

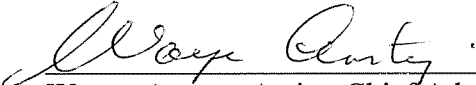


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REVISED

Halifax Regional Council
October 18, 2005

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
Wayne Anstey, Acting Chief Administrative Officer

DATE: October 13, 2005

SUBJECT: **Amendments to Administrative Order Number One**
Concerning a Motion of Rescission

ORIGIN

This report deals with a housekeeping amendment to the header of section 56 of Administrative Order Number One and the addition of a section setting out the procedure for a motion of rescission.

RECOMMENDATION

It is recommended that Halifax Regional Council approve the proposed amendments as outlined in Appendix "A" attached hereto.

BACKGROUND

Staff has identified a drafting issue with Administrative Order Number One. Section 56 of Administrative Order Number One is entitled "Motion of Reconsideration Or Rescission". The section does not reference a motion of rescission and the remainder of Administrative Order Number One is silent on when a motion of rescission is available, if it is debatable, and the number of votes required for it to pass.

DISCUSSION

Administrative Order 56 currently states:

Motion of Reconsideration Or Rescission

56. (1) When a motion has been resolved in the negative, it shall not be again brought before the Council, except with the consent of two-thirds of the whole Council, until two months have elapsed and, if again resolved in the negative, shall not be again brought before the Council until the expiry of the civic year.

(2) After a matter has been decided in the affirmative, a member, before the adjournment of the meeting at which the same was decided, may give notice of motion of reconsideration, provided that such notice shall be effective only when another member at the same meeting gives notice of intention to second the motion to reconsider

(3) At the next meeting of Council, including a meeting specially called to hear the motion of reconsideration, immediately after the consideration of the minutes and before any other business is considered, the giver of such notice or in that member's absence any other member on the member's behalf, may briefly state the reasons for reconsideration, and if the motion for reconsideration is seconded, the same shall then be put to vote without further debate and if carried, the question so reconsidered shall then be read and disposed of.

(4) No motion to reconsider shall be put until at least twenty-four hours have elapsed from the adjournment of the meeting at which the notice of motion was given.

(5) No question shall be reconsidered more than once nor shall a vote to reconsider be reconsidered.

(6) No motion to reconsider shall be allowed in regard to a motion approving all or part of the annual budget of the Municipality or a motion authorizing any legal proceedings.

(7) If the motion to reconsider is not made at the time so fixed, or if the Council refuses to reconsider, or if after reconsideration the question is again decided in the affirmative, no other motion to reconsider or rescind, can be made within one year, except with the consent of two-thirds of the members of the Council.

(8) A notice of motion to reconsider shall, pending the putting of such motion, have the effect of delaying or impeding any action necessary to give effect to the motion to be considered and no action shall be taken on that motion until such reconsideration has been disposed of.

Staff is recommending that the words "Or Rescission" be deleted from the header of section 56 since the said section does not reference a motion for rescission and a new section be added to provide Council with certainty concerning the process for a motion of rescission. Staff is recommending that Council approve the following addition to Administrative Order Number One:

Motion of Rescission

56A (1) After a matter has been decided in the affirmative, a member, at any subsequent meeting, may give notice of motion of rescission.

(2) At the next meeting of Council, the giver of such notice, or in that member's absence, any other member on the members behalf, may put the motion of rescission.

(3) A motion of rescission is debatable.

(4) A motion of rescission shall be passed by a majority vote.

The new section sets out when a motion of rescission is unavailable, that it is debatable and that the motion requires a majority votes of Council to be passed.

Staff is further recommending that section 56(7) be moved and proceed sections 56 and 56A which discuss a motion of reconsideration and a motion of rescission. The former 56 (7) will be placed under its own heading following sections 56 and 56A, as follows:

Motion of Reconsideration and Rescission Limited Bar To Proceeding

56B If the motion to reconsider or rescission is not made at the time so fixed, or if the Council refuses to reconsider or rescind, or if after reconsideration the question is again decided in the affirmative, no other motion to reconsider or rescind, can be made within one year, except with the consent of two-thirds of the members of the Council.

If Council adopts this recommendation, section 56(7) will have to be deleted and state "repealed".

BUDGET IMPLICATIONS

There are no budgetary implications associated with this report.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES

Council could deny this request for the additions to Administrative Order Number One. This would result in the current uncertainty around a motion of rescission continue.

ATTACHMENTS

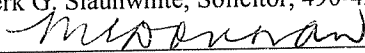
Appendix "A".

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by:

Derk G. Slaunwhite, Solicitor, 490-4226

Report Approved by:


M.E. Donovan, A/Director, Legal Services, 490-4226

APPENDIX "A"

Proposed Amendments to Administrative Order No. 1

1. The words " Or Rescission" be deleted from the heading of s. 56.
2. The following sections are hereby added to s. 56A
 - 56A (1) After a matter has been decided in the affirmative, a member, at any subsequent meeting, may give notice of motion of rescission.
 - (2) At the next meeting of Council, the giver of such notice, or in that member's absence, any other member on the member's behalf, may put the motion of rescission.
 - (3) A motion of rescission is debatable.
 - (4) A motion of rescission shall be passed by a majority vote.
3. Subsection 56(7) is repealed and replaced as follows:
 - 56B If the motion to reconsider or rescission is not made at the time so fixed, or if the Council refuses to consider or rescind, or if after reconsideration the question is again decided in the affirmative, no other motion to reconsider or rescind can be made within one year, except with the consent of two-thirds of the members of the Council.