unique situation. No need currently for these powers or interest in imposing them.
24.	2006	Repair of Buildings Allow residents to apply to HRM for a permit to access to neighbours' property to effect repairs to buildings.	<i>HRM Charter</i> - s. 277A Lack of access is not an issue which frequently occurs. Staff's position is that residents are generally able to gain access to adjacent properties in these situations. Thus these rights, to the extent they are necessary, already exist. The requested amendment would require HRM to manage these rights and create an extra layer of regulation and administration requiring enforcement.
25.	2008	Local Improvement Charges Re Nova Scotia Power. Clarify LICs may be charged to NSPI.	<i>HRM Charter</i> - s.104A Payment of LICs is not an issue at this time. Recommend withdrawing request.
26.	2006	Heritage 1) Clarify the incentives a municipality may provide to municipal heritage property or a property in a conservation district. 2) Provide municipalities the power to regulate the demolition or removal of municipal heritage property.	<i>Heritage Property Act</i> - s. 3(aa), 17(4)(a), 17(7), 18, 20(1), 22(1)(2), The incentives request has been achieved through other means and is no longer necessary. Municipalities cannot prevent demolition, but can regulate it. Municipalities can also

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			establish much stronger demolition control in heritage conservation districts, which can achieve same end as this request. Recommend withdrawing request
27.	2007	CCC Charges for active transportation.	<i>HRM Charter</i> – s. 3 interpretation, s. 104(1)(k) An Active Transportation Plan review is underway. Recommend removing request pending the outcome of the review and consultations.
28.	2009	Service on Clerk Reinstate requirement for service on municipal clerk, requirement changed by 2008 Civil Procedure Rules.	<i>HRM Charter</i> This is a housekeeping item that has not received any response from the Province. Recommend withdrawing as it is not a corporate priority.
29.	2008	Acceptance of Public Streets Clarify that a street does not become a “public street” until the street is accepted by Council or the street is part of an approved subdivision.	<i>HRM Charter</i> - s. 318(3) This is a housekeeping item that has not received any response from the Province. Recommend withdrawing as it is not a corporate priority.
30.	2007	Obstructions on Streets Clarify that the owner is required to pay for the costs of remedying an obstruction on a street for which that abutting property owner is responsible. For example, private fencing obstructing a public street.	<i>HRM Charter</i> - s. 328(7) Staff is of the opinion that HRM has this power. This request asked only for clarification that it is correct. Recommend withdrawing as no response indicates we do.
31.	2007	Motor Vehicle Act fines Council request that the Province amend the Motor Vehicle Act, Section 153 “Municipal Parking Meter By-Law” to allow HRM to use signs to control parking under the same fines as meters.	<i>Motor Vehicle Act</i> This is not a current issue or priority facing HRM. Recommend withdrawing.
32.	2007	Accident Benefits (Section “B”) and Unidentified Motorist (Section “D”) Payments on Metro Transit Buses Priority for payment be sought requiring an occupant of a bus, who is insured under his or her own automobile insurance, to claim, in the first instance, section B and section D benefits against his or her own policy	<i>Insurance Act</i> - s. 139 (8), 143(1) The insurance cap on minor injuries makes this request unnecessary. Recommend withdrawing.

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		rather than against HRM. This still allows recovery from HRM if the occupant does not have his or her own insurance.	
33.	2008	Summary Offence Tickets Grant Regional Council the authority to designate wording to make an offence SOT-table.	<i>HRM Charter - s. 183(7)</i> The Province currently processes Summary Offence tickets. Though there is a 6-month delay in processing tickets, granting this authority to Regional Council would mean duplicating services and resources that the Province already has in place. Recommend withdrawing.
34.	2008	Fine Collections Amend the Summary Proceedings Act so a fine imposed by a court is deemed a judgment of the NSSC - avoids an application to the Supreme Court which is effectively an administrative rather than judicial exercise. Enhance HRM's ability to collect fines by amending the Charter to make fines imposed by a Provincial Court: (2) relating to two or more convictions for noise violations first liens against the property from where the noisy activity originates.	<i>Summary Proceeding Act -s. 4(2)</i> <i>HRM Charter – ss. 369A, 369B</i> This was originally a 2-part request asking for (a) the ability to collect fines in the same way as taxes, and (b) the ability to impose a lien against properties with multiple noise convictions. Recommend keeping the first part as a housekeeping amendment related to fine collection, in order to increase HRM's ability to collect these monies (this is included on the list of amendments to keep). Recommend removing the second part, related to imposing a lien against properties. This was primarily a problem around universities, and there are now partnerships in place which deal with the issue more effectively.
35.	2008	In Camera Discussion re Intergovernmental Affairs Facilitate In Camera negotiations of intergovernmental initiatives prior to government (federal/provincial) public announcements.	<i>HRM Charter - s. 19(2)(h), 19(2) (i)</i> No response on this request from the Province. Recommend removing it in order to align better with initiatives on increased transparency.