



**HALIFAX REGIONAL COUNCIL
MINUTES
October 21, 2014**

PRESENT: Mayor Mike Savage
Deputy Mayor Darren Fisher
Councillors: Barry Dalrymple
David Hendsbee
Bill Karsten
Lorelei Nicoll
Gloria McCluskey
Waye Mason
Jennifer Watts
Linda Mosher
Russell Walker
Stephen Adams
Reg Rankin
Matt Whitman
Brad Johns
Steve Craig
Tim Outhit

STAFF: Mr. Richard Butts, Chief Administrative Officer
Mr. John Traves, Municipal Solicitor
Ms. Cathy Mellett, Municipal Clerk
Ms. Jennifer Weagle, Legislative Assistant
Ms. Sheilagh Edmonds, Legislative Assistant

The following does not represent a verbatim record of the proceedings of this meeting.

*A video recording of this meeting is available:
http://archive.isiglobal.ca/vod/halifax/archive_2014-10-21_live.mp4.html*

*The agenda, supporting documents, and information items circulated to Council are available online:
<http://www.halifax.ca/council/agendasc/141021rc-agenda.php>*

The meeting was called to order at 1:00 p.m., and recessed at 3:48 p.m. to move into an In Camera session. Council reconvened at 6:00 p.m., and recessed at 7:36 p.m. to move into an In Camera session. Council reconvened at 9:37 p.m. and adjourned at 9:45 p.m.

1. INVOCATION

The Mayor called the meeting to order with the Invocation being led by Councillor Craig.

2. SPECIAL COMMUNITY ANNOUNCEMENTS & ACKNOWLEDGEMENTS

Members of Council noted a number of special community announcements and acknowledgements.

Mayor Savage paid tribute to Walter Fitzgerald, last Mayor of the City of Halifax and the first Mayor of the Halifax Regional Municipality, who passed away on October 11, 2014. A moment of silence was held in memory of Mr. Fitzgerald.

Councillor Watts requested that Mayor Savage, on behalf of Council, send a letter of condolence to the family of Leighann Wichman, a founding member and Executive Director of The Youth Project in Halifax, who passed away on October 16, 2014.

3. APPROVAL OF MINUTES – September 23, 2014

MOVED by Councillor McCluskey, seconded Councillor Nicoll, that the minutes of the September 23, 2014 session of Regional Council be approved as circulated. MOTION PUT AND PASSED.

4. APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS

Additions:

- 14.1 Councillor Adams – Public Engagement Process
- 14.2 Councillor Mason – Camp Hill Cemetery
- 14.3 Committee of the Whole – Preliminary Fiscal Direction

MOVED by Councillor Whitman, seconded by Councillor Johns, that the agenda be approved as amended. MOTION PUT AND PASSED.

5. BUSINESS ARISING OUT OF THE MINUTES – NONE

6. MOTIONS OF RECONSIDERATION – NONE

7. MOTIONS OF RESCISSION – NONE

8. CONSIDERATION OF DEFERRED BUSINESS

8.1 Councillor Adams – Federal Lighthouse Disposal - HRM Options and Implications

The following information was before Council:

- An information report dated May 2, 2014

Councillor Adams commented that lighthouses are icons on the shores of Nova Scotia. With the disposal of federally owned lighthouses, Councillor Adams indicated that the municipality should assist in maintaining the state of repair of some of these iconic lighthouses. He suggested that establishing a fund to assist with upgrades and maintenance of lighthouses may provide an incentive for community groups to come forward with plans for these lighthouses. He suggested that staff could also help coordinate what other grants are available to community groups.

MOVED by Councillor Adams, seconded by Councillor Hendsbee, that Regional Council request a staff report in regard to:

- a) **establishing a fund for the upgrade and/or maintenance of lighthouses in the order of one million dollars for a two year period;**
- b) **the staff resources to assist in coordinating with community groups to seek funding from other levels of government; and**
- c) **refer the matter to the Audit and Finance Standing Committee for consideration.**

Mr. John Traves, Municipal Solicitor, suggested that Council may wish to consider referring this matter to the Audit and Finance Standing Committee for consideration rather than requesting a staff report since it involves funding.

Councillor Hendsbee suggested that two years may be too short of a time frame.

Councillor Watts noted reluctance to commit one million dollars to this initiative without having an opportunity to consider it beforehand or receive a staff report.

Councillor Rankin noted that this would primarily be the jurisdiction of the province, as cultural, heritage, and tourism are provincial mandates, but that this initiative deserves further study.

Responding to a question from Councillor Karsten, Ms. Anne Totten, Corporate Policy Analyst, indicated that staff have discussed the matter of lighthouse preservation with the Nova Scotia Departments of Economics and Tourism; Communities, Culture and Heritage; Fisheries and Oceans; Heritage Canada and Parks Canada.

MOVED by Councillor Mason, seconded by Councillor Adams, that the motion be amended to remove "in the order of one million dollars for a two year period". MOTION TO AMEND PUT AND PASSED.

Discussion ensued on the amended motion.

MOTION PUT AND PASSED. (14 in favour, 3 against)

In favour: Deputy Mayor Fisher, and Councillors Dalrymple, Hendsbee, Karsten, Nicoll, McCluskey, Mason, Watts, Mosher, Walker, Adams, Rankin, Whitman and Johns.

Against: Mayor Savage, and Councillors Craig and Outhit.

9. PUBLIC HEARINGS

9.1 Proposed By-Law S-1000, Respecting the Regulation of Sidewalk Cafés (Supplementary Report)

The public hearing was held at 6:00 p.m. Refer to page 12.

10. CORRESPONDENCE, PETITIONS & DELEGATIONS

10.1 Correspondence

The Clerk noted that correspondence was received for items 11.1.1 and 11.1.2 and has been circulated to Council.

For a detailed list of correspondence received refer to the specific agenda item.

10.1.1 Fly-Past Request – Remembrance Day Ceremony 2014

The following information was before Council:

- Correspondence to Mayor Mike Savage from A.I. Topshee, Captain (Navy), CFB Halifax Base Commander dated October, 2014.

MOVED by Councillor Mason, seconded by Councillor Watts, that Halifax Regional Council grant permission for the Canadian Armed Forces to fly a Sea King helicopter from 12 Wing Shearwater over the Halifax Grand Parade at a height of 500 feet above the highest obstacle on Tuesday, November 11, 2014, at 11:02 a.m. in conjunction with the Remembrance Day Ceremony.

MOTION PUT AND PASSED UNANIMOUSLY.

Councillor Mosher was not present for the vote.

10.2 Petitions - NONE

11. REPORTS

11.1 CHIEF ADMINISTRATIVE OFFICER

11.1.1 Request for Proposals (RFP) – Public Wi-Fi Service

The following was before Council:

- A staff recommendation report dated September 29, 2014
- Correspondence from Pat Shaw dated October 21, 2014

MOVED by Councillor Mason, seconded by Councillor Whitman, that Halifax Regional Council authorize the CAO to issue a solicitation for Request for Proposals (RFP) to select a service provider to partner with Halifax to provide a fully managed public Wi-Fi service.

Councillor Mason noted that Council had directed this initiative move forward through endorsement of the Public Realm Improvement Project List. He indicated that the business improvement districts are supportive of this initiative.

Councillor Hendsbee noted that this has been discussed a number of times over the years. He inquired whether this is needed with so many businesses downtown offering free Wi-Fi, and questioned whether the business improvement districts should fund the initiative.

Ms. Donna Davis, Chief Information Officer, clarified that this initiative would only provide Wi-Fi in outside public spaces, and there are a number of models used in other jurisdictions. Mr. Jim Kirk, Service Management and Operations, discussed some of the funding models used for public Wi-Fi service in other jurisdictions noting that some models involve a cost to the municipality while other models do not, primarily based on the level of advertising allowed. He noted that the RFP is intended to provide more detail for Council's consideration

Discussion ensued on the initiative, with staff responding to further questions from members.

MOTION PUT AND PASSED UNANIMOUSLY.

11.1.2 Off-Leash Dog-Park to Replace the Africville Off-Leash Park

The following was before Council:

- A staff recommendation report dated September 3, 2014
- Correspondence from the Africville Genealogy Society, the Africville Heritage Trust, Alan Inkpen, and Roxanne Ayer.

- Extract of the June 24, 2014 Regional Council minutes.

MOVED by Councillor Rankin, seconded by Councillor Walker, that Halifax Regional Council direct staff to undertake the public consultation and detailed examination necessary to enable staff to return to Regional Council in November 2014 with consideration of designing a dog park on the Mainland Common and the closure of the Africville off-leash area by the end of December 2014 as outlined in the contents of the September 3, 2014 staff report.

Councillor Rankin requested clarification from staff in regard to the intent and follow up of the public consultation. Mr. Peter Bigelow, Manager, Public Lands Planning, clarified that following the consultation; staff will bring forward an evaluation of how the site fits within the principles set out in the strategy, capital and operating costs, and community feedback.

Councillor Walker noted that the Mainland Common borders on the district he represents. He asked for clarification in regard to the placement of the proposed off-leash park within the Mainland Common. Mr. Bigelow reviewed the location on a map, noting landmarks for reference.

Responding to questions from Councillor Hendsbee, Mr. Bigelow indicated that a draft of the Off-Leash Dog-Park Strategy will be coming forward to Council in the new year.

At the request of Councillor Karsten, Mr. Bigelow reviewed the second part of the June 24, 2014 Council motion, which directed staff “to undertake a review of the program and service levels for off leash facilities to assess requirements, management and programming costs including the establishment of fenced off-leash dog parks.”

Discussion ensued in regard to the motion, with staff responding to questions from members of Council.

Councillor Rankin noted the importance of ensuring the public in the affected community are consulted with and informed in regard to consideration of accepting the off-leash dog park at the proposed location.

MOTION PUT AND PASSED UNANIMOUSLY.

Councillor Rankin requested that it be noted for the record that financial information on appropriate amenities and costs will be coming back to Council following public consultation.

11.1.3 First Reading Proposed By-Law S-801, Proposed Amendments to By-law S-800, Respecting Temporary Signs

The following was before Council:

- A supplementary staff recommendation report dated October 10, 2014
- A staff report dated December 2, 2013
- An extract of minutes of the April 15, 2014 Committee of the Whole meeting.

MOVED by Deputy Mayor Fisher, seconded by Councillor Nicoll, that Halifax Regional Council give first reading and schedule a public hearing to consider the adoption of the proposed By-law S-801- A By-law Respecting Licensing of Temporary Signs, as contained in Attachment A of the supplementary staff report dated October 10, 2014, to replace By-law S-800 – A By-law Respecting the Requirements for the Licensing of Temporary Signs.

Councillor Hendsbee inquired whether section 6 of the By-law “Off-Site Signs” would include leasing an area for off-site signage. Mr. Davis indicated he would have to get back to the Councillor with an answer.

Councillor Hendsbee asked whether HRM has the capacity to charge a fee for the erection of election signs in the road right of way. Mr. John Traves, Municipal Solicitor, advised that there is an In Camera report that addresses election signage, and suggested that if Council wished to address that matter that it be done In Camera.

Councillor Watts also indicated that she would like to discuss the In Camera Report.

MOVED by Councillor Watts, seconded by Councillor Mosher, that this item be deferred following an In Camera discussion on the private and confidential report on this matter. MOTION PUT AND PASSED.

11.2 EXECUTIVE STANDING COMMITTEE

11.2.1 Governance Review – External Committees

The following was before Council:

- A staff recommendation report dated September 22, 2014

MOVED by Councillor Mosher, seconded by Councillor Craig, that Halifax Regional Council:

- 1a. Make no changes to the process for appointments to the Halifax Water Commission board, the Police Commission, the Community Monitoring Committee or the FCM and UNSM boards at this time.**
- 1b. Reduce the number of Councillors appointed to the Regional Library Board and the Halifax-Dartmouth Bridge Commission Board to two (2) Council members from four (4) and, with respect to the Regional Library, work with the Provincial Government to make appropriate changes to the relevant agreements.**
- 2. May consider the appointment of Council members to external boards or committees, as set out by Administrative Order, which in the opinion of Council:**
 - Are regional in scope;
 - Affect or may affect a municipal interest; or
 - Is a community organization with a mandate to provide an alternate service delivery in respect of municipal property on behalf of HRM and to which the municipality is the primary funder.
- 3. Direct staff to draft an Administrative Order to implement recommendation #2 as set out in Table 1 and Table 2 of the supplementary staff report dated September 19, 2014 with the addition of HRM Chain of Lakes Trail Association in Table 1 (Council appointments).**
- 4. Advise all Councillors who sit on boards or committees to which they have not been appointed by Regional Council to inform the Municipal Clerk of those positions, to annually review the list of those boards and committees and inform the Municipal Clerk of any errors or omissions and that, in accordance with the NS Municipal Conflict of Interest Act, the list be retained in the Office of the Municipal Clerk as a public record.**

Ms. Cathy Mellett, Municipal Clerk, and Mr. John Traves, Municipal Solicitor, responded to questions from Councillor Watts, noting that the Chain of Lakes Trail was added to Table 1 at the request of a member of the Executive Standing Committee.

Councillor Watts asked whether the appointment process referred to in section 1a will be a competency based application system. She inquired what type of appointment would be made for Councillors appointed to multi-district facility boards. Councillor Watts indicated that there should be consistency for all trails boards, and noted that not being appointed to a board does not preclude active participation with that group.

Ms. Mellett noted that the intent of recommendation 2, adopted by the Executive Committee, was to provide consistency in regard to the types of facilities to which Council may consider making appointments.

At the request of Councillor Nicoll, Mr. Traves noted that some organizations would require amendments to their management agreement or other constituting documents to change the role of a council member on their board.

At the request of Councillor McCluskey, Mr. Traves noted the appointment of members of Council to external boards and committees, when made by Council goes a long way to addressing concerns in regard to conflict of interest and clarifies the role the member serves on the board on behalf of Council.

MOVED by Councillor Karsten, seconded by Councillor Nicoll, that item 4 be amended to read:

- 4. Advise all Councillors who sit on boards or committees to which they have not been appointed by Regional Council to inform the Municipal Clerk of those positions, to annually review the list of those boards and committees *in November of each year* and inform the Municipal Clerk of any errors or omissions and that, in accordance with the Nova Scotia Municipal Conflict of Interest Act, the list be retained in the Office of the Municipal Clerk as a public record.**

AMENDMENT PUT AND PASSED.

Members of Council continued discussion on Council appointments to external boards and committees.

In response to questions from Councillor Mason regarding Councillor appointments to business improvement district boards, Ms. Mellett and Mr. Traves noted the intent of the recommendations before Council is that members of Council can choose to sit on whichever boards they wish, as long as they inform the Municipal Clerk of those positions, in accordance with the Nova Scotia Municipal Conflict of Interest Act.

In response to a question by Council, Mr. Traves advised that if a member of Council is involved in a lawsuit as a result of sitting on a board to which they have not been appointed by Council, the Councillor may be covered by that board's insurance. He noted that there is not currently a policy that addresses indemnification and defence of staff or councillors. Mr. Traves indicated that legal staff are currently working on a policy for staff, and will also prepare one for Council.

Discussion ensued on the recommendations.

Council agreed to vote on each item separately:

MOVED by Councillor Mosher, seconded by Councillor Craig, that Halifax Regional Council:

- 1a. Make no changes to the process for appointments to the Halifax Water Commission board, the Police Commission, the Community Monitoring Committee or the FCM and UNSM boards at this time.**
- 1b. Reduce the number of Councillors appointed to the Regional Library Board and the Halifax-Dartmouth Bridge Commission Board to two (2) Council members from four (4) and, with respect to the Regional Library, work with the Provincial Government to make appropriate changes to the relevant agreements.**

MOTION PUT AND PASSED UNANIMOUSLY.

Councillor Johns was not present for the vote.

MOVED by Councillor Mosher, seconded by Councillor Craig, that Halifax Regional Council:

2. **May consider the appointment of Council members to external boards or committees, as set out by Administrative Order, which in the opinion of Council:**
 - **Are regional in scope;**
 - **Affect or may affect a municipal interest; or**
 - **Is a community organization with a mandate to provide an alternate service delivery in respect of municipal property on behalf of HRM and to which the municipality is the primary funder.**

MOTION PUT AND PASSED UNANIMOUSLY.

Councillor Johns was not present for the vote.

MOVED by Councillor Mason, seconded by Councillor Watts, that the “Chain of Lakes Trail Association” be removed from item 3.

Councillor Mosher asked Council to vote against the amendment.

MOTION TO AMEND WAS PUT AND DEFEATED due to a tie vote. (8 in favour, 8 against)

Those in favour: Deputy Mayor Fisher and Councillors Hendsbee, Nicoll, McCluskey, Mason, Watts, Craig, and Outhit.

Those voting against: Mayor Savage and Councillors Dalrymple, Karsten, Mosher, Walker, Adams, Rankin, and Whitman.

Councillor Johns was not present for the vote.

MOVED by Councillor Mosher, seconded by Councillor Craig, that Halifax Regional Council:

3. **That staff be directed to draft an Administrative Order to implement recommendation #2 as set out in Table 1 and Table 2 of the supplementary staff report dated September 19, 2014 with the addition of HRM Chain of Lakes Trail Association in Table 1 (Council appointments).**

MOTION PUT AND PASSED. (VOTE COUNT)

Those in favour: Mayor Savage, Deputy Mayor Fisher, and Councillors Dalrymple, Karsten, Nicoll, Mason, Watts, Mosher, Walker, Adams, Rankin, Whitman, Craig, and Outhit.

Those against: Councillors Hendsbee and McCluskey.

Councillor Johns was not present for the vote.

MOVED by Councillor Mosher, seconded by Councillor Craig, that Halifax Regional Council:

4. **Advise all Councillors who sit on boards or committees to which they have not been appointed by Regional Council to inform the Municipal Clerk of those positions, to annually review the list of those boards and committees *in November of each year* and inform the Municipal Clerk of any errors or omissions and that, in accordance with the NS Municipal Conflict of Interest Act, the list be retained in the Office of the Municipal Clerk as a public record.**

MOTION PUT AND PASSED UNANIMOUSLY.

Councillor Johns was not present for the vote.

11.3 TRANSPORTATION STANDING COMMITTEE

11.3.1 Construction Regulations for Accessibility and Adaptability in Dwelling Units

The following information was before Council:

- A Committee report dated October 9, 2014 with attached staff report dated September 23, 2014.

MOVED by Councillor Rankin, seconded by Councillor Watts, that Halifax Regional Council:

- (1) **Nominate three representatives, knowledgeable on accessibility in buildings, to the Nova Scotia Building Advisory Committee Ad Hoc Committee on Accessibility, as requested by the Province as follows:**
 - a) **Two representatives recommended by the Accessibility Advisory Committee; and**
 - b) **One HRM staff representative appointed by the Chief Administrative Officer.**
- (2) **Upon conclusion of the work of the Provincial Ad Hoc Committee, direct HRM's Committee members to report back through the Transportation Standing Committee with findings / recommendations of the Ad Hoc Committee to determine if those are recommendations that Regional Council wishes to endorse.**

MOTION PUT AND PASSED UNANIMOUSLY.

Councillor Johns was not present for the vote.

11.4 MEMBERS OF COUNCIL

11.4.1 Councillor McCluskey – Natural Gas Leaks

The following information was before Council:

- A Councillor Request for Consideration Form

Councillor McCluskey commented that there was a gas leak in Burnside last week, which resulted in 50-60 businesses being closed for several hours without compensation for lost business. She noted that it also resulted in fire and police staff being involved for hours. Councillor McCluskey, referring to section 19 of the Occupational Health and Safety Act, indicated that the municipality, as the owners of the streets, should take reasonable precautions to maintain the health and safety of persons at or near the streets being worked on. She noted that there are businesses that locate lines for companies wanting to dig near lines, and also equipment specific to digging near lines that use vacuums to decrease the risk of rupturing a line. Councillor McCluskey questioned whether it should be required of Heritage Gas to be present when digging near their lines, and also questioned whether businesses should be closed when digging near lines is taking place as a precaution.

MOVED by Councillor McCluskey, seconded by Councillor Nicoll, that Halifax Regional Council request a staff report regarding the number of natural gas leaks annually since 2008 and the impact on business and residents and any best practise and/or actions HRM should be taking with Heritage Gas and contractors to address these leaks.

MOTION PUT AND PASSED UNANIMOUSLY.

Councillor Johns was not present for the vote.

11.4.2 Councillor Rankin – Bayers Lake Mystery Walls

The following information was before Council:

- A Councillor Request for Consideration Form

MOVED by Councillor Rankin, seconded by Councillor Whitman, that Regional Council request a staff report on the possibility of HRM staff working with the Nova Scotia Archaeological Society in developing a short term plan and long term plan to protect and stabilize the Bayers Lake Historical (Mystery Wall) site so that the history is saved and can be shared for future generations.

Members requested that the staff report discuss whether this is within the jurisdiction of the municipality, or a responsibility of the province as a heritage, cultural or historical related matter.

Councillor Rankin noted that Council can and does choose to involve itself in any number of matters not directly related to the municipal mandate and that; in this case, the municipality owns the property.

MOTION PUT AND PASSED UNANIMOUSLY.

12. MOTIONS – NONE

13. IN CAMERA

Council agreed to address the remaining public agenda items prior to the In Camera portion of the meeting. Refer to page 15.

14. ADDED ITEMS

14.1 Councillor Adams – Public Engagement Process

MOVED by Councillor Adams, seconded by Councillor Whitman, that Halifax Regional Council request a status update on the May 20, 2014 motion that the property identification numbers (PIDs) provide by Councillor Adams re: Clayton Developments, Bess Developments and Battery Hill Developments be referred to appropriate staff to initiate a public engagement process to examine options and possibilities to bring some or all of the PIDs into public ownership.

Councillor Adams noted that it has been five months since the motion was approved and he is looking for an update and timeline.

MOTION PUT AND PASSED UNANIMOUSLY.

14.2 Councillor Mason – Camp Hill Cemetery

MOVED by Councillor Mason, seconded by Councillor Hendsbee, that Halifax Regional Council request a staff report regarding the possible development of a heritage management plan, including wayfinding signage, interpretive plaques, site maintenance standards and a long term site plan, and possible partnerships for the Camp Hill Cemetery.

Councillor Mason noted that there are many well-known people buried in the Camp Hill Cemetery, and many requests are received in regard to finding designated burial locations and a plan should be put in place to maintain the integrity of the cemetery grounds. He suggested that there is potential for private and public partnerships.

MOTION PUT AND PASSED UNANIMOUSLY.

14.3 Committee of the Whole - Preliminary Fiscal Direction

MOVED by Deputy Mayor Fisher, seconded by Councillor Whitman, that Halifax Regional Council:

- Approve the preliminary fiscal direction as set out in the October 16, 2014 staff report and staff presentation of October 21, 2014
- Direct staff to proceed with a 1.8% target average tax bill but with a 0% scenario
- Review the approach on non-tax revenue

MOTION PUT AND PASSED. (16 in favour, 1 against)

In favour: Mayor Savage, Deputy Mayor Fisher, and Councillors Dalrymple, Karsten, Nicoll, McCluskey, Mason, Watts, Mosher, Walker, Adams, Rankin, Whitman, Johns, Craig, and Outhit.

Against: Councillor Hendsbee.

15. NOTICES OF MOTION

15.1 Deputy Mayor Fisher

Take notice that, at the next regular Regional Council meeting, to be held on Tuesday, October 28, 2014, I plan to introduce a motion to request a staff report on the possibility of Lake City Woodworkers acquiring adjacent land owned by the municipality for the purposes of expanding their non-profit activities.

15.2 Councillor Karsten

Take notice that, at the next meeting of Halifax Regional Council to be held on October 28, 2014, I propose to introduce:

1. Proposed Administrative Order 2014-015-ADM, *Respecting Reserve Funding Strategies*, the purpose of which is to:
 - assist in planning for the long-term financial health and stability of the Municipality;
 - assist in removing unstable and unpredictable tax rates;
 - integrate the Reserve Business Cases into the Business Planning and Long term Operating and Capital Budgets;
 - ensure the Municipality has the ability to fund projects and events;
 - reduce the current and future financial impacts to the taxpayer.
2. Repeal the Reserves Policy adopted by Council on December 1, 1998.

15.3 Councillor Dalrymple

Take notice that, at the next regular Regional Council meeting, to be held on Tuesday, October 28, 2014, I plan to introduce a motion to request a staff report on diverting from the landfill all spent light bulbs used in municipal buildings by recycling at an appropriate facility.

15.4 Councillor Karsten

Take notice that, at the next regular meeting of Halifax Regional Council, to be held on Tuesday, October 28, 2014, I intend to introduce a motion requesting a staff report to look at options relating to a permanent, fenced off-leash dog park for the Eastern Passage Cow Bay area.

15.5 Councillor Mosher

Take notice that, at the next meeting of Halifax Regional Council to be held on October 28, 2014, I propose to introduce proposed Administrative Order 2014-017-GOV, *Respecting the Appointment of Members of Council to External Boards, Committees or Commissions*, the purpose of which is to determine:

- a) when Council may appoint or refuse to appoint Members to external bodies;
- b) which external bodies Council may consider appointing Members; and
- c) the reporting requirements regarding other bodies on which Members may choose to serve without the appointment of Council.

Council recessed at 3:48 p.m. to move to an In Camera session.

Council reconvened at 6:00 p.m.

Prior to the start of the public hearing, Mayor Savage acknowledge Mr. Graeme Hicks who was in the public gallery. He noted that Regional Council has had many dedicated followers, but none more so than Mr. Hicks. The Mayor added that, in recognition of his dedication, a plaque will be installed on one of the chairs in the public gallery.

Council paid tribute to Mr. Hicks through a round of applause.

Mr. Hicks thanked Council for the recognition and noted that he finds the Council meetings and debate interesting, and has been attending the meetings for approximately 40 years.

9. PUBLIC HEARINGS

9.1 Proposed By-Law S-1000, Respecting the Regulation of Sidewalk Cafés (Supplementary Report

The following was before Council:

- A supplementary staff report dated September 25, 2014
- An extract of draft Regional Council minutes of September 23, 2014.
- A staff presentation

Mr. Chris Davis, Supervisor of Right of Way Services provided the staff presentation. He began his remarks by outlining the rationale for changes to the bylaw, explaining that it would combine the bylaws for streets, encroachment, and vending into one bylaw; it would allow annually licensed cafes to operate year round; it would provide for a set of design and operational criteria and a balanced schedule of charges for sidewalk cafes. Mr. Davis advised that the proposed changes to the bylaw pertain to the types of café licenses (seasonal and annual), modifications to encroachment or licensing periods, design and operational requirements, and approach to compliance. Mr. Davis noted that, with regard to fees, the proposal is to have a set fee for issuing the license but not have area based fees. He added that the city would have cost recovery fees for any removal and reinstallation of parking meters or sign posts. Mr. Davis advised of other aspects of note in the proposed bylaw as follows: cafes musty comply with CAN/CSA-B651-04 Accessible Design for Built Environment; a café not providing liquor service will require \$2 million in insurance, and a café providing liquor service will require \$3 million in insurance;

staff will be responsible for inspections, and that cafes would have to be inspected prior to use and periodic inspections would be carried out to ensure compliance. Decks 0.6 m or more above the sidewalk would require inspection by a professional engineer.

Mr. Davis responded to questions of clarification.

Mayor Savage reviewed the rules of procedure for public hearings and opened the hearing for anyone wishing to come forward and address Council.

Ms. Karla Nicholson, Quinpool Road Mainstreet Business Association addressed Council and advised that she was speaking on behalf of the restaurant owners of Quinpool Road. Ms. Nicholson stated that many of the points in the proposed bylaw are valid, but there are concerns with the proposed insurance rates and proposed fee structure. She added that the small restaurants on Quinpool Road with patios will see a significant increase in fees and noted that of the approximately 30 eating establishments on Quinpool Road, only seven have outdoor patio and that their return on their investment is quite low. Ms. Nicholson advised that the increased fees will result in many of the establishments not putting out a patio. Ms. Nicholson read aloud a letter from a restaurant owner expressing concern about the viability of having an outdoor patio, and explained that he did not feel he should be paying the same fees as the restaurants in downtown Halifax, as the Quinpool area does not have the elements which draw tourists to the area and, therefore, does not get the amount of customers as the downtown area. Ms. Nicholson concluded her remarks by asking Council to reconsider an 'across the board' fee structure, and advised that the proposed fee increase and increase in insurance will not make patios viable on Quinpool Road.

Mr. Paul MacKinnon, representing the Downtown Halifax Business Commission advised that 30 members of the Commission have outdoor cafes and, overall, they feel the proposed bylaw is good, but they have concern with the increased insurance fees and with inspections. Mr. MacKinnon explained that the increase in insurance will be an added cost for an establishment and he asked Council to hold the insurance at \$2 million. With regard to inspection, he advised that there is concern that inspectors won't be able to inspect the cafes on a timely basis and, if they are not permitted to operate the café until it is inspected, this could result in lost revenue. Mr. MacKinnon noted that this has been an issue in the past, and staff has shown some flexibility, and he requested that the proposed bylaw allow for this flexibility to continue.

Mr. Gordon Stewart, representing the Restaurant Association of Nova Scotia addressed Council and advised that the Association was supportive of the regulations proposed but did have some concern with regard to the items of liability insurance and inspections. Mr. Stewart noted that the increase in liability insurance will result in increased cost and it will set new limits for liability insurance. Mr. Stewart advised that the concern about the inspection is that there will be many patios opening at the same time and they will want inspections done on time, but there won't be the staff resources to do so. He added that the idea of year round patios is good but there needs to be more flexibility and to allow something that could be removed at night rather than a full built-out patio. Mr. Stewart advised that he hoped the enforcement of regulations would Municipality wide. Mr. Stewart noted that the restaurant industry is very competitive and is under a number of financial challenges and it was important to keep in mind the smaller, independent operators.

The Mayor called three times for anyone else wishing to speak; there being none, it was **MOVED by Councillor McCluskey, seconded by Councillor Mason that the public hearing close. MOTION PUT AND PASSED.**

MOVED by Councillor Mason, seconded by Councillor Whitman that Halifax Regional Council:

- 1. Repeal the Halifax Regional Municipality Sidewalk Café Policy, as adopted by Halifax Regional Council May 27, 1997 and amended from time to time;**
- 2. Adopt By-law S-1000, the Sidewalk Café By-law, as amended by Council direction and set out in Attachment 1 of the supplementary staff report dated September 25, 2014, as**

amended by Council direction of September 23, 2014, regulating the use of municipal street right-of-ways for the purpose of establishing sidewalk cafes adjacent to food and beverage establishments;

3. **Adopt the amendments to Administrative Order 15, Respecting License, Permits and Processing Fees as set out in Attachment 2 of the supplementary staff report dated September 25, 2014; and**
4. **Adopt Administrative Order 2014-016-GOV, Respecting Delegation of Council Authority pursuant to By-law S-1000 as set out in Attachment 3 of the supplementary staff report dated September 25, 2014.**

Councillor Mason thanked staff for their work on the proposed bylaw and he expressed appreciation for the input received from the community. He advised that it should also be noted that with this bylaw those cafes not serving alcohol can put out tables and chairs without any charge, as long as they bring them in at night.

Deputy Mayor Fisher suggested it would be more efficient to enable the License Administrator grant annual café licenses rather than Council and he questioned if the bylaw could be amended in this regard.

In response, Mr. Davis advised that the bylaw is currently written in a way that the ability is not there to grant this authority to the License Administrator. He explained that the wording has more to do with the process and that this bylaw mirrors the process in the encroachment bylaw. He noted that an outdoor patio is a permanent encroachment on the street and currently, encroachments require Council approval. Mr. Davis advised that in the approval process Council would only see an application once and it would automatically renew unless there were substantial changes.

In response to a question by Councillor Outhit, Mr. Davis advised that permits with respect to streets and services are geared to the cost recovery model. Mr. Jim Donovan, Manager, Municipal Compliance indicated that inspections and occupancy permits are not geared to the cost recovery model.

In reference to Ms. Nicholson's comments, Councillor Outhit questioned if some businesses will have a significant increase in fees.

Mr. Davis advised that some businesses will see an increase while others will see a decrease. He added that the way the policy is currently framed, different square footage rates are charged to different areas so, in theory, the same sized café in downtown Halifax would be charged a greater amount than a same sized café in other parts of HRM. The proposed new bylaw removes the geographic component and is structured toward a cost recovery model.

MOVED by Councillor Rankin, seconded by Councillor Mason that Clause 19 of the Bylaw Clause (1) and (2) in regard to liability insurance required read in both clauses "purchase commercial general liability insurance in the amount of not less than two million dollars (\$2,000,000 CDN)" and Clause (2) to also continue to include, "liquor not excluded".

MOTION PUT AND PASSED. (14 in favour, 3 against)

Those in favour: Mayor Savage; Councillors: Dalrymple, Hendsbee, Karsten, Nicoll, McCluskey, Mason, Watts, Mosher, Rankin, Whitman, Johns, Craig, and Outhit.

Against: Deputy Mayor Fisher; Councillors Walker and Adams.

Councillor Karsten noted that the speakers expressed concern that inspections of outdoor patios would not be dealt with in a timely manner and asked staff how they intend to deal with this concern.

Ms. Andrea MacDonald, Manager, License Standards advised that there will be 12 compliance officers ready to carry out inspections, and that staff are confident that at the peak time there won't be any delays.

MOVED by Councillor Hendsbee, seconded by Councillor Mosher that Clause 3 (2) (b) be amended to read, "shall end on a date no later than *November 15th*, in the same calendar year".

MOTION PUT AND PASSED UNANIMOUSLY.

The amended motion now reads:

MOVED by Councillor Mason, seconded by Councillor Whitman that Halifax Regional Council:

1. **Repeal the Halifax Regional Municipality Sidewalk Café Policy, as adopted by Halifax Regional Council May 27, 1997 and amended from time to time;**
2. **Adopt By-law S-1000, the Sidewalk Café By-law, as amended by Council direction and set out in Attachment 1 of the supplementary staff report dated September 25, 2014, as amended by Council direction of September 23, 2014, and amended further by Council motion of October 21, 2014 regulating the use of municipal street right-of-ways for the purpose of establishing sidewalk cafes adjacent to food and beverage establishments;**
3. **Adopt the amendments to Administrative Order 15, Respecting License, Permits and Processing Fees as set out in Attachment 2 of the supplementary staff report dated September 25, 2014; and**
4. **Adopt Administrative Order 2014-016-GOV, Respecting Delegation of Council Authority pursuant to By-law S-1000 as set out in Attachment 3 of the supplementary staff report dated September 25, 2014.**

MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillor Whitman, seconded by seconded by Deputy Mayor Fisher that a staff report be provided addressing the implications of the License Administrator taking the place of Council in the granting or refusing of a café license.

MOTION PUT AND PASSED. (15 in favour, 2 against)

Those in favour: Mayor Savage; Deputy Mayor Fisher; and Councillors: Dalrymple, Hendsbee, Nicoll, Mason, Watts, Mosher, Walker, Adams, Rankin, Whitman, Johns, Craig, and Outhit.

Against: Councillors Karsten and McCluskey.

**MOVED by Councillor Mason, seconded by Councillor Johns that Council convene in camera.
MOTION PUT AND PASSED.**

Prior to convening in camera, Council dealt with the approval of In Camera minutes, as follows:

13.1 In Camera Minutes – September 23, 2014

MOVED by Deputy Mayor Fisher, seconded by Councillor McCluskey that the In Camera minutes of September 23, 2014 be approved as circulated. MOTION PUT AND PASSED.

Council recessed at 7:36 p.m. and convened into in camera.
Council reconvened to public session at 9:37 p.m.

13.2 Personnel Matter

13.2.1 HRM Pension Plan (HRMPP) – Private and Confidential Report

This matter was addressed in camera. The following motion was ratified in public session:

MOVED by Councillor Mason, seconded by Councillor Craig, that Regional Council provide direction to staff as outlined in the Private and Confidential Staff report date October 21, 2014; and, not release the private and confidential report to the public.

MOTION PUT AND PASSED. (15 in favour, 1 against)

In favour: Mayor Savage, Deputy Mayor Fisher, and Councillors Dalrymple, Hendsbee, Karsten, Nicoll, McCluskey, Mason, Mosher, Walker, Adams, Whitman, Johns, Craig, and Outhit.

Against: Councillor Watts

Councillor Rankin was not present for the vote.

13.3 Legal Advice

13.3.1 Councillor Johns – HRM Legal Service Support for Councillors/Staff – Private and Confidential Report

This matter was addressed during the In Camera session.

13.3.2 Amendments to Proposed By-law S-801 Temporary Signs – Election Signage

This matter was addressed during the In Camera session. The following motion was ratified in public session:

MOVED by Councillor Watts, seconded by Councillor Whitman, that Halifax Regional Council rescind the April 15, 2014 amendment to By-law S-801, the Temporary Signs By-law, respecting a prohibition on the placement of municipal election Signs between the sidewalk and the street curb during municipal elections, and not release the September 30, 2014 Private and Confidential staff report to the public.

MOTION PUT AND PASSED. (15 in favour, 1 against)

In favour: Mayor Savage, Deputy Mayor Fisher, and Councillors Dalrymple, Hendsbee, Karsten, Nicoll, McCluskey, Mason, Watts, Mosher, Walker, Adams, Whitman, Johns, and Craig.

Against: Councillor Outhit

Councillor Rankin was not present for the vote.

13.3.3 Briefing Litigation and Property Matters – Legal/Contractual - Private and Confidential Report

This matter was addressed during the In Camera session.

13.4 Property Matter

13.4.1 Purchase of Waterfront Lot in Conrod Settlement – Private and Confidential Report

Due to time constraints, this item was deferred to the October 28, 2014 meeting of Regional Council.

Council now dealt with the following matter having deferred consideration until after the In Camera report relative to this matter was considered.

11.1.3 First Reading Proposed By-Law S-801, Proposed Amendments to By-law S-800, Respecting Temporary Signs

Having rescinded the Council motion of April 15, 2014 amending proposed By-law S-801 respecting a prohibition on the placement of municipal election signs between the sidewalk and the street curb during municipal elections, the following motion was placed on the floor:

MOVED by Councillor Mason, seconded by Councillor McCluskey that Halifax Regional Council give First Reading and schedule a public hearing to consider the adoption of the proposed By-law – S-801 – A By-law Respecting Licensing of Temporary Signs, as contained in Attachment C of the supplementary staff report dated October 10, 2014 to replace By-law S-800 – A Bylaw Respecting the Requirements for the Licensing of Temporary Signs, as amended.

MOTION PUT AND PASSED UNANIMOUSLY.

15. NOTICES OF MOTION

Notices of Motion were given earlier in the meeting. Refer to page 11.

16. ADJOURNMENT

The meeting was adjourned at 9:45 p.m.

Cathy J. Mellett
Municipal Clerk